District Courts of the People—Restoring Judicial Balance

Statement of issue: The U.S. System of justice is void of practical means for timely or affordable remedy in cases of judicial, investigative, or prosecutorial misconduct involving the violations of citizens' rights.

Causes: Judicial, investigative, and prosecutorial violations of 18 USC §§ 241/242 suffer no penalty absent a countervailing and independent authority to mitigate and punish violations of citizens' rights by government employees and agents acting under color of law.

Proposal: Establish Article III District Courts of the People* in each *congressional district*, where chief magistrate is *elected* with authority to:

1) Grant immediate relief to citizens whose rights were violated by federal employees & agents acting under color of law.

2) Act as the sole court of review for petitions seeking writs of *habeas corpus* pursuant to Article 1 § 9 of the U.S. Constitution, full vested with authority to grant immediate relief to petitioner.

3) Empanel *grand juries* for violations of 18 USC §§ 241/242 by government employees and agents acting under color of law.

4) Empanel *petit juries* and hold trials for these crimes according to the Federal Rules of Criminal Procedures with authority to sentence under existing statutes and guidelines.

A countervailing court of the People with remedial powers is necessary to stop the wave of judicial, investigative and prosecutorial crime rampant in the system today by holding perpetrators acting under color of law accountable for violations of citizens' constitutional rights.

These courts can grant relief as the crime is being committed—thereby limiting its harm—while holding bad government actors accountable.

Congressional action will require like-minded organizations and individuals to build consensus, and we seek your participation.

* The Official elected for this office should have no requirement other than to be of a certain age and have a working knowledge of the U.S.

Constitution, serving two year terms, with elections concurrent with the congressional race in that district—not tied to Federal court districts.

DISCUSSION

The Problem is now Public

Extraordinarily high profile cases of gross injustice have highlighted the fact that the federal crime of Deprivation of rights under Color of Law (18 USC § 242) is ubiquitous, but that law is a scarecrow without effect as the means to enforce it remain solely in the hands of the wrongdoers.

The false prosecutions of Arthur Andersen (2005)—wrongfully putting 85,000 people out of work—Enron (2006), Senator Ted Stevens (2008), and so many other tragic abuses of prosecutorial power (now including a former president and White House advisors) have destroyed lives without crime or fault—and millions less well-known individuals have been ruined.

Attorneys Sidney Powell (*Licensed to Lie)* and Harvey Silverglate (*Three Felonies a Day)* brought this criminal conduct of prosecutors and courts to the public's attention, yet those who so blatantly deprived these defendants of their rights such as prosecutors Andrew Weissmann, Matt Friedrich, Matthew Martens and so many others, never faced any penalty, though their own acts were in fact, far more egregious than those of any of the defendants they so wantonly ruined.

The entrapment scheme to destroy Lt. General Michael Flynn emanated from the highest officers of the Obama/Biden administration, and its illegal FISA warrants to spy on Carter Page, George Papadopoulos and others in an attempt to frame the president; the Mueller probe in its entirety—all of these crimes against the citizenry have alerted the public to such conspiracies to deprive constitutional rights under color of law (18 USC § 241).

Those acts are criminal and punishable—but were not prosecuted simply for lack of a venue independent of the wrongdoers who commit them.

This past two decades of indiscriminate lawlessness by the custodians cries out for a new venue to restore order and hold them accountable.

If *justice* is only in the hands of the wrongdoers, it is but a chimera.

This problem is as ancient as republics themselves but the solution is far from new. In fact, the answer is in use today in every free nation in the world with the notable exception of the United States of America, the United Kingdom and other Anglo-heritage nations, which once had the most exemplary systems of justice, but now believe themselves to be above such remedies of which we now find ourselves in desperate need.

Only we persist in refusing independent venues for adjudication of government crimes (and criminals) who protect themselves from scrutiny and punishment by ring-fencing investigation and punishment.

In Europe these independent courts designed to protect the citizenry are known as Offices of Ombudsmen or Peoples Courts, and they are extremely effective in reducing criminal conduct by officers of the court and government employees which are so prevalent today in many Anglo-heritage nations.

These independent venues are most often vested with the power to:

1) promptly remedy wrong-doing by bad government actors, and
2) independently try and punish those within government who abuse their power under color of law.

With a Peoples Court, the present raids on President Trump's home and this of his attorney, (Rudy Giuliani), for example, using 'covert warrants' stemming from May 1, 2018 including the seizure of Mayor Giuliani's cloud account without due process—could be stopped in a day—but again, there is no venue to remedy or prosecute crimes by bad actors of government at present, so this illicit behavior is very unlikely to be stopped or punished absent this change.

The illegal arrest and imprisonment of Chief White House Advisors, Steven K. Bannon and Dr. Peter K. Navarro are just the latest examples.

All of this government crime makes clear to the public that there is no equal justice when such criminal conduct by judges, agents, prosecutors and other federal employees and their co-conspirators, suffers no penalty.

These high-profile cases highlight injustices—but they are far from new.

Constitutional Rights Violations Have Become Standard Procedure

The need for an official protector of rights from those in government is now beyond dispute. This present system of justice has devolved into little more than a political tool for vendettas and a conviction machine with a 98.6% success rate in feeding citizens to the prison industry and ruin.

In a review of over 400 federal criminal cases between 2006 and 2012, for example, The International Center for Justice found judicial, prosecutorial and/or investigative misconduct and criminal conduct in clear violation of the defendants' constitutional rights *in every case*.

In none of these cases, for example, was The Speedy Trial Act of 1974 (18 USC 3161, et al) followed, though it is but a statutory codification of The Sixth Amendment (inalienable) right to a speedy and public trial.

The law is clear that trial must begin within 70 days of arrest or indictment absent defined *excludable delays,* and that terms of reasonable release must be *automatically* set by the court within 90 days if trial has not begun, but this law was ignored by courts, prosecutors and complicit defense attorneys in all of these cases except for very wealthy defendants (two of 400+) or informants working for government to create more cases for the prosecutor (not ICJ cases, but informants used against them).

Prosecutors now use pre-trial incarceration in harsh county lock-ups as a tool to coerce plea agreements and in several of these cases, the citizens were held for five years and more to coerce 'co-operation' without ever being tried--in direct violation of 18 USC 3161, et al and Constitution.

Yet there is no remedy remaining today, including the *Great Writ of habeas corpus*. Of the dozens filed in these cases to bring to light the violations of

constitutional rights by the government, not a single petition for writ of *habeas corpus* was honored by any court of jurisdiction. They were simply transferred back to the court of error and dismissed by the judge who made the mistake *ab initio*.

Federal agents and prosecutors now violate citizens' Fourth, Fifth, Sixth, Seventh and Eighth Amendment rights with impunity as there is no penalty —the most recent raid of Attorney Rudy Giuliani's office/home being but a present high-profile example—though it happens daily across the nation.

The disclosure that Mr. Giuliani was the subject of a retroactive 'covert warrant to spy' beginning on May 1, 2018—the day he became President Trump's attorney—is simply further evidence of the spate of constitutional violence committed daily without recourse, but a great example for our purposes, as things might be quite different under this proposal.

Mr. Giuliani could have had the agents who raided him and their superiors who ordered it subpoenaed to appear before a grand jury of the Peoples Court in New York in short order, all of whom would likely face criminal indictment themselves for their crimes pursuant to 18 USC § 242—violating his Fourth and Fifth Amendment rights under color of law.

If they acted in conspiracy to deprive him of his rights, all involved to the top of government could be further prosecuted pursuant to 18 USC § 241, while unwinding the harm done him, with the court able to order the immediate return of his electronic devices and cloud service.

Such is the power of Peoples Courts—and the reason the corrupt system now in power will fight this idea as vociferously as possible—using every means to avoid such accountability for their own crimes.

82% Rate of Error Spelled the End of *habeas corpus*

The sacred writ of *habeas corpus* was for all intents and purposes suspended to cover such government crimes, abuses and incompetence from being found out by the public:

> A landmark Columbia Law School study of virtually every state and federal death-penalty appeal from 1973 to 1995 reported that "courts found serious, reversible error in nearly 7 of every 10 of the thousands of capital sentences that were fully reviewed during the period." There were so many mistakes, the study found, that after "state courts threw out 47% of death sentences due to serious flaws, a later federal review found 'serious error'—error undermining the reliability of the outcome—in 40% of the remaining sentences." Without federal *habeas corpus*, those serious errors would have gone unchecked. Instead of later being found not to deserve the death penalty, as happened in seventy-three per cent of the cases, or instead of being found innocent, as happened in nine per cent of the cases, these defendants likely would have been put to death. (https://www.newyorker.com/news/news-desk/the-destruction-of-defendants-rights)

The Columbia Law School compilation was simply a review of the courts' own detailed study of 5,760 *capital* cases over a 23 year period—almost every case heard in the nation—which found 73% of those cases had reversible errors due to such egregious violations of constitutional rights of the defendants that the outcome was rendered undependable and 9% of the defendants were clearly innocent when put to the hazard—for a total error rate of 82%—even when the outcome for the citizen was death.

Rather than immediately begin a top-to-bottom review of the system's undeniable ineffectiveness of purpose, the A.E.D.P.A. (Antiterrorism and Effective Death Penalty Act) was hastily passed and signed into law in 1996—the year after the review's completion—effectively eliminating Americans' previously inalienable right (privilege) to challenge wrongful court decisions and unlawful detention.

With the effective elimination of the writ of *habeas corpus* by the A.E.D.P.A. in 1996, there is no reliable means of exposing horrendously unfair outcomes today (or how many of them) but the situation has certainly not improved now that the courts' secrets remain in the dark, immune from the disinfectant of sunlight.

From the Center's experience, this rate of error in non-capital cases is far higher than 82% yet there is no meaningful challenge as the legislated remedies (28 USC § 2241 and 28 USC § 2255) are returned to the court of error for review—not by law, but by judicial fiat (See *Carvell v. United States*, 173 F.2d 348 (4th Cir. 1949) (*per curiam*), Judge Parker). Also see Rule 4 Notes, FRCivP, Rules Governing Section 2255 Proceedings.

Peoples Courts will operate constitutionally, acknowledging the law as written in Art. I §9, Cl. 2, which states- *The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it*.

To put the importance of the ancient writ of liberty in perspective, releases under its common law power prior to codification in 1679, reached 80% under Chief Justice Mansfield of the King's Court (*Habeas Corpus: From England to Empire,* by Paul Halliday, p. 55)—not surprisingly near the same percentage as U.S. courts' admitted rate of error—82%—proving that independent review is the best hope for justice and integrity.

Restoration of the Constitutional writ of *habeas corpus* is mission critical given the failures of U.S. courts and privately run Bar associations to defend the citizenry from their own excesses. Peoples Courts will hear those petitions in constitutional form rather than legislatively suspended versions that are presently presented solely to the District Courts responsible for the error.

Courts of the People Must Avoid the Pitfalls of District Courts

Each participant in these cases of injustice have something in common. The judge who allowed it, the prosecutor who committed it, and defense attorney who looked askance or participated in those errors and crimes—all were members of a private professional monopoly known as the Bar.

While sold to the public as a guardian of the law and its integrity in exchange for the bar's monopoly status, this bargain has clearly not been honored rendering it undeserving of this unconstitutionally recognized power.

The Peoples Court will be strictly limited to the Constitutional powers enumerated, and a monopoly status of adjudicators of law is not found in its pages, so there can be no such requirement of the elected Magistrates of Peoples Courts to be a member of any group, club, order, or monopoly.

Attorneys cannot be barred from seeking election for this position, but it would be against the Constitution to allow monopoly membership to be required in order to serve in this important position.

Allowing the Peoples Courts and practitioners to be subject to any outside force or influence that has the power to take the livelihood of the Magistrate—as is presently the case with Members of the Bar before all other courts—is unlikely to have a different ultimate outcome than that of the *federal district court* miasma we seek to escape.

The Bar has proven to be much of the problem in the Federal District Courts and giving the bar monopoly any influence in the Congressional District Courts of the People must be avoided at all cost to prevent corruption by that same body.

The Mechanism for Bringing Cases to the Peoples Court

For much of American history, "The formal machinery of criminal justice was small, informal, and often staffed by amateurs." (*Popular Justice: A History of American Criminal Justice,* by Samuel Walker, p. 25)

And this system worked extraordinarily well, where the local Constable or Sheriff was the chief administrator of justice, as is still the Constitutional power of that office.

As envisioned for the Peoples Courts, the process of complaint against a government official and their potentional co-conspirators would be filed with the local elected Sheriff, except in the District of Columbia (which has no Sheriff), where complaints would be filed with an alternate non-federal officer or a Sheriff in nearby Maryland or Virginia.

This was the case before the advent of public prosecutors (unknown before the 1830s, and then, only in large cities) or the creation of the Department

of Justice in 1871 (enacted by Congress, prior to Southern States' readmission, raising questions as to its Constitutional authority).

After review and investigation, the Sheriff would lodge valid complaints with the Congressional District Peoples Court for a hearing before a *public* grand jury.

If the court recognizes an illegal act was potentially committed by the public official or a person acting under color of law against the citizen complainant, the court has the power to offer immediate relief.

As example, when Lt. General Michael Flynn's Motion to Dismiss was filed in his case in 2020 with the concurrence of the adversary party (DOJ) but refused by District Court Judge Emmet Sullivan outside his judicial authority, General Flynn's attorney could have filed with the Peoples Court in closest proximity and been granted immediate relief.

If Judge Sullivan's actions were properly deemed to have violated Lt. General Flynn's substantial rights, General Flynn could bring charges against the judge in the Peoples Court, along with all the rogue agents and officials to the highest levels of government who violated his rights *ab initio*—swiftly putting a halt to such criminality.

In such a prosecution, both the citizen (General Flynn) and the government defendants would be present in a constitutional open forum, where *grand jury* members chosen from the community could question both sides and determine to bring charges and issue a True Bill of Indictment—or decide the evidence did not rise to that level and refuse to indict.

In cases where a government official was indicted for criminal violation of a citizen's rights, the court would set conditions of bail and date of trial to commence within 70 days. The Sheriff would recommend a list of citizens in good standing for the *petit jury*, from which 12 members would be selected and seated, subject to *voir dire* by both sides (but government defendants would not be allowed government counsel).

In the case of a conviction, an appeal would be allowed to the Peoples Appellate Court, consisting of elected Magistrates of the Peoples Courts, acting in rotation as three-judge panels.

For example, the State of North Carolina, having 13 congressional districts under the most recent allocation, would have 13 Peoples Courts and all of their Magistrates available for the Appellate Court, with any appeal beyond that subject to *certiorari* by the U.S. Supreme Court.

Habeas petitions, on the other hand, would be filed directly with the Peoples Court in the congressional district of jurisdiction and promptly heard by it.

Prisoners filing such petitions and being held in that district must be brought by his or her captor before the court where the guardian in charge of imprisonment must establish how that incarceration was lawful or proper. Relief would be granted or denied, based solely on the judgment of the Peoples Court—as intended in such proceedings for centuries.

Restoration of Jury Rights and Powers

The role of the jury has been erased from American jurisprudence for all intents and purposes, though it was intended to be the People's domain.

According to Pew Research Center, less than 2% of those charged can afford—or are willing to risk—going to trial in a system that is so rigged in favor of government's apparatus. (https://www.pewresearch.org/fact-tank/2019/06/11/only-2-of-federal-criminal-defendants-go-to-trial-and-most-who-do-are-found-guilty/)

In short, juries were the ultimate check and balance on government and that important piece of federalism is now missing by intent.

The most brazen violations of Constitution and rights have been remedied by juries refusing to convict under misbegotten and unlawful statutes—*The Alien and Sedition Acts* as well as *The Fugitive Slave Act* being just two examples—not by government or politicians doing the *right thing*.

Juries refused to find their fellow citizens guilty, a process known as *nullification*. Enough of these acts of resistance to bad law by juries resulted in their removal by the legislative body that made the error.

In spite of this, juries today are improperly advised by judges at both State and Federal level that they have no such power in the courts.

In other words, the Bar has created language to lie to the American public and its representatives sitting on juries, and every member of the Bar sitting in the court room from judge to defense counsel remain silent on threat of disbarment for telling the truth of those powers to the jurors.

The jury not only has the power to judge the facts in the case, but to rule on the law itself—as was a very serious part of the Founders' design.

This anomaly of false instructions is relatively new in American Jurisprudence but quickly became ubiquitous.

False jury instructions became a public issue in *U.S. v. Krzyske* (6th Circuit, 1988) where the judge lied to the jury about its powers—but the Appellate Court upheld the conviction, even while affirming that the judge's instructions were both untruthful and in violation of *stare decisis*.

The jury was misled—yet Brother Counsel of the Bar at the Appellate level, in essence, promoted the wrongdoing by the lower court—which was immediately spread throughout the system by the Bar as if by intent:

> "There is no such thing as valid jury nullification. Your obligation is to follow the instructions of the Court as to the law given to you. You would violate your oath and the law if you willfully brought in a verdict contrary to the law given you in this case."

The entire statement is a lie, yet this now represents standard approved Bar instructions in courts today across America.

Laws that violate the Constitution, and false instructions by judges also fall within the purview of Peoples Courts to resolve, as the law is settled that

the jury has the power to decide against both the law and the facts and that has never changed—and those will be the instructions in honest courts if justice is restored via Peoples' Courts.

U.S. Supreme Court case *Horning v. District of Columbia*, 254 U.S. 135, 138-39 41 S. Ct. 53, 54, 65 L. Ed. 185 (1920), including the words of Justice Holmes speaking for the Court are clear and this decision has never been altered or rescinded—yet the approved Bar Association instructions today stand to the contrary, even though Constitutional Jury instructions can still be found.

For example, 1985 (Addition § 3.17, Jury Nullification, in New Hampshire) correctly stated judicial instructions as:

> JURY NULLIFICATION
>
> Even if you find that the State has proven each and every element of the offense charged beyond a reasonable doubt, you may still find the defendant not guilty if you have a conscientious feeling that a not guilty verdict would be a fair result in this case.
>
> The jury in a criminal case has the undisputed power to acquit, even if its verdict is contrary to the law as given by the judge and contrary to the evidence. This power of jury nullification is a historical prerogative of the jury inherent in the use of the general verdict in criminal cases.
>
> AND THEN THE MODIFICATION BEGAN WITH AN ADDITION THAT SAME YEAR (1985):
>
> However, the existence of the jury nullification power does not mean that a jury must be informed by the judge of that power. Jury nullification is neither a right of the defendant nor a legal defense. An instruction on jury nullification my be one best given only when it is requested by a defendant or when the nature of a particular case otherwise warrants it. The trial court is vested with discretion to determine whether or not the facts of a particular case warrant such an instruction when it has been requested by a party.

A lawyer today who brings up the powers of the jury in open court—though once part of the instruction in every criminal case—will now result in that attorney's punishment and even disbarment by the Bar Association.

IN CONCLUSION

Reform of the entrenched federal district court system is beyond the realm of possibilities as most if not all would agree—including those within it.

It is a fact, however, that when this effort began in 2008, there was not adequate understanding of the depths to which the system of justice had descended—or even belief that this was possible when first exposed. We all believed we had the greatest system on earth, which we did for most of our nation's history, but no more.

America now has the highest rate of conviction in the world—and unless one believes the courts and prosecutors are more fair or cautious when death is not the outcome—which the Columbia Law Report posted at 82% rate of error—we also have the most unfair and error-prone system in the Western World, simply because due process and law gave way to scalps, wins and what is termed by the Bar Association as 'judicial efficiency'.

The world has now seen false prosecutions in America at the highest levels in the land—even the White House—using foreign spies, secret warrants obtained by lies and frauds, with lives ruined by evil actors in positions of power—so it seems the time is finally ripe for remedy.

The tried and true means of bringing justice is to punish those who violate the law, which should not be controversial, but this will be a pitched battle and those entrenched in the wrong-doing will never agree, but a groundswell has begun that will not seek their approval or concurrence.

Once the Andrew Weissmanns, Robert Muellers, and Matthew Martens begin going to prison, and judges such as Emmet Sullivan, W. Earl Britt and Amy Berman Jackson find themselves before grand juries for their own crimes that violated citizens' rights, the lawlessness will quickly subside.

That is the goal, and your assistance and participation is welcomed.

Contact Howell Woltz (private e-mail is woltzh@gmail.com) for more information, or call +48 604 900 183 in Warsaw, Poland.

Int'l Center for Justice
Quis custodiet ipsos custodes?

cc: Mike Davis
Article III Project