According to the US Supreme Court - United States v Williams 112 S.Ct. 1735, 504 U.S. 36, 118 L.Ed.2d 352 (1992)

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"[R]ooted in long centuries of Anglo-American history," Hannah v. Larche, 363 U. S. 420, 490 (1960) (Frankfurter, J., concurring in result), the grand jury is mentioned in the Bill of Rights, but not in the body of the Constitution. It has not been textually assigned, therefore, to any of the branches described in the first three Articles. It" 'is a constitutional fixture in its own right.'" United States v. Chanen, 549 F.2d 1306, 1312 (CA9) (quoting Nixon v. Sirica, 159 U. S. App. D. C. 58, 70, n. 54, 487 F.2d 700, 712, n. 54 (1973)), cert. denied, 434 U. S. 825 (1977). In fact the whole theory of its function is that it belongs to no branch of the institutional Government, serving as a kind of buffer or referee between the Government and the people. See Stirone v. United States, 361 U. S. 212, 218 (1960); Hale v. Henkel, 201 U. S. 43, 61 (1906); G. Edwards, The Grand Jury 28-32 (1906). Although the grand jury normally operates, of course, in the courthouse and under judicial auspices, its institutional relationship with the Judicial Branch has traditionally been, so to speak, at arm's length. Judges' direct involvement in the functioning of the grand jury has generally been confined to the constitutive one of calling the grand jurors together and administering their oaths of office. See United States v. Calandra, 414 U. S. 338, 343 (1974); Fed. Rule Crim. Proc. 6(a).

The grand jury's functional independence from the Judicial Branch is evident both in the scope of its power to investigate criminal wrongdoing and in the manner in which that power is exercised. "Unlike [a] [c]ourt, whose jurisdiction is predicated upon a specific case or controversy, the grand jury 'can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not.'" United States v. R. Enterprises, Inc., 498 U. S. 292, 297 (1991) (quoting United States v. Morton Salt Co., 338 U. S. 632, 642-643 (1950)). It need not identify the offender it suspects, or even "the precise nature of the offense" it is investigating. Blair v. United States, 250 U. S. 273, 282 (1919). The grand jury requires no authorization from its constituting court to initiate an investigation, see Hale, supra, at 59-60, 65, nor does the prosecutor require leave of court to seek a grand jury indictment. And in its day-today functioning, the grand jury generally operates without the interference of a presiding judge. See Calandra, supra, at 343. It swears in its own witnesses, Fed. Rule Crim. Proc. 6(c), and deliberates in total secrecy, see United States

True, the grand jury cannot compel the appearance of witnesses and the production of evidence, and must appeal to the court when such compulsion is required. See, e. g., Brown v. United States, 359 U. S. 41, 49 (1959). And the court will refuse to lend its assistance when the compulsion the grand jury seeks would override rights accorded by the Constitution, see, e. g., Gravel v. United States, 408 U. S. 606 (1972) (grand jury subpoena effectively qualified by order limiting questioning so as to preserve Speech or Debate Clause immunity), or even testimonial privileges recognized by the common law, see In re Grand Jury Investigation of Hugle, 754 F.2d 863 (CA9 1985) (opinion of Kennedy, J.) (same with respect to privilege for confidential marital communications). Even in this setting, however, we have insisted that the grand jury remain "free to pursue its investigations unhindered by external influence or supervision so long as it does not trench upon the legitimate rights of any witness called before it." United States v. Dionisio, 410 U. S. 1, 17-18 (1973). Recognizing this tradition of independence, we have said that the Fifth Amendment's "constitutional guarantee presupposes an investigative body 'acting independently of either prosecuting attorney or judge' .... " Id., at 16 (emphasis added) (quoting Stirone, supra, at 218).

No doubt in view of the grand jury proceeding's status as other than a constituent element of a "criminal prosecutio[n]," U. S. Const., Arndt. 6, we have said that certain constitutional protections afforded defendants in criminal proceedings have no application before that body. The Double Jeopardy Clause of the Fifth Amendment does not bar a grand jury from returning an indictment when a prior grand jury has refused to do so. See Ex parte United States, 287 U. S. 241, 250-251 (1932); United States v. Thompson, 251 U. S. 407, 413-415 (1920). We have twice suggested, though not held, that the Sixth Amendment right to counsel does not attach when an individual is summoned to appear before a grand jury, even if he is the subject of the investigation. See United States v. Mandujano, 425 U. S. 564, 581 (1976) (plurality opinion); In re Groban, 352 U. S. 330, 333 (1957); see also Fed. Rule Crim. Proc. 6(d). And although "the grand jury may not force a witness to answer questions in violation of [the Fifth Amendment's] constitutional guarantee" against self-incrimination, Calandra, supra, at 346 (citing Kastigar v. United States, 406 U. S. 441 (1972)), our cases suggest that an indictment obtained through the use of evidence previously obtained in violation of the privilege against self-incrimination "is nevertheless valid." Calandra, supra, at 346; see Lawn v. United States, 355 U. S. 339, 348-350 (1958); United States v. Blue, 384 U. S. 251, 255, n.3 (1966).

Given the grand jury's operational separateness from its constituting court, it should come as no surprise that we have been reluctant to invoke the judicial supervisory power as a basis for prescribing modes of grand jury procedure. Over the years, we have received many requests to exercise supervision over the grand jury's evidence-taking process, but we have refused them all, including some more appealing than the one presented today. In United States v. Calandra, supra, a grand jury witness faced questions that were allegedly based upon physical evidence the Government had obtained through a violation of the Fourth Amendment; we rejected the proposal that the exclusionary rule be extended to grand jury proceedings, because of "the potential injury to the historic role and functions of the grand jury." 414 U. S., at 349. In Costello v. United States, 350 U. S. 359 (1956), we declined to enforce the hearsay rule in grand jury proceedings, since that "would run counter to the whole history of the grand jury institution, in which laymen conduct their inquiries unfettered by technical rules." Id., at 364.

These authorities suggest that any power federal courts may have to fashion, on their own initiative, rules of grand jury procedure is a very limited one, not remotely comparable to the power they maintain over their own proceedings. See United States v. Chanen, 549 F. 2d, at 1313. It certainly would not permit judicial reshaping of the grand jury institution, substantially altering the traditional relationships between the prosecutor, the constituting court, and the grand jury itself. Cf., e. g., United States v. Payner, 447 U. S. 727, 736 (1980) (supervisory power may not be applied to permit defendant to invoke third party's Fourth Amendment rights); see generally Beale, Reconsidering Supervisory Power in Criminal Cases: Constitutional and Statutory Limits on the Authority of the Federal Courts, 84 Colum. L. Rev. 1433,1490-1494,1522 (1984). As we proceed to discuss, that would be the consequence of the proposed rule here.