

Federal Grand Jury Practice for Defense Attorneys

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Background and History



United States Constitution

Amendment V (1791)

No person shall be held to answer for a ...
crime, unless on a presentment or
indictment of a Grand Jury



United States v. Williams,
504 U.S. 36, 112 S.Ct. 1735,
118 L.Ed.2d 352 (1992)

Grand jury is a body independent of judicial branch

Serves as buffer or referee between government and the people

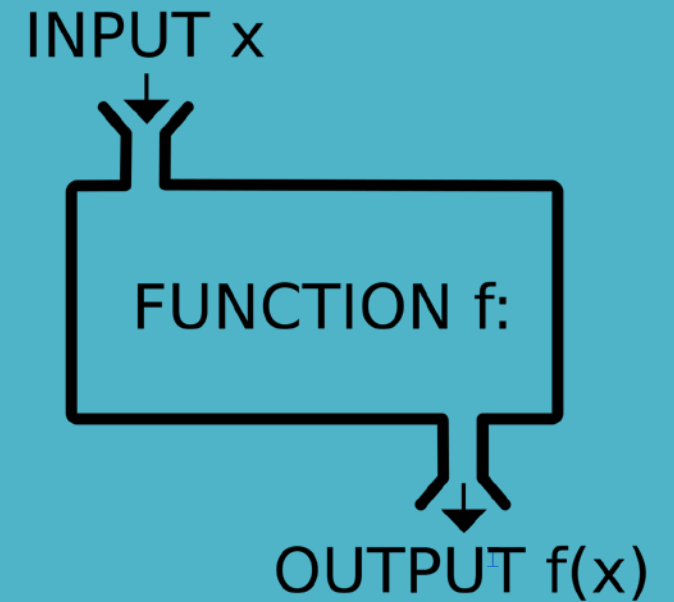
Investigatory Role unique among government institutions

Functions of the Grand Jury

Said to be Accusatory & Investigatory

Main function: Determine Probable Cause

Two results: Indict or return “no bill”



Grand Jury Limitations



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Cannot be used to obtain more
evidence against indicted defendant



OK for superseding indictments

FILED IN OPEN COURT
FEB 23 2018
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA
v.
PAUL J. MANAFORT, JR.,
Defendant.

CRIMINAL NO. 17-201 (ABJ)(S-3)
(18 U.S.C. §§ 2, 371, 981(a)(1)(C), 982,
1001(a), 1956(h), and 3551 et seq.; 22
U.S.C. §§ 612, 618(a)(1), and 618(a)(2);
28 U.S.C. § 2461(c))

SUPERSEDING INDICTMENT

The Grand Jury for the District of Columbia charges:

Introduction

At all times relevant to this Superseding Indictment:

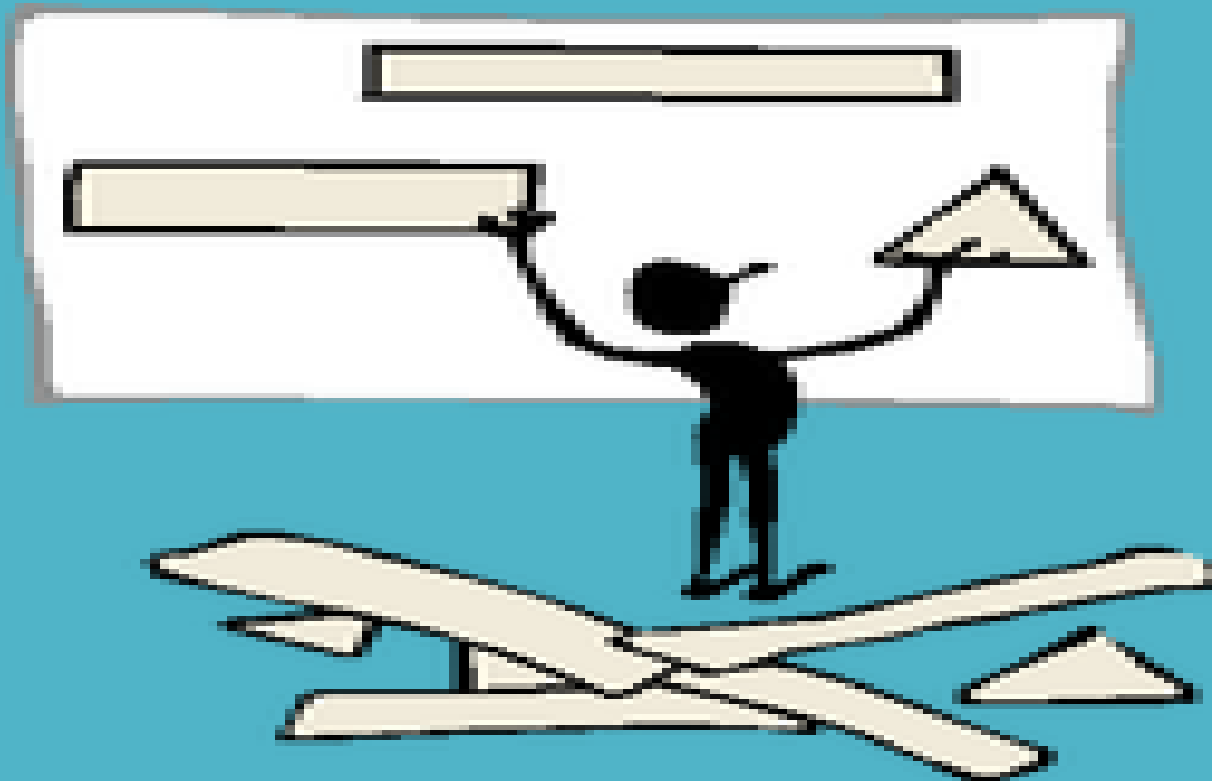
1. Defendant PAUL J. MANAFORT, JR. (MANAFORT) served for years as a political consultant and lobbyist. Between at least 2006 and 2015, MANAFORT, through companies he ran, acted as an unregistered agent of a foreign government and foreign political parties. Specifically, he represented the Government of Ukraine, the President of Ukraine (Victor Yanukovich, who was President from 2010 to 2014), the Party of Regions (a Ukrainian political party led by Yanukovich), and the Opposition Bloc (a successor to the Party of Regions after Yanukovich fled to Russia in 2014).
2. MANAFORT generated tens of millions of dollars in income as a result of his Ukraine work. From approximately 2006 through 2017, MANAFORT, along with others including Richard W. Gates III (Gates), engaged in a scheme to hide the Ukraine income from United States authorities, while enjoying the use of the money. From approximately 2006 to 2015, when

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Not meant for fugitive hunts



Not for pretrial discovery or trial preparation



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Venue Limitations

Unindicted Co-conspirators

Generally should not name in indictments

Examples: “another person or persons known,”
“employee 1” or “Individual 1”;

Shouldn't use initials, such as “D.J.T.” or other
identifiers, like “45”

Shouldn't name unindicted co-conspirators

Subpoenas for Financial Records



What about Targets of the Investigation?

Permissible but may appear unfair;
Should seek target's voluntary appearance;
Otherwise with approval of US Attorney or AAG;

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Rights Advice to Grand Jury Witness

DOJ policy to advise targets and subjects of investigation

“Target” is one believed by prosecutor to be a putative defendant; substantial evidence links target to commission of crime

“Subject” is a person whose conduct is within the scope of the investigation

What if Targets or Subjects Want to Appear?



Various Circumstances

Witness held in contempt;

Types of Evidence to present;

Exculpatory Evidence

Handling Evidence presented to grand jury;

Rule 6(e) Disclosures

“Special” Grand Juries

Questions ???



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