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Grand Jury Reform

Overview

Conservative Solutions

Overview

A grand jury is meant to be used to decide if there is enough evidence in a case to bring it to trial. To fulfill this purpose, the grand jury should have no bias and be made fully aware of all the evidence. But this is not the case in most states. The Supreme Court has not yet recognized grand juries as a requirement of constitutional due process. As a result, grand juries are regulated entirely by the state, and half of the states in America do not even require a grand jury before a case goes to trial.

States have almost complete control over the entire grand jury process, causing a number of problems. For example, the “pick-a-pal” system used in many states allows a judge to appoint five jury commissioners who recruit or pick whomever they wished to serve on the jury, even if it means choosing their “pals.” Unsurprisingly, studies have shown that this system increases the chances of a favorable outcome for the state, as well as a higher chance of indictment. The fact that the jury was chosen by people connected to the court, rather than at random, demonstrates its bias.

The evidence presented in criminal trials are bound by certain rules of admissibility—but most grand juries function as an evidence free-for-all, allowing the state to present evidence that won’t be admissible in a criminal trial down the road. Hearsay, for example, is permitted. If this evidence can’t actually be used to find someone guilty, then why is it allowed as evidence to determine an indictment? This not only wastes time and taxpayer money, it also unnecessarily destroys lives.

Many states give prosecutors an unfair advantage in grand jury proceedings that they would never have in a trial court. In most states, defense counsel isn’t even permitted in the grand jury room with their client, and the states that do permit their presence forbid them from addressing the jury. If everyone has the right to counsel, then why is that counsel not allowed to be present when their client is up for indictment? Prosecutors also have the advantage of being able to call for a virtually unlimited number of grand juries, meaning that even if a grand jury decides that the state does not have enough evidence to make its case, the prosecutor can simply keep calling new grand juries until he/she obtains the desired outcome. A subsequent jury should of course be used when new evidence is discovered—the whole point of the grand jury process is to determine whether enough evidence exists for a trial. But without new evidence, the prosecutor is merely attempting the same argument with different people in order to indict someone that has already been released by another jury. This is an unfair abuse of prosecution power and should be ended.

A grand jury should be a requirement—but prosecutors should be required to use it correctly. The judicial system is meant to protect people and keep them innocent until proven guilty. All of these problems within the grand jury system do the opposite and leave the accused feeling hopeless.

Conservative Solutions

- Allow defense attorneys to be present and speak up during the grand jury
- Eliminate the “pick-a-pal” system
- Eliminate the use of evidence that would be inadmissible in a trial court
- Eliminate the ability of prosecutors to have subsequent juries without new evidence

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About ACUF

Who We Are

The American Conservative Union Foundation (“ACUF”) is one of the nation’s oldest organizations representing grassroots conservatives throughout the United States. Founded more than five decades ago by William F. Buckley, ACUF works to advance our core values of liberty, personal responsibility, and fiscal responsibility – all of which are impacted by criminal justice reform. The mission of ACUF is to educate Americans about conservative solutions to the country’s most pressing problems.

The Nolan Center for Justice was established by the American Conservative Union Foundation to provide leadership for the growing conservative consensus that our criminal justice system is badly broken, and that there are proven, conservative reforms that will keep the public safe while restraining costs.

ACUF’s Nolan Center for Justice promotes policies that improve public safety, reduce government cost, and protect human dignity in our justice system. Criminal Justice Reform is a high priority for ACUF, and it has been highlighted at the annual Conservative Political Action Conference (CPAC) for several years.

The Center raises public awareness of conservative criminal justice reforms through opinion pieces, media interviews, briefing papers, and testifying as expert witnesses at government hearings. We also assist legislators and leaders of government agencies in applying conservative principles as they craft solutions to crime and justice issues.

Our Mission

To inform and mobilize public support for criminal justice reforms based on conservative principles, and to work with government officials to effectively implement those reforms.

PEOPLE WE HAVE WORKED WITH

The Center partners with the Right on Crime coalition, Prison Fellowship Ministries, the American Legislative Exchange Council, FreedomWorks, the Charles Koch Institute, and other organizations that pursue criminal justice reform from a conservative perspective. In addition, we regularly work with leaders in the Conservative movement such as Grover Norquist of Americans for Tax Reform, President Reagan's Attorney General Ed Meese, former Speaker of the House Newt Gingrich, former Secretary of Education Bill Bennett, Tony Perkins of the Family Research Council, Tim Head of the Faith and Freedom Coalition, and Penny Nance of Concerned Women of America.

CPAC



Watch Video

CPAC

Community Corrections and Clean Slates: Ideas States Can Undertake on Their Policy Plates

At the 2020 ALEC 'virtual meeting,' ACUF hosted a panel on community corrections and how clean slate laws better provide for second chances for individuals with a criminal history. Panelists included David Safavian from the American Conservative Union, as well as York County, Pennsylvania District Attorney David Sunday and Pennsylvania Representative Sheryl Delozier.



Watch Video

Second Chances

The Center for Criminal Justice Reform regularly hosts panels on Justice Reform each year at the Conference. CPAC 2018 featured an enlightening conversation on Second Chances and the Conservative Case for reform with ACUF's Pat Nolan and Rep. Mark Walker (R-NC), Chairman of the Republican Study Committee.