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Ruth A. Sears

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more, it is a problem for which there is no easy solution. The drafting of a detailed and rational set of Supreme Court Rules covering the entire area of closing argument would be beneficial. Merely making rules, however, does little good if defendants' rights are not enforced when violated.⁴⁹ Appellate courts, therefore, should take a more active position in regulating the content of closing arguments. The reversal and remand of a few cases would put heavy pressure on prosecutors to tone down their language. However, because the appellate courts are not the source of the problem, the real solution lies at the local level. Circuit court judges should exercise their right to intervene when argument becomes prejudicial.⁵⁰ Defense counsel should object when argument becomes improper. Most importantly, prosecutors should stay within the proper limits of closing argument. The prosecuting attorney is a quasi-judicial official whose primary duty according to the Code of Professional Responsibility is "to seek justice, not merely to convict."⁵¹ If a prosecutor does not stay within the rules of his own volition, he should be dealt with accordingly. Criminal defendants, even if guilty, should be given a fair day in court.

CRAIG A. SMITH

GRAND JURY MAY NOT REPORT ON MISCONDUCT OF PUBLIC OFFICIAL WITHOUT INDICTMENT

*In re Interim Report of the Grand Jury
Convened for the March Term of the
Seventh Judicial Circuit of Missouri 1976*¹

A Clay County grand jury conducted an investigation of the official conduct of Ed Stein, planning director of the Clay County Planning and Zoning Commission. The grand jury filed an interim report with the Circuit Court of Clay County and alleged that Mr. Stein had knowledge of mishandling of official funds and had failed to take any corrective

49. *State v. Jasper*, 521 S.W.2d 182, 191 (Mo. App., D.K.C. 1975) (Dixon, J. dissenting).

50. *State v. Laster*, 365 Mo. 1076, 1084, 293 S.W.2d 300, 305 (En Banc), *cert. denied*, 352 U.S. 936 (1956).

51. ABA CODE OF PROFESSIONAL RESPONSIBILITY, EC7-13; Mo. R. Civ. P. 4.05.

1. 553 S.W.2d 479 (Mo. En Banc 1977).

action. However, no indictment was returned. Mr. Stein filed a motion in the Circuit Court of Clay County to expunge the report from the court's records. The motion was overruled, and a direct appeal was heard by the Missouri Supreme Court² in exercise of its jurisdiction over cases involving construction of the constitution.³ The supreme court reviewed the applicable statutory and constitutional provisions and found no authority to support the publication of a grand jury report on the conduct of a public officer where an indictment was not returned. The court thus ruled that Mr. Stein was entitled to expunction of the improper report.

The decision was based on an examination of the common law history of the grand jury, applicable Missouri statutes, and the present Missouri constitution. The authorities are divided on whether a grand jury at common law had the power to file a report without indictment.⁴ The 1875 constitution of Missouri expressly provided this power,⁵ and the court avoided the necessity of adopting one of the two conflicting views by assuming that the 1875 constitution was consistent with the common law.⁶

This section of the 1875 constitution was deleted, however, when the 1945 (current) version of the constitution was debated and approved. Although the legislative history seems to indicate that curbing of grand jury reporting powers was not the purpose of the revision,⁷ that indication is rebutted by a literal reading of the 1945 constitution in which the authorizing provision is missing. The only section in the current constitution relating to the powers of grand juries mentions the power to investigate and indict for "all character and grades of crimes"⁸

2. An appeal could be taken at this point because the order overruling movant's motion was a final judgment for this purpose. *State ex rel. Lashly v. Wurdeman*, 187 S.W. 257, 258 (Mo. En Banc 1916).

3. MO. CONST. art. V, § 3.

4. 553 S.W.2d at 480, nn.8 & 9. See Oliver, *Inquiry into the Powers of a Missouri Grand Jury*, 30 U.K.C.L. REV. 200 (1962); Weinstein & Shaw, *Grand Jury Reports—A Safeguard of Democracy*, 1962 WASH. U.L.Q. 191. Many reports were issued by grand juries at common law, but the mere existence of such reports does not necessarily mean they were properly authorized. Research reveals that many reports were filed pursuant to statute. It is the existence and propriety of the nonstatutory reports that was at issue in *In re Interim Report of the Grand Jury*.

5. MO. CONST. of 1875, art. XIV, § 11. "It shall be the duty of the grand jury in each county, at least once a year, to investigate the official acts of all officers having charge of public funds, and report the result of their investigations in writing to the court." (emphasis added).

6. 553 S.W.2d at 481.

7. Weinstein & Shaw, *supra* note 4, at 200-01. The Journal of the 1943-44 Missouri Constitutional Convention indicates that the proponent of the amendment to strike this section so moved to relieve poor counties in Missouri from the constitutionally mandated annual expense of convening a grand jury, and because the section was legislative rather than constitutional.

8. MO. CONST. art. I, § 16.

The only express statutory power to report, other than by indictment, empowers the grand jury to report on the condition of public buildings.⁹

In cases construing similar constitutional provisions, many courts have concluded that the power to investigate implies the power to report.¹⁰ The grand jury, as respondent in the principal case, also raised this argument, but the court did not accept this reasoning. Instead it apparently relied on the principle *expressio unius est exclusio alterius*.¹¹ In other words because the power to report results of investigations of conditions of public buildings is granted expressly, there is a meaningful and "conspicuous absence" of provisions authorizing reports in other areas.¹² The court reasoned that the legislature must have intended to withhold such power for it would have been a simple matter to provide expressly for reporting powers in other areas.

Only a handful of prior Missouri cases have made any reference to grand jury reports. However, the current decision is in line with the policy apparent in earlier cases.¹³ Although a grand jury is a nonadversary proceeding, its functions are of a judicial nature.¹⁴ However, a libel action has been permitted against grand jurors.¹⁵ This indicates that a report which exceeds statutory authority does not fall within the privilege for judicial statements. In other words an unauthorized report is beyond the judicial functions of the grand jury. The Missouri Su-

9. Section 540.020(2), RSMo (1969) provides: "A grand jury shall be convened at the discretion of a judge of the court having the power to try and determine felonies, to examine public buildings, and report on their conditions"

10. See, e.g., *Ex Parte* Faulkner, 221 Ark. 37, 40, 251 S.W.2d 822, 823 (1952); *In re* Report of Ormsby County Grand Jury, 74 Nev. 80, 85, 322 P.2d 1099, 1101-02 (1958); *Jones v. People*, 101 App. Div. 55, 57, 92 N.Y.S. 275, 276 ("Official inquiry intends either official action or official report.") *appeal dismissed sub nom. In re Jones*, 181 N.Y. 389, 74 N.E. 226 (1905), and cases cited therein.

11. "Expression of one thing is the exclusion of another." BLACK'S LAW DICTIONARY 692 (rev. 4th ed. 1968).

12. 553 S.W.2d at 482. *Accord*, *Hammond v. Brown*, 323 F. Supp. 326, 344 (N.D. Ohio), *aff'd*, 450 F.2d 480 (6th Cir. 1971). "The expression of specific power [by statute] to issue these particularized reports by clear implication of law precludes a grand jury's lawful exercise of any unexpressed power to render other types of written reports." (emphasis added).

13. In *Conway v. Quinn*, 168 S.W.2d 445 (St. L. Mo. App. 1942), a grand jury was in the midst of an investigation, so the court sought to protect the rights and reputations of the persons being investigated by enforcing secrecy. It did not require the stenographer to turn over a transcript of the proceedings to the court unless that stenographer was required to testify concurrently before the court. In dicta, however, the court indicated that it would make available the grand jury's notes for certain purposes after indictment had been returned, implicitly recognizing the importance of an opportunity to reply which is available in the case of an indictment.

14. *State ex rel. Hall v. Burney*, 229 Mo. App. 759, 84 S.W.2d 659 (K. C. Ct. App. 1935).

15. *State ex rel. Clagett v. James*, 327 S.W.2d 278 (Mo. En Banc 1959).

preme Court has not previously ordered expunction of an unauthorized grand jury report, although in an appropriate case, the court's hesitancy was based on procedural technicalities.¹⁶

Cases from other jurisdictions on the subject of grand jury reports¹⁷ may be divided roughly into two groups—those which broadly state that the grand jury has authority to report because of common law practices,¹⁸ and those which declare that there is no reportorial power absent explicit statutory or constitutional authority.¹⁹ The latter concept is inherent in the principal decision and earlier case law in Missouri.

The majority view that grand jury reports should not condemn citizens without indictment recently has gained a wider acceptance,²⁰ and Missouri has joined the movement. California and Florida lead the minority, but those states and New Jersey have moved closer to the majority in recent decisions.²¹ No cases have been found reversing this trend.

Decisions from other jurisdictions may be divided further into grand jury reports concerning public officials and those concerning private individuals. Most jurisdictions have allowed more liberal reporting on the conduct of public officials than on the conduct of private citizens.²² A

16. *State ex rel. Lashly v. Wurdeman*, 187 S.W. 257 (Mo. En Banc 1916) (refusal to grant a writ of mandamus compelling the circuit judge to strike the report because all other modes of redress had not been exhausted).

17. Classifying the various jurisdictions is difficult because of diversity of authorizing statutes and constitutional provisions which, although unacknowledged by the courts, may affect the decisions in grand jury cases.

18. *See* cases cited in Weinstein & Shaw, *supra* note 4; *In re Jessup*, 50 Del. 530, 136 A.2d 207 (Super. Ct. 1957).

19. *E.g.*, *Ex parte Robinson*, 231 Ala. 503, 165 So. 582 (1936); *People v. Superior Court*, 13 Cal. 3d 430, 531 P.2d 761, 119 Cal. Rptr. 193 (1975); *Kelley v. Tanksley*, 105 Ga. App. 65, 123 S.E.2d 462 (1961); *Coons v. State*, 191 Ind. 580, 134 N.E. 194 (1922); *State ex rel. De Armas v. Platt*, 193 La. 928, 192 So. 659 (1939).

20. *See* Comment, *The Grand Jury: Its Present Day Function and Correlative Powers*, 29 *FORDHAM L. REV.* 152, 157 n.45 (1960); *Hammond v. Brown*, 323 F. Supp. 326 (N.D. Ohio), *aff'd*, 450 F.2d 480 (6th Cir. 1971); *Kelley v. Tanksley*, 105 Ga. App. 65, 123 S.E.2d 462 (1961); *In re Davis*, 257 So. 2d 884 (Miss. 1972).

21. *Compare* *Irwin v. Murphy*, 126 Cal. App. 713, 19 P.2d 292 (1933) *with* *People v. Superior Court*, 13 Cal. 3d 430, 531 P.2d 761, 119 Cal. Rptr. 193 (1975). *Compare* *In re Camden County Grand Jury*, 10 N.J. 23, 89 A.2d 416 (1952) *with* *In re Presentment by Camden County Grand Jury*, 34 N.J. 378, 169 A.2d 465 (1961). *Compare* *State ex rel. Brautigam v. Interim Report of the Grand Jury*, 93 So. 2d 99 (Fla. 1957) *with* *In re Brevard County Grand Jury Interim Report*, 249 So. 2d 709 (Fla. Dist. Ct. App. 1971).

22. *E.g.*, *Ex parte Robinson*, 321 Ala. 503, 165 So. 582 (1936) (city commissioner); *Ryon v. Shaw*, 77 So. 2d 455 (Fla. 1955); *Bennett v. Kalamazoo Circuit Judge*, 183 Mich. 200, 150 N.W. 141 (1914) (prosecuting attorney); *State v. Bramlett*, 166 S.C. 323, 164 S.E. 873 (1932) (sheriff); *In re Report of Grand Jury*, 123 Utah 458, 260 P.2d 521 (1953) (state welfare commissioner); *In re Grand Jury Report*, 204 Wisc. 409, 235 N.W. 789 (1931) (city attorney).

few courts have allowed condemnation of public officials or private individuals, except in extreme cases where the report was malicious or there were indications that the evidence was insufficient or incompetent to support conclusions of misconduct.²³ This line of cases has followed a commonsense approach and shown little concern for authorizing statutes or the common law.

Although there are no Missouri cases concerning a private individual's censure by a grand jury, it would be a logical extension of *In re Interim Report of the Grand Jury* to forbid the practice; the arguments against the reporting of private citizens' conduct are even stronger than the arguments against censure of public officials. It can be argued that persons in official positions assume some risk of public censure (evident in the limited privilege to defame public officials)²⁴ but also have a greater opportunity to rebut damaging allegations²⁵ than do citizens not holding public office. If expunction is granted to a public official, that remedy surely would be available to a private citizen;²⁶ the converse, however, may be less true. A motion for expunction might be denied in both cases, however, if the movant himself called for the investigation.²⁷

The power of the grand jury to report on general community conditions, with or without authorizing statutes, also is uncertain. Courts have stated that the benefit to the community of such reports outweighs any danger to individual rights, especially since individuals seldom are referred to directly.²⁸ Some courts have upheld such reports on the commonsense belief that the reports do little harm and may in fact be helpful, without an analysis of the statutory or constitutional authority for the reports.²⁹ Several jurisdictions have extended to the grand jury the power to report on general conditions in the community even though a public official's name may be incidentally referred to in a deleterious manner.³⁰ Such decisions have refused expunction so long as the grand jury was not found to be seeking an opportunity to impugn

23. See, e.g., *People v. Superior Court*, 13 Cal. 3d 430, 531 P.2d 761, 119 Cal. Rptr. 193 (1975); *In re Report of Grand Jury*, 11 So. 2d 316 (Fla. 1943); *In re Report of Grand Jury*, 152 Md. 616, 137 A. 370 (1927) ("calculated to injure reputation").

24. *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).

25. Note, *The Grand Jury as an Investigatory Body*, 74 HARV. L. REV. 590, 595 (1961).

26. *State ex rel. Strong v. District Court*, 216 Minn. 345, 349, 12 N.W.2d 776, 778 (1944).

27. *Hayslip v. State*, 193 Tenn. 643, 249 S.W.2d 882 (1952).

28. E.g., *Ex parte Faulkner*, 221 Ark. 37, 251 S.W.2d 822 (1952); *In re Brevard County Grand Jury Interim Report*, 249 So. 2d 709 (Fla. Dist. Ct. App. 1971).

29. E.g., *In re Report of Grand Jury*, 152 Md. 616, 137 A. 370 (1927).

30. E.g., *In re Brevard County Grand Jury*, 249 So. 2d 709 (Fla. Dist. Ct. App. 1971); *Kelley v. Tanksley*, 105 Ga. App. 65, 123 S.E.2d 462 (1961); *In re Grand Jury*, 244 N.W.2d 253, 256 (Minn. 1976).

the official's motives or character.³¹ Missouri presently appears to disfavor grand jury reports on general community conditions in light of the court's requirement of a specific source of authority for such reporting and the present lack thereof.

The Missouri Supreme Court's systematic attempt to trace a grand jury report to a specific source of authority stands in sharp contrast to cases in other jurisdictions based on similar facts. Many of these cases were decided on the basis of public policy and past grand jury custom,³² rather than the presence of legal sources of grand jury powers. The Missouri court only hinted at the many policy arguments which might have been made. According to the court, the report should be expunged "because it is a quasi-official accusation of misconduct which movant is precluded from answering in an authoritative forum."³³ Notwithstanding the court's slight mention of policy reasons, an examination of the respective arguments leads to the conclusion that the court's decision was desirable. Recently commentators have scrutinized closely the grand jury process and have questioned the reporting powers³⁴ and even the existence of the grand jury in a modern legal system.³⁵ Because of the wide use of the grand jury in New York, that state has handed down many decisions disputing the legality and utility of the grand jury report.³⁶ These opinions are replete with policy arguments on both sides of the issue. Majority cases opposing the reporting powers of the grand jury were preceded by the well-known dissent in *In re Jones*³⁷ and then by the landmark reversal in *Wood v. Hughes*.³⁸ These authorities limited such reports primarily because they offended the traditional rule of secrecy in grand jury investigations which was instituted to protect the reputations of those under investigation for which insufficient evidence was adduced to return an indictment.³⁹

31. *E.g.*, *In re Gulf County Grand Jury*, 224 So. 2d 764 (Fla. Dist. Ct. App. 1969); *State ex rel. Brautigam v. Interim Report of the Grand Jury*, 93 So. 2d 99 (Fla. 1957); *In re Report of Grand Jury*, 152 Md. 616, 137 A. 370 (1927); *In re Report of Grand Jury*, 123 Utah 458, 260 P.2d 521 (1953).

32. *See, e.g.*, *Ex parte Faulkner*, 221 Ark. 37, 251 S.W.2d 822 (1952).

33. 553 S.W.2d at 482.

34. *See, e.g.*, Edgar, *The Propriety of the Grand Jury Report*, 34 TEX. L. REV. 746 (1956); Younger, *The Grand Jury Under Attack*, 46 J. CRIM. L. & CRIMINOLOGY 26 (1955).

35. The grand jury system in England was abolished in 1933.

36. *See Note, Grand Jury—Report Censuring Noncriminal Misconduct of Public Official Unauthorized*, 29 FORDHAM L.REV. 592, 594 (1960).

37. 101 App. Div. 55, 92 N.Y.S. 275, *appeal dismissed sub nom. In re Jones*, 181 N.Y. 389, 74 N.E. 226 (1905) (Woodward, J., dissenting).

38. 9 N.Y.2d 144, 212 N.Y.S.2d 33, 173 N.E.2d 21 (1961). The principal case pointed out that the reason *Wood v. Hughes* is so important to the consideration of the legal question in Missouri is that the statutes and constitution of New York are almost identical to those of Missouri. 553 S.W.2d at 481.

39. *See also Application of UEW*, 111 F. Supp 858, 866 (S.D.N.Y. 1953).

Another often repeated argument is that a grand jury report violates the concept of separation of powers.⁴⁰ When the grand jury dictates courses of conduct for the legislature to adopt or directs the dismissal of public officials, it usurps the power of the legislative and executive branches. Furthermore, when a grand jury reports but fails to indict, in effect it has failed to find enough evidence to meet the standard for criminality set by the legislature,⁴¹ yet it has taken it upon itself to condemn.

Other reasons given by courts for disallowing such reports have involved lofty principles of due process⁴² or general concepts of fair play.⁴³ The grand jury report has the often disastrous effect of condemning individuals through the judicial importance of a grand jury, but denying a forum in which to respond.⁴⁴ It often has been said that a grand jury report is like a hit-and-run driver—it has the importance of a judicial document, yet lacks the right to answer and appeal.⁴⁵ Such reports may be tantamount to indictment or conviction in the eyes of the public,⁴⁶ for the distinction in the public eye between various judicial proceedings and terminology is often elusive.⁴⁷

The *ex parte* grand jury proceeding contrasts sharply to the adversary trial which usually follows a grand jury indictment and which is

40. *Id.* The same reason was given in *Hammond v. Brown*, 323 F. Supp. 326 (N.D. Ohio), *aff'd*, 450 F.2d 480 (6th Cir. 1971).

41. *In re Osborne*, 68 Misc. 597, 604, 125 N.Y.S. 313, 318 (Sup. Ct. 1910): "No matter how respectable or eminent citizens may be who comprise the grand jury, they are not above the law, and the people have not delegated to them arbitrary or plenary powers to do that, under an ancient form, which they have not a legal right to do."

42. *See, e.g., In re Oliver*, 333 U.S. 257, 273-78, (1947); *State ex rel. Brautigam v. Interim Report of Grand Jury*, 93 So. 2d 99, 102 (Fla. 1957).

43. *See, e.g., Ex parte Burns*, 261 Ala. 217, 221, 73 So. 2d 912, 915 (1954) ("To us it is not in accord with the American sense of fair play and justice in this manner to deprive him of his good name and to put a stigma in this manner upon his character."); *In re Grand Jury*, 244 N.W.2d 253, 255 (Minn. 1976); *In re Davis*, 257 So. 2d 884, 888 (Miss. 1972); *People v. McCable*, 148 Misc. 330, 333, 266 N.Y.S. 363, 367 (Sup. Ct. 1933).

44. Meyer, *Grand Jury Reports: An Examination of the Law in Texas and Other Jurisdictions*, 7 ST. MARY'S L.J. 374, 376 (1975).

45. *People v. McCable*, 148 Misc. 330, 333, 266 N.Y.S. 363, 367 (Sup. Ct. 1933).

46. Meyer, *supra* note 44, at 376 ("conviction by innuendo"). *In re Davis*, 257 So. 2d 884, 888 (Miss. 1972) the court said:

The statement of a grand jury demands respect within a community and its deliberations and conclusions are tantamount to fact in the eyes of the populace. Our judicial system is couched in due process and fairness. Conviction by innuendo resulting from an *ex parte* proceeding is not compatible with, and is extremely offensive to these basic principles of jurisprudence.

47. *See Application of UEW*, 111 F. Supp. 858 (S.D.N.Y. 1953); *In re Presentment by Camden County Grand Jury*, 10 N.J. 23, 89 A.2d 416 (1952).

replete with constitutional protections for the defendant. A grand jury investigation is conducted by the prosecutor. Grand jurors may be molded easily by the prosecuting attorney. This danger is not present in an adversary proceeding where both sides of the controversy are presented and cross-examination is allowed. In the grand jury proceedings the "accused" has no right to appear unless summoned, and if summoned, no right to counsel within the courtroom.⁴⁸ A grand jury is under the general authority of a court, but no judge is present to determine questions of legality or sufficiency of evidence. The grand jury, clothed with full subpoena power, functions virtually as an independent investigatory body, yet it holds the awesome position of an arm of the judiciary.

At common law the grand jury was considered the "conscience of the community,"⁴⁹ but one commentator pointed out that the decreasingly representative character of today's grand juries means reports are of less value to the public.⁵⁰ Courts have pointed out the lack of objective standards to guide grand juries as a serious danger to personal rights. A grand jury is selected, not elected, and consists of grand jurors little skilled in proper techniques of investigation.⁵¹ If reports are issued without indictment, subjective personal standards⁵² or even personal enmities may be substituted for the standards set down by the legislature.⁵³ This practice of grand jury reporting has been accused of being inconsistent with democratic ideals and the constitutional goal of a "government of laws, not men."⁵⁴

The practical damage to a person who is named or inferentially referred to in a grand jury report is that if the circuit court accepts the findings of the grand jury, those findings will be spread upon the public record and commonly will reach the news media within hours.⁵⁵ Be-

48. *People v. Ianniello*, 21 N.Y.2d 418, 235 N.E.2d 439, 288 N.Y.S.2d 462 (1968).

49. Weinstein & Shaw, *supra* note 4, at 202.

50. Dession & Cohen, *The Inquisitorial Functions of Grand Juries*, 41 YALE L.J. 687, 707 (1932). Perhaps the existence of a single state church (and therefore arguably a more uniform public morality) and larger grand juries may have made grand juries at common law more representative than the grand juries of today which are smaller and derived from a more diversified society.

51. Hunt, *Legality of the Grand Jury Report*, 52 MICH. L. REV. 711, 718 (1954).

52. Project, *The Grand Jury*, 30 U.K.C.L. REV. 149, 197 (1962).

53. *In re Report of Ormsby County Grand Jury*, 74 Nev. 80, 85, 322 P.2d 1099, 1102 (1958). "The grand jury has no power, where the law is silent, to declare certain acts to be public offenses through the fixing of standards in accord with its ethics or moral views."

54. *Jones v. People*, 101 App. Div. 55, 63, 92 N.Y.S. 275, 280, *appeal dismissed sub nom. In re Jones*, 181 N.Y. 389, 74 N.E. 226 (1905) (Woodward, J., dissenting).

55. *Application of UEW*, 11 F. Supp. 858 (S.D.N.Y. 1953); *Bennett v. Kalamazoo Circuit Judge*, 183 Mich. 200, 50 N.W. 141 (1914).

cause of grand jury secrecy, an individual often does not know of the investigation until the findings are disseminated in this way. Consequently, there is no opportunity to object until the damage has been done.⁵⁶ Even if a report can be expunged from the record, it is doubtful if the effects can be expunged easily from the minds of the public. The "accused" may encounter difficulties in public dealings, business associations, and employment.

Proponents of the grand jury report argue primarily that if a grand jury cannot investigate, there will be no one to act as the "watchdog" of public officers and community affairs. If it is believed that grand jury reports are needed or valuable in certain areas, procedures may be implemented by legislatures to safeguard individual rights while allowing reports to be filed. In New York, for example, a public official has an opportunity to testify and twenty days to file an answer before the report is made public.⁵⁷ Congress has established similar safeguards for the federal courts. An answer may be filed and witnesses may be called so the grand jury process will conform more closely with due process standards.⁵⁸ Other solutions and safeguards may be developed by legislatures in the future if reports are desired. It has been suggested⁵⁹ that the legislature and its committees afford the machinery for making such reports after an investigation. The legislature, unlike the judicial arm of government, carries with it the power to make changes to respond to any problems discovered.

The decision in *In re Interim Report of the Grand Jury* does not impair the grand jury's broad power of investigation into areas such as misconduct of public officials, but it does limit the accompanying reporting powers if conduct of a legislatively declared criminal nature is not found. It is important not only because it clearly identifies expunction of the report as the individual's remedy, but also because it declares that Missouri grand juries do not have power to make such reports, nor courts power to accept them. A democratic government, including its judicial system, is formed primarily to protect the individual rights of citizens. Individual rights should not be subordinated to public interest when the scales have been found particularly uneven. In Missouri the need to protect citizens' reputations has been adjudged to weigh heavier in the balance.

RUTH A. SEARS

56. Meyer, *supra* note 44, at 377.

57. N.Y. CRIM. PROC. LAW (McKinney) § 190.85.2(b), .3 (1971).

58. 18 U.S.C. § 3333 (1970).

59. Note, *supra* note 25, at 599.