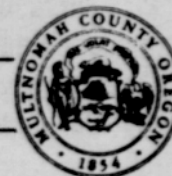


GRAND JURIES: *Justice or Politics?*

By Caroline Miller, Commissioner, Multnomah County, Oregon

October 1988



As concerned citizens, we hear and worry a good deal about our justice system. Do we have enough jails? Are there too few police officers on our streets? What should we do about gangs? Since these problems threaten our safety, we have focused on them and given little attention to the other components of the justice system which seem less troubled. But are the consequences of this neglect always benign? In the case of the grand jury, maybe not. Certainly a look at this three hundred and fifty three year old American institution is overdue. True, legal scholars and practitioners have spent a good deal of time and ink debating its merits, but their arguments, largely circulated in professional journals, have failed to reach the average citizen. For most of us grand juries remain shrouded in mystery. This article intends to demystify their function so that we may ask ourselves whether or not the grand jury serves as a useful tool to protect individuals and society.

Briefly, the use of grand juries can be traced back to 1066 A.D., the time of the Norman Conquest of England. They were created to serve dual purposes:

1. to protect the populace from excessive acts of government and the misconduct of public officials; and

2. to allow citizen participation in the preliminary stage of law enforcement.

Contrary to its title, the grand jury is no jury at all, in the traditional sense. It serves the district attorney not the courts. Its purpose is investigative not adjudicative. In criminal matters, this seven member panel weighs the prosecutor's case and may indict if a review of the State's evidence — without considering the defense that might be made by the defendant — could establish guilt beyond a reasonable doubt. (ORS 132.390) Put simply, the issue "on trial" is the merit of the district attorney's case. If the panel is convinced that there is sufficient

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