

# PRESENTMENT<sup>1</sup> UNDER COMMON LAW<sup>2</sup>

A TRUE BILL, BY THE PEOPLE

COMES NOW WE THE PEOPLE OF THE COMMON LAW GRAND JURY to present this "True Bill" against Code Enforcement Officer Pantaleo for Criminal Homicide; This Presentment is being filed in the Federal Court as per Article III Section 2 ... "*judicial power shall extend to all cases, in law and equity, arising under this Constitution*" whereas the victim was robbed of life by said officer under the color of law protected by the Amendment V.

**Amendment V** *No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.*

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<sup>1</sup> **PRESENTMENT** -- Criminal Practice The written notice taken by a grand jury of any offense, from their own knowledge or observation, without any bill of indictment laid before them at the suit of the government. 4 Bl. Comm. 301; Bennett v. Kalamazoo Circuit Judge, 183 Mich. 200, 150 N.W. 141, 142, Ann.Cas.1916E, 223. Presentments are also made in courts-leet and courts-baron, before the stewards. Steph. Comm. 644. The writing which contains the accusation so presented by a grand jury. U. S. v. Hill, 1 Brock. 156, Fed.Cas.No.-15,364.; Presentment of the grand jury is returned into court, and upon it the defendant is arraigned and tried. It has the same force and effect as a bill of indictment. The only formal difference between the two is that a prosecutor prefers a bill of indictment, and a special presentment has no prosecutor, but, in theory, originates with the grand jury (Progress Club v. State, 12 Ga.App. 174, 76 S.E. 1029, 1030).

<sup>2</sup> ..."**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". ... "[R]ooted in long centuries of Anglo-American history," Hannah v. Larche, 363 U.S. 420, 490, 80 S.Ct. 1502, 1544, 4 L.Ed.2d 1307 (1960) (Frankfurter, J., concurring in result), the grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It " 'is a constitutional fixture in its own right.' " United States v. Chanen, 549 F.2d 1306, 1312 (CA9 1977) (quoting Nixon v. Sirica, 159 U.S.App.D.C. 58, 70, n. 54, 487 F.2d 700, 712, n. 54 (1973)), cert. denied, 434 U.S. 825, 98 S.Ct. 72, 54 L.Ed.2d 83 (1977). In fact the whole theory of its function is that it belongs to no branch of the institutional government, serving as a kind of buffer or referee between the Government and the people. Stirone v. United States, 361 U.S. 212, 218, 80 S.Ct. 270, 273, 4 L.Ed.2d 252 (1960); Hale v. Henkel, 201 U.S. 43, 61, 26 S.Ct. 370, 373, 50 L.Ed. 652 (1906); G. Edwards, The Grand Jury 28-32 (1906). 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. Judges' direct involvement in the functioning of the grand jury has generally been confined to the constitutive one of calling the grand jurors together and administering their oaths of office. United States v. Calandra, 414 U.S. 338, 343, 94S.Ct. 613, 617, 38 L.Ed.2d 561 (1974); Fed.Rule Crim.Proc 6(a) ... The grand jury's functional independence from the judicial branch is evident both in the scope of its power to investigate criminal wrongdoing, and in the manner in which that power is exercised. "Unlike [a] [c]ourt, whose jurisdiction is predicated upon a specific case or controversy, the grand jury 'can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not.' " United States v. R. Enterprises, 498 U.S., 111 S.Ct. 722, 726, 112 L.Ed.2d 795 (1991) (quoting United States v. Morton Salt Co., 338 U.S. 632, 642-643, 70 S.Ct. 357, 364, 94 L.Ed. 401 (1950)). It need not identify the offender it suspects, or even "the precise nature of the offense" it is investigating. Blair v. United States, 250 U.S. 273, 282, 39 S.Ct. 468, 471, 63 L.Ed. 979 (1919). The grand jury requires no authorization from its constituting court to initiate an investigation, see Hale, supra, 201 U.S., at 59-60, 65, 26 S.Ct., at 373, 375, nor does the prosecutor require leave of court to seek a grand jury indictment. And in its day-to-day functioning, the grand jury generally operates without the interference of a presiding judge. Calandra, supra, 414 U.S., at 343, 94 S.Ct., at 617. It swears in its own witnesses, Fed.Rule Crim.Proc. 6(c), and deliberates in total secrecy, see United States v. Sells Engineering, Inc., 463 U.S., at 424-425, 103 S.Ct., at 3138; **UNITED STATES v. WILLIAMS, (1992) Jr.112 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352;**

***HOMICIDE** is not necessarily a crime. It is a necessary ingredient of the crimes of murder and manslaughter, but there are other cases in which homicide may be committed without criminal intent and without criminal consequences, as, where it is done in the lawful execution of a judicial sentence, in self-defense, or as the only possible means of arresting an escaping felon. The term "homicide" is neutral; while it describes the act, it pronounces no judgment on its moral or legal quality.* People v. Connors, 35 N.Y.S. 475, 13 Misc. 582

Code Enforcement Officer Pantaleo used a chokehold, a move banned by the Police Department, to bring Eric Garner down. The medical examiner's office determined that the chokehold, as well as compression to the chest, caused Mr. Garner's death, and ruled it a homicide. Officer Pantaleo did not act in self-defense and Eric Garner was not escaping, prerequisites of noncriminal intent.

Furthermore, literally just seconds after Code Enforcement Officer Pantaleo decided to take Eric Garner down, 4 or 5 more Code Enforcement Officers had arrived on the scene. In a few more seconds there were at least 9 Code Enforcement Officers at the scene, there appeared no reason at that point for Code Enforcement Officer Pantaleo to take down Eric Garner with a choke-hold, clearly by the arrival of other Code Enforcement Officers other possible means of arrest became available!

Code Enforcement Officer Pantaleo claimed he believed his life was endangered because he was caught between the fallen Eric Garner and the store window. This became a condition Code Enforcement Officer Pantaleo created himself after his unlawful act. There simply was no reason for Code Enforcement Officer Pantaleo to take down Eric Garner with a chokehold because at the time more than 9 Code Enforcement Officers had arrived and many other options were now available including the possibility of Eric Garner cooperating.

In conclusion there was no reason to arrest Mr. Garner, the claim against him was a code infraction and not a violent act and simply a summons should have been given to Mr. Garner who would have then had an opportunity to challenge the accusations in a court of law.

Therefore it is clear to this unimpeded Common Law Grand Jury that there is enough evidence to bring a Presentment against Code Enforcement Officer Pantaleo for criminal homicide whereas a trial jury after hearing all the evidence will decide his guilt or innocence and to what degree.

This case continues under further investigation by the Unified New York Common Law Grand Jury and we expect cooperation from all involved. Silence can only be equated with guilt when there is a duty to speak. All officers, elected and appointed officials may not plead the fifth because they have been entrusted with certain authorities and when questioned concerning those authorities they have a duty to answer. Therefore if they appear complicit with the homicide and remain silent the Grand Jury will consider a Presentment to be decided by a trial jury.

There are many questions that need to be answered such as why CPR wasn't applied to the victim? There were many code enforcement officers who are all first responders and therefore

trained in CPR, but why did they fail to perform the most basic lifesaving techniques? Upon the arrival of the Emergency Medical Technicians, why did they also fail to perform CPR. Mr. Garner was a large man and if he was still alive while laying on the ground movement of his chest should have been seen, there was none. Later confirmation by the medical examiner was that his death was caused by a chokehold as well as compression to the chest, he may have been able to have been resuscitated. What was the time of death and what time was Mr. Garner put into the ambulance?

What role did the Prosecutor play with the statutory grand jury, clearly there was enough evidence for an indictment and, it was not the statutory grand jury's place to try the case but just to determine if there was enough evidence to indict. It appears that the statutory grand jury was swayed by untried excuses by the accused and maybe others. A homicide deserves a trial, unless there is CLEAR lack of criminal intent, and self-defense was not evident at all.

*“Any government that is its own judge of, and determines authoritatively for the people, what are its own powers over the people, is an absolute government of course; It has all the powers that it chooses to exercise. There is no other --- or at least no more accurate --- definition of despotism than this.” -- **Lysander Spooner**; this unfortunately is the present condition in every American courthouse. “On the other hand, any people, that judge of, and determine authoritatively for the government, what are their own liberties against the government, of course retain all the liberties they wish to enjoy. And this is freedom. At least, it is freedom to them; because, although it may be theoretically imperfect, it, nevertheless, corresponds to their highest notions of freedom.” -- **Lysander Spooner**; this is the purpose of the Common Law Grand Jury that is taking America by storm.*

And it is because of this very despotism run rampant in both the state and federal courts We the People have formed Administrations for the Common Law Grand Jury in all fifty states resolved to reinstate the Constitution for the United States of America and its' all too long abused “Capstone Bill of Rights” by reconstituting the same in all 3,134 American counties. Said corruption is defined in a Writ of Quo Warranto filed in every Federal District Court in America and served upon every Federal District Judge on November 10<sup>th</sup> 2014 in deafening silence, whereas a copy can be found at <http://www.nationallibertyalliance.org/breaking-news>.

Therefore in a show of unity and with a relentless determination to restore Justice in America again We the People of all fifty united States of America reiterate this Presentment in the US District Court for the Southern District of NY; against Code Enforcement Officer Pantaleo for Criminal Homicide.

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Jury Foreman