

The Grand Jury

97% of all US Grand Jury indictments result in convictions. This is because these indictments are carefully researched and supported by evidence provided by US Special Agents prior to their submission to the Grand jury.

The Coke indictment S15 077 Cr.971 is a detailed 9-page document which is descriptive and specific. The Federal Grand Jury has sweeping powers to compel both oral testimony and the production of documents. There is reason to believe that the Coke Grand Jury had access to considerable evidence and heard from at least 9 witnesses of fact and law enforcement officers from both Jamaica and the United States. It listened to the recordings of taped conversations and probably reviewed satellite photographs of Tivoli Gardens and the surrounding wharf area.

It is possible that the Grand Jury reviewed financial and wharfage records as well.

The Coke Grand Jury would have conducted ex parte, in secret and without a judge presiding over them. The Grand Jury need not justify its investigative activities by meeting any burden of proof that a crime has occurred. The Grand Jury is empowered to investigate on the mere suspicion that Mr. Coke had violated the law. The Grand Jury may consider evidence proffered by the prosecutor, witnesses, tips ,credible rumours or the personal knowledge of the grand jurors.

Hearsay evidence is admissible and a Grand Jury witness cannot resist testifying or producing evidence on the grounds that the subpoena was the fruit of illegal police conduct.

The Grand Jury is ostensibly an independent body. The prosecutor's role is to be Grand Jury's legal advisor and to present evidence for its consideration. The United States Attorney selects the matters to be investigated and the witnesses to be subpoenaed. The sixth amendment right to counsel does not apply to Grand Jury proceedings. Federal law does not permit attorneys to be present while the Grand Jury witness is being questioned.

Of particular interest to counsel in Jamaica is the fact that an attorney, foreign or local may receive a subpoena to provide testimony before the Grand Jury for evidence arising out of his representation of a witness. These subpoenas are used when the attorney is considered not to have an appropriate professional distance from the client. See *In re Grand Jury Subpoena Served Upon John Doe, Esq.*(Roe v United States) 781 F2d at 243.

The Grand Jury is the functional equivalent of a Preliminary Enquiry under Jamaican law. There are important differences however, the participation of counsel being an important one.

*David P. Rowe is a Professor of Law at the University of Miami School of Law and
the St. Thomas University School of Law.
[Click here](#) to read Dr. David P. Rowe's profile*

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