MEMORANDUM OF LAW CONCERNING JURY ORIENTATION

Memorandum of Law

"The Jury is the Achilles heel of tyrants." – HG Wells

The purpose of this memorandum is to establish the fact that the orientation of both grand and petit juries belongs to the People and not the government. The People have the unalienable right to empanel their own grand and petit juries; As much as they have the unalienable right to indite or not indite; To decide both the facts and the law; To decide the penalty with an eye on restitution; and to choose their own sheriff with no ties to any authority, save the Common Law. We the People are free and independent, "the people of this state do not yield their sovereignty to the agencies which serve them.[1]

THE STATE CANNOT DIMINISH RIGHTS OF THE PEOPLE, WE RETAIN ALL THE RIGHTS WHICH FORMERLY BELONGED TO THE KING BY HIS PREROGATIVE

"'Sovereignty' means that the decree of sovereign makes law, and foreign courts cannot condemn influences persuading sovereign to make the decree."[2] "Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts and the law [Constitution] is the definition and limitation of power."[3] "The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative."[4] And, "the state cannot diminish rights of the people."[5] "Supreme sovereignty is in the people no authority can, on any pretense whatsoever, be exercised over the citizens of this state, but such as is or shall be derived from and granted by the people of this state."[6] "The doctrine of Sovereign Immunity is one of the Common-Law immunities and defenses that are available to the Sovereign."[7] "A consequence of this prerogative is the legal omnipresence of the King. His majesty

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[1] CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL (1793) pp471-472.
[2] Moscow Fire Ins. Co. of Moscow, Russia v. Bank of New York & Trust Co., 294 N.Y.S. 648, 662, 161 Misc. 903.; American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047.;
[3] Yick Wo v. Hopkins, 118 US 356, 370.
[4] Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.
[5] Hurtado v. People of the State of California, 110 U.S. 516.
[6] NEW YORK CODE - N.Y. CVR. LAW § 2 : NY Code - Section 2.
[7] Yick Wo v. Hopkins, 318 US 356, 371 and Terry v. Ohio, 392 US 1, 40.

(Jesus Christ) in the eye of the law is always present in all his courts, though he cannot personally distribute justice. His judges (the People) are the mirror by which the King's Image (Jesus Christ) is reflected."[8] We the People never gave government the power to orientate the juries, they stole it just like they legislated themselves without authority to override the Sheriff's authority to approach the jury directly. "In the United States, sovereignty resides in people. The Congress cannot invoke the sovereign power of the People to override their will as thus declared."[9] "It will be admitted on all hands that with the exception of the powers granted to the states and the federal government through the Constitutions, the people of the several states are unconditionally sovereign within their respective states."[10] Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.[11]

COURTS OF LAW IN AMERICA BELONG TO THE PEOPLE, NOT THE GOVERNMENT

Law courts in America belong to the People and not the government, this is "*Government by Consent*." Once the government is given an inch, they take a yard and today they have taken the whole mile. Government today choose and orientate the juries; they deceitfully sway the Grand Jury and stack the Petit Jury; They decide the law and the penalty; They removed the Sheriff from the whole process. They unlawfully abrogated the common law and the common law rules. Replacing it with de-facto civil law and de-facto self-serving rules. America's entire judicial system is controlled by chancellors and prosecutors and not the People!

BLACKS LAW DEFINES "DE FACTO COURT" as, "One established, organized, and exercising its judicial functions under authority of a statute apparently valid, though such statute may be in fact unconstitutional and may be afterwards so adjudged; or a court established and acting under the authority of a de facto government.[12]

BLACKS LAW DEFINES "COURTS OF LAW" as, "a court proceeding according to the course of the common law and governed by its rules and principles, as contrasted with a "court of equity."

BLACKS LAW DEFINES "COURTS OF CHANCERY" as, "a court possessing general equity powers, distinct from the courts of common law."[13] The terms "equity" and "chancery," "court of equity" and "court of chancery," are constantly used as synonymous in the

[8] Blackstone's Commentaries, 270, Chapter 7, Section 379
[9] Perry v. US, 294 U.S330
[10] Lansing v. Smith, 4 Wendell 9, (NY) 6 How416, 14 L. Ed. 997
[11] Miranda v. Arizona, 384 US 436, 491.
[12] 1 Bl. Judgm. § 173; In re Manning, 139 U.S. 504, 11 S.Ct. 624, 35 L.Ed. 264; Gildemeister V. Lindsay, 212 Mich, 299, 180 N.W. 633, 635.
[13] Parmeter v. Bourne, 8 Wash. 45, 35 P. 586; Bull v. International Power Co., 84 N.J.Eq. 209, 93 A. 86, 88.

United States. It is presumed that this custom arises from the circumstance that the equity jurisdiction which is exercised by the courts of the various states is assimilated to that possessed by the English courts of chancery. Indeed, in some of the states it is made identical therewith by statute.[14]

BLACKS LAW DEFINES COMMON LAW COURTS as, "The person and suit of the sovereign; the place where the sovereign sojourns with his regal retinue, wherever that may be. An agency of the sovereign created by it directly or indirectly under its authority, consisting of one or more officers, established and maintained for the purpose of hearing and determining issues of law and fact regarding legal rights and alleged violations thereof, and of applying the sanctions of the law, authorized to exercise its powers in the course of law at times and places previously determined by lawful authority."[15]

"Courts may be classified and divided according to several methods, the following being the more usual: Courts of record and courts not of record. The former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt. Error lies to their judgments, and they generally possess a seal. Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the proceedings are not enrolled or recorded."[16] "A court of record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial.[17]

Therefore, all courts in America that are controlled by statutes are not courts of law they are de-facto civil law courts operating without constitutional authority and have been fining and incarcerating people unlawfully for more than eighty years. History recalls that in a "Court of Law" the People decide what cases they will hear or not through the Sheriff that the People elected. The People orientate the juries and the People decides both facts and the law unbridled by any statute or government. The Government cannot legislate themselves any powers. The common law grants the People ALL THE POWER in the Peoples courts of Law.

[14] Wagner v. Armstrong, 93 Ohio St. 443, 113 N.E. 397, 401.
[15] Isbill v. Stovall, Tex.Civ.App., 92 S.W.2d 1067, 1070;
[16] 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52 Cal. 225; Erwin v. U. S., D.C.Ga., 37 F. 488, 2 L.R.A. 229; Heininger v. Davis, 96 Ohio St. 205, 117 N.E. 229, 231.
[17] Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Exparte Gladhill, 8 Metc., Mass., 171, per Shaw, C. J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

THE FOX & THE HEN HOUSE

An Essay on the Trial by Jury, 1852, by Lysander Spooner
The government cannot advise the jury only the People can advise the jury

"The authority to judge what are the powers of the government, and what are the liberties of the people, must necessarily be vested in one or the other of the parties themselves the government, or the people; because there is no third party to whom it can be entrusted. If the authority be vested in the government, the government is absolute, and the people have no liberties except such as the government sees fit to indulge them with."[18]

"There can be no legal right to resist the oppressions of the government, UNLESS THERE BE SOME LEGAL TRIBUNAL, OTHER THAN THE GOVERNMENT, AND WHOLLY INDEPENDENT OF, AND ABOVE, THE GOVERNMENT, TO JUDGE BETWEEN THE GOVERNMENT AND THOSE WHO RESIST ITS OPPRESSIONS. "If the government can select the jurors, it will, of course, select those whom it supposes will be favorable to its enactments [*like they do now*]. And an exclusion of any of the freemen from eligibility is a selection of those not excluded [*like they do now*]. It will be seen, from the statutes cited, that the most absolute authority over the jury box that is, over the right of the people to sit in juries has been usurped by the government;[19]

ADDRESSING THE GRAND JURY

PROSECUTORS ARE NOT EMPOWERED BY THE COMMON LAW they are empowered by statutes. Whereas sheriffs, coroners, and jury administrators are empowered by the Common Law; there sole purpose is to serve "True Justice" via the rules of Common Law. The Common Law Grand Jury is the Peoples and are NOT to be controlled by the government. Only the People,[20] Sheriff, and Coroner can summons and present before the "Common Law Grand Jury." The ABA controlled legislators and courts stole our "Courts of Records" by codifying procedures to call the Grand Jury and over time expelled the People, Sheriff, and Coroner from participation, thereby hijacking the Grand Jury carrying them away to jurisdictions unknown, as they covertly conceal the common law court via the 1934 Rules Enabling Act that claims to have abrogated Common Law

A famous modern legal term that a prosecutor, jesting inappropriately, can get a grand jury to "indict a ham sandwich" was immortalized in the Tom Wolfe novel, Bonfire of the Vanities (1987). But it was Sol Wachtler, Chief Judge of the New York State Court of Appeals who in 1985, said:

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[18] An Essay on the Trial by Jury, 1852, by Lysander Spooner
[19] Lysander Spooner, Trial by Jury, page 92, 1852
[20] The first recorded grand jury was established by the People through the Magna Carta

"District attorneys now have so much influence on grand juries that "by and large" they could get them to "indict a ham sandwich."

This is an insult and a caricature to both Justice and the American People, displaying "proof positive" the unlawful influence government prosecutors have over our Grand Juries. As noted earlier and deserving reiteration: "The authority to judge what are the powers of the government, and what are the liberties of the people, must necessarily be vested in one or the other of the parties themselves—the government, or the people; because there is no third party to whom it can be entrusted. If the authority be vested in the government, the government is absolute, and the people have no liberties except such as the government sees fit to indulge them with."[21] "If the government can select the jurors, it will, of course, select those whom it supposes will be favorable to its enactments [like they do now]. And an exclusion of any of the freemen from eligibility is a selection of those not excluded [like they do now]. It will be seen, from the statutes cited, that the most absolute authority over the jury box that is, over the right of the people to sit in juries has been usurped by the government;"[22]

We the Sovereign People never gave the legislators, judges or prosecutors any authority to call or address the "Common Law Grand Jury" directly. If the government wants to ask for an indictment of the People they need to bring their evidence, including exculpatory evidence, to the Sheriff who will then summons the Grand Jury, through the Jury Administrators, and then address the Grand Jury. If the People want to bring criminal charges before the Grand Jury they should address their case by sworn affidavit to the Sheriff who will bring it to the Grand Jury.

THE PEOPLE HAVE THE UNBRIDLED RIGHT TO EMPANEL THEIR OWN GRAND JURIES

In the U.S. Supreme Court case of United States v. Williams,[23] Justice Antonin Scalia, writing for the majority, confirmed that; "The American grand jury is neither part of the judicial, executive nor legislative branches of government, but instead belongs to the people. It is in effect a fourth branch of government "governed" and administered to directly by and on behalf of the American people, and its authority emanates from the Bill of Rights. Thus, [People] have the unbridled right to empanel their own grand juries and present "True Bills" of indictment to a court, which is then required to commence a criminal proceeding. Our Founding Fathers presciently thereby created a "buffer" the people may rely upon for justice, when public officials, including judges, criminally violate the law."

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[21] An Essay on the Trial by Jury, 1852, by Lysander Spooner
[22] Lysander Spooner, Trial by Jury, page 92, 1852
[23] 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992).

"The People have the unbridled right to empanel and preside over their own proceedings unfettered by technical rules and to investigate merely on suspicion." It is the Grand Jury's function to consider criminal charges whereas prosecutors have no authority to change or negotiate away the Grand Jury's indictments. Indictments are final and any additional charges cannot be added without the consent of the grand jury.

"Although the grand jury normally operates, of course, in the courthouse and under judicial auspices, its institutional relationship with the judicial branch has traditionally been, so to speak, at arm's length."[24] The "Grand jury is [an] investigative body acting independently of either prosecutor or judge whose mission is to bring to trial those who may be guilty and clear the innocent."[25]

IN CONCLUSION, THE <u>DE-FACTO COMMISSIONER OF JURORS</u> is a person to whom a commission is directed by the government via unlawful legislation or a de-facto court. This term denotes an officer of some bureau or agency of the government who is charged with the administration of the laws relating to jurors. They are under the control of the government through statutes and therefore are part of today's de-facto civil law courts and not part of the Common Law process.

The "Commissioner of Jurors" who is usually a ABA lawyer and owes fidelity to the BAR and the government would be the epitome of "Jury Tampering." Therefore, the People via "Jury Administrators" educated and certified in common Law by the People are the only lawful administrators of the juries. And are lawfully able to orientation and advise the jurors in the common law and their common law duties. National Liberty Alliance has accepted that responsibility to educate and certify "Jury Administrators."

Government cannot legislate themselves authority to take this unalienable right from the People for this unalienable right is the epitome of "Government by Consent." And if for no other reason, statutes are not part of the "Common Law Process" while all government agents are empowered and controlled by statutes that is authorized under the Constitution. And it is clear that Article I of the Constitution vested no such powers or authorities to do so. And if we did it would be "null and void" because it would be repugnant to the Common Law process!

THOMAS JEFFERSON THE MAN WHO DISCOVERED AMERICAS FREEDOM FORMULA SAID, "I have so much confidence in the good sense of man, and his qualifications for self-government, that I am never afraid of the issue where reason is left free to exert her force." "Educate and inform the whole mass of the people. They are the only sure reliance for the preservation of our liberty." I know of no safe depository of the ultimate powers of the

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[24] United States v. Calandra, 414 U.S. 338, 343, 94 S.Ct. 613, 617, 38 L.Ed.2d 561 (1974); Fed.Rule Crim.Proc. 6(a).
[25] Marston's, Inc. v. Strand, 560 P.2d 778, 114 Ariz. 260)

society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them but to inform their discretion." "The constitutions of most of our states assert that all power is inherent in the people; that they may exercise it by themselves, in all cases to which they think themselves competent, as in electing their functionaries executive and legislative, and deciding by a jury of themselves, both fact and law, in all judiciary cases in which any fact is involved." "Leave no authority existing not responsible to the people." "When governments fear the people, there is liberty. When the people fear the government, there is tyranny." – Thomas Jefferson

Today marks the line in the sand!
And we are here to end the tyranny and sound "Liberty's Bell again!"

WE THE PEOPLE NOW HAVE THE WATCH!!!