

April 14, 2024

General considerations for reviewing indictments and determining their validity[†]

1. At the outset, I let you know that I live in New York State, am admitted to the NYS bar, and have a license to practice law here. If you live elsewhere, that is, in another jurisdiction, to represent only you in your case I would have to raise a motion called *pro hac vice* in the court where your case is being or would be heard. That court proceeding under local law and its discretion would decide whether to grant me temporary permission to represent you in your case before it.
2. If what you want is to consult with me on the general considerations applicable to reviewing an indictment, in general, or the indictment that you are concerned about, in particular, in order to determine in principle its validity, I can conduct such review and render an opinion as part of my consulting services. Upon examining my opinion, you may want to explore challenging the validity of your particular indictment in the U.S. or district attorney's office¹ that sought and obtained it or in court. In that event, **you will need** to retain a lawyer with a license to practice law in your jurisdiction and access to local law materials, such as those discussed below, e.g., rules of procedure, agency regulations, city ordinances, etc. My opinion, of course, is not binding on either the district attorney, the court, or anybody else; they can reject or accept it in part or in whole.
3. My capacity to offer an opinion on a legal issue is demonstrated by my three-volume study^{*†♣} of judges and their judiciaries, the product of my professional **law research and writing** skills and **strategic thinking**. It is titled and downloadable thus:

**Exposing Judges' Unaccountability and Consequent Riskless Abuse of Power:
Pioneering the news and publishing field of judicial unaccountability reporting and reform advocacy^{*†♣}**

4. Some of my articles on unaccountability and abuse of power by judges, prosecutors, police, and other public officers are posted to my website **Judicial Discipline Reform**. They have attracted so many webvisitors and impressed them so positively that as of 14 April 2024, the number of visitors that they had motivated to become subscribers was **50,007**.
 - a. Those subscribers not only read what was before them, but also wanted more. They can reasonably be expected to be educated, influential, and capable of understanding how they are harmed by coordinated power abusers and willing to support the effort to expose them.

A. Kinds of law materials that may affect an indictment's validity

5. Many kinds of law materials are listed in **Appendix 6§C**. Some of them may have requirements that apply directly or indirectly to indictments.
 - a. The general consideration that applies here is that a person who wants to challenge the validity of an indictment in court must find out and examine every kind of law materials that may be applicable. This calls for professional law research and writing. A **lay person** is most unlikely to have the necessary knowledge and skills to conduct such examination, which should become apparent by the general considerations set forth herein.
 - b. The corollary consideration is: "The devil is in the detail". This means that the failure of a law enforcement authority, be it the district attorney, the police, the marshal, etc., to comply

¹ The term "district attorney" is used here to refer to both the federal and the state prosecuting office/officer, i.e., the U.S. and the district attorney of a city, borough, town, etc., and their respective assistants.

with an applicable legal requirement may affect significantly the validity of the indictment or its use as the basis for subsequent criminal proceedings.

6. The most important materials are the **U.S. and the state constitutions**. To challenge an indictment on constitutional grounds requires substantial legal knowledge and creative thinking.
 - a. Creative thinking is the ability to think beyond the conventional wisdom to gather bits of information from here and there, even new places, and connect them in a way different from what standard practice would suggest and though novel, reasonable and realistic. Creative thinking allows **strategic thinking** to take into account the circumstances and available resources to design a course of action to advance one's interests and attain one's objectives.
 - 1) When Justice Louis Brandeis was still a lawyer arguing cases before the U.S. Supreme Court, he was the first one to support his legal arguments with social, scientific, and economic studies. His briefs articulating sources of information so diverse at the time to argue for changes in labor abusive practices that had been in place for centuries were so innovative that they became known as "Brandeis briefs".
 - b. Some constitutional considerations are:
 - 1) due process, that is, giving notice of the crime and opportunity to defend;
 - 2) unreasonable search and seizure;
 - 3) selective prosecution that denies the equal protection of the laws;
 - 4) the supremacy of federal law over state law.
7. The next kind of law materials is the **laws**. They cannot be contradicted or preempted by any other kind, except the constitutions, e.g., when a court holds a law unconstitutional or void for vagueness. But the laws do not cover every aspect of seeking and obtaining an indictment. Therefore, the laws leave room for other kinds of law materials to be applied consistently with them.
 - a. jurisdictional competency, involving the issue of whether it was for the federal or the state attorney, or for the attorney for which city, county, or state to seek and obtain the indictment, depending on whether:
 - 1) the conduct of the indictee is a crime under federal and, or only, state law;
 - 2) the district attorney was authorized to charge class A felonies, only lesser felonies, or only misdemeanors so that anything graver had to be transferred to a higher level;
 - 3) the district attorney has or lacks a legitimate and compelling governmental interest in prosecuting the alleged crime; etc.
 - b. territorial competency to seek and obtain the indictment, which involves the laws or rules that identify the district attorney who may prosecute exclusively, with priority, or concurrently: e.g. whether the district attorney:
 - 1) for the territory where occurred the whole, most, or some of:
 - a) the conspiracy between the defendants; b) the planning of the crime;
 - c) the commission of the crime; d) the arrest of any or most of the defendants;
 - 2) with the most resources or access to most of the evidence and therefore in the best situation to prosecute the crime and obtain a conviction etc.

8. The **rules of criminal procedure and evidence** may set forth some requirements for the seeking and obtaining of an indictment. They may refer to:
 - a. the time for indicting relative to the time of:
 - 1) the commission of the crime;
 - 2) the arrest;
 - 3) the arraignment before a judge,
 - 4) the statute of limitations; etc.
9. There may be applicable **city or township ordinances** concerning:
 - a. the power to criminalize the conduct that the indictee allegedly engaged in;
 - b. the place of the crime; c. the place of residence of the indictee;
 - d. the complexity of the case, which requires its transfer to a larger or smaller town, city, or county, e.g., because it involves:
 - 1) international, national, or state entities; 2) multidistrict litigation;
 - 3) organized crime; 4) drug/sex trafficking; 5) complex laws, e.g., on racketeering; etc.
10. The indicting district attorney's office may also have a **manual of procedure** for its assistant district attorneys to indict a person.
11. Given that there are more than 16,000 police departments in the U.S., there may also be **rules of the police department** concerned that had to be applied by the police officers who:
 - a. investigated the crime scene;
 - b. sought to identify and arrest the wrongdoers;
 - c. made the arrest;
 - d. testified at the grand jury; etc.
12. The **police incident report and the report of the medical examiner** -also called the coroner- must be examined to determine whether they support the crimes that the district attorney charged in his indictment...or whether they even contradict each other.
13. Grand juries are the bodies of usually 21 private citizens, as opposed to public officers, to whom the district attorney presents the indictment that identifies the crime or crimes the indictee is charged with and the evidence supporting them. The law provides rules applicable to convening and conducting grand juries to ensure the fairness and impartiality of their work. Cf. NY Consolidated Laws, Criminal Procedure Law, CPL [Article 190. The Grand Jury](#) and Its Proceedings. The NY State Unified Court System **Grand Juror's Handbook**, www.NYJuror.gov, explains grand jury rules in a non-technical way addressed to lay people.
 - a. There may well be an equivalent handbook for grand jurors [in your jurisdiction](#), whether your state or city. Call your local court and the county clerk's office to speak with the commissioner for grand jurors and inquire about it.
 - b. Did any of 1) the authority convening the grand jury; 2) the [grand jury judge](#);
 - 3) the district attorney who presented the indictment and had to give the grand jury time and opportunity to examine the evidence and ask questions about it;

- 4) the warden assigned to it; 5) any of the grand jurors; 6) the indictee;
 - 7) the witnesses who were heard; 8) [administrative and court of last resort judges](#)
- engage in any form of misconduct or abuse of power, such as:
- 1) disregard of rules; 2) undue influence; 3) bias; 4) discrimination;
 - 4) intimidation of a grand juror or witness; 5) condonation of malfeasance;
 - 5) cover-up by one who thus became an accessory after the fact and before the next fact?
- b. If any law or rule provides for indictees to testify before the grand jury, was the indictee informed thereof and of the consequences of testifying; and given the opportunity to do so?
 - c. Is the indictment presented by the district attorney; voted by the grand jury and certified by its presiding member; and filed with the court or added to the docket or record the same?
 - d. Were the charges in the indictment voted by the grand jury the same as those stated to the arraignment judge; argued at the hearing to determine whether there was probable cause for the district attorney to charge the defendant; or prosecuted in court by the district attorney?
 - e. Does the evidence presented to the grand jury support the charge and its degree because it meets the legal elements of the charge?
 - 1) For example, murder in the second degree requires the element of intent by the defendant, but the evidence only supports the charge of criminal negligence, manslaughter in the second degree, or even only self-defense or accidental homicide. Hence the question, did the district attorney overcharge the indictee, and if so, did she do it intentionally by abusing her discretionary charging power due to:
 - a) lack of training or supervision; b) inexperience; c) being overworked
 - d) opportunity to advance her career; e) incompetence; f) a superior's order?
 - f. Worse yet, there may have been a [fabricated indictment](#). It was fabricated if it was sought and obtained on evidence presented to the grand jury by the district attorney that was:
 - 1) false -as non-existent-;
 - 2) unreliable because:
 - a) tampered with;
 - b) kept with disregard for the proper chain of custody;
 - c) offered by a witness who perjured himself;
 - 3) irrelevant due to lack of probative value, i.e., it does not help to establish the motive, means, and opportunity of the crime or identify who committed it;
 - 4) insufficient because it does not satisfy all the elements of the crime, that is, the requirements that must be shown for the crime charged to have been committed; e.g.,
 - a) intent; this is a state of mind, but it may be proved by:
 - i. the indictee's conduct that allows the application of the principle, "People are deemed to intend the foreseeable consequences of their actions";
 - ii. statements, whether made by the indictee or others;

- b) capacity to distinguish between right and wrong; c) mental competency;
- d) lack of consent or of informed consent, as after information received from a doctor, a dangerous sport trainer, or a financial advisor;
- e) capacity to consent, e.g., neither a minor, a mentally incompetent person due to retardation, intoxication, or comatose state, nor a prisoner can consent to sexual relations;
- f) meeting of the minds necessary for fraud, i.e., a person was not defrauded if she did not rely on the false or misleading information presented to her by the alleged fraudster as inducement to enter into an agreement with him;
- g) knowledge; some crimes require that it be proved that the indictee knew a given fact. But knowledge may be imputed -assumed to be had- if she:
 - iii. had the duty to know;
 - iv. had the opportunity to know and would have known had she proceeded with due diligence;
 - v. engaged in willful ignorance: she looked the other way and kept walking, whether for her gain or convenience; or
 - vi. engaged in willful blindness: she did not want to see facts that a person in her position would have found embarrassing or compromising and would have forced her to change her course of action to her detriment; so, she closed her eyes and proceeded as if there were nothing to see.
 - vii. These considerations regarding the knowledge requirement illustrate appropriately the principle that neither the law nor the facts are hardly ever black or white, never mind susceptible of one single interpretation without any alternative. There are almost always considerations that allow one to determine that something was more likely black than white or vice versa; or where along the gray spectrum between black and white something should reasonably and in good faith be placed. Arguing that a person had or lacked knowledge of something calls for creative thinking. It may require the lawyer to interpret the knowledge requirement in light of the law and the facts of the case in a novel way.
- h) coercion, which may be not only physical, but also psychological;
- i) resulting harm, without which no cause of action may lie; etc.

14. **The decisions of the courts** that have applied the above and similar considerations to indictments and a host of other matters are of critical importance; hence, they are referred to as case law. The reason for this is that laws and rules are open to broad or narrow interpretation, especially when arguing how best they can fulfill the intent of the lawmaker in drafting and adopting them. Thus, it must be ascertained what interpretation the majority and a minority of judges have given them and which is most just and proper to apply under the circumstances under consideration.

- a. The research and application of case law to determine the validity of the indictment in question calls for **professional** law research and writing. Unrepresented persons, that is, pro ses, must not improvise themselves as lawyers to find the case law that deals with indictments, identify that which applies to that indictment, and apply that law to it to determine its

validity. To do so is a folly resulting from ignorance of the complexity of the law; of the way its provisions are supposed to work together as pieces of a moving system; and of the meaning of “applying the law to the facts”. This is especially so since such determination requires a talent, which is not possessed by everybody, and it must be honed through law training and experience: creative thinking.

- b. A most pertinent illustration of creative thinking is the case of the [Michigan district attorney](#) who for the first time ever in the U.S. brought charges of involuntary manslaughter against the parents of a kid who killed four school mates, namely, Jennifer and James Crumbley and their son Ethan. The district attorney was able to convince of their criminal liability the jury -that is, the one composed usually of only 12 jurors and thus called the petit jury- and persuade it to convict the parents; and to persuade the judge to sentence them to 10 and 15 years imprisonment, respectively.
 - 1) Thanks to his creative thinking, that district attorney created a precedent for others to use in charging parents criminally for the crimes of their children. Other creative thinkers will extend this precedent to charge foster parents for the crimes of their foster children; and teachers and school principals for those of their students; and work supervisors for those of their supervisees, such as district attorneys who fail to discharge their duty to supervise and exercise their power to control their assistants.
 - 2) By the same token, creative thinkers are likely to find novel defenses to indictments and the prosecution, conviction, and sentencing that flow from them.

B. Accessing the legal instruments and writing the story of the indictment

15. Neither I nor the law library of any of my local courts and not even the law department of the extensive NY Public Library carry all the materials above-mentioned and for all the state and federal jurisdictions. More likely to have access to, or possession of, those materials are your local:
 - a. lawyer
 - b. court libraries
 - c. bar associations
 - d. public defender organizations;
 - e. law schools
 - f. [criminal defense law firms](#);
 - g. insurers against suit for malpractice and white collar crimes.
16. Third year law students can be hired to find the necessary materials. Contact the law school dean of students to get in touch with students and learn the going per hour rate that they charge. A lawyer capable of creative thinking has to be retained to read and apply them.
17. Before you hire students or retain a lawyer, you should write the story involving the indictment in question so as to give them a written statement that they can read and reread until they come up with creative ideas of how to deal with that indictment. To write a story that is accurate, significant, and verifiable read and apply [the two-phase method](#) for writing it.
 - a. The chronology of events is of extreme importance, e.g.:
 - 1) Does it show that the arrest or search and seizure warrant had been issued before those actions were executed?
 - 2) Was the warrant executed at a permissible time of day or day of the week?
 - 3) Was it materially possible for the indictee to have traveled from her place of employment after she had ended her shift to the crime scene the day that she allegedly committed the crime despite the road work that she would have to drive

by slowing down traffic considerably and being done due to the flood caused by torrential rain two days earlier?

- a) The devil is in the detail. Catching him requires attention to detail and the capacity to interpret its meaning in the totality of circumstances.

C. Attorney's fees and retainer and the work to be done

18. I charge \$350 per hour plus the cost of necessary and incidental expenses. You decide how many hours you want me to work on your case and pay that amount in advance as retainer. If not all the retainer is used, the balance will be returned to you.
19. You can gauge how time-consuming it is to read until you understand; think creatively; and write a professional document when you read [the two-phase method](#) and apply its teachings to write your accurate, significant, and verifiable story involving the indictment in question.
20. My work begins by examining existing documents. If you send me hundreds of pages to read, it will cost you a lot. If you do not send me what I need to read in order to know what happened, I cannot take it into consideration. If I need to ask you for documents referenced or implied in those that you sent me, you pay for my reading them.
21. Any discussion over the phone will be charged at the same rate.
22. If I feel that more hours are necessary, I will let you know and you decide what to do. I will point out some of the research and writing that still has to be done by me or your local lawyer.
23. Do not assume that because of my knowledge and experience I should be able to examine your case and write my considerations in just a few hours.
24. On the contrary, it is precisely because of my knowledge and experience that I am aware of ever more pitfalls, and objections, and possibilities and what haunts every cautious and responsible lawyer: The thought that a smart opposing counsel can come up with an argument, or detect a detail, or offer an interpretation of the law, or provide a plausible explanation of the facts that supports an alternative theory of the case or position and defeats mine.
 - a. For proof, [New York City District Attorney Alvin Bragg](#) came up with a novel way of applying the law by linking the falsification of business documents under NY law by Donald Trump to cover the hush money paid to porn star Stormy Daniels to a violation of federal law on campaign financing fraud.
25. I try to limit the considerations that I write to between four and seven pages. That is short and long enough for you to read, reread, and read them again as you must to understand what those considerations mean and imply because: The devil is in the detail!

D. Means of payment

26. Upon us reaching an agreement, you can make a deposit or an online transfer through, not a costly wire transfer, which will be at your expense, but rather either the Bill Pay feature of your online account or Zelle from your account:

to TD Bank account # 43 92 62 52 45, routing # 260 13 673;

or Citi Bank account # 4977 59 2001, routing # 021 000 089.

I look forward to hearing from you.

Sincerely, Dr. Richard Cordero, Esq.

E. Every meaningful cause needs resources for its advancement; none can be continued, let alone advanced, without money

Support **Judicial Discipline Reform** and its [business plan](#) to:

27. continue its professional law research and writing, and [strategic thinking](#), which has produced a three-volume study of judges and their judiciaries, titled and downloadable thus:

Exposing Judges' Unaccountability and Consequent Riskless Abuse of Power: Pioneering the news and publishing field of judicial unaccountability reporting * † ♣

28. turn the site at <http://www.Judicial-Discipline-Reform.org> –whose articles([Appendix 6§A](#)) have attracted so many webvisitors and elicited such a positive reaction that as of 14 April 2024, those who had become subscribers numbered 50,007([App.3](#))– from an informational platform, into:
- a clearinghouse for [complaints](#) against judges uploaded by anybody;
 - a **research center** for fee-paying clients [auditing](#) judges' decisions and searching many other writings from many sources that through [computer-assisted](#) statistical, linguistic, and literary analysis can reveal the most persuasive type of evidence: judges' [patterns](#), trends, and [schemes](#) of [abuse of power](#), e.g.; their [interception](#) of people's emails and mail; and
 - the digital portal of the business venture leading up to the [Institute](#) of Judicial Unaccountability Reporting and Reform Advocacy attached to a university or news network;
29. organize and embark on a tour of presentations to you and your group of guests; at law, journalism, business, and Information Technology [schools](#); media outlets; etc., via video conference or, if in NY City, in person. To assess my capacity to present view my [video](#) and follow it on its [slides](#);
30. hold together with academics, media outlets, and journalists, the proposed [UNPRECEDENTED CITIZENS HEARINGS](#), where people will be able to tell the national public [their stories](#) of judges' abuse;
31. organize the first-ever, and national conference on judges' abuse in [connivance](#) with politicians, who fear their power of retaliation, where the report on the citizens hearings will be presented;
32. publish as its sequel an academics/journalists multidisciplinary Annual Report on Judicial Unaccountability and Riskless Abuse of Power-cum-citizens inspector general report on the judiciary;
33. launch an abuse investigation that attracts ever more media because *Scandal sells & earns Pulitzers*;
34. promote the formation of a national, single issue, apolitical, civic movement for judicial abuse of power exposure, [compensation](#) of abusees, and reform through transformative change; etc.([¶57](#)).

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F. Offer to present this article and the above-listed cause-advancing activities

35. I offer to present this article and the [business plan](#) to you and your guests via video conference and, if in NY City, in person. To assess my capacity to present you may view my [video](#) and follow it on its [slides](#). To set its terms and scheduling use my contact information in the letterhead above.

Dare shout "*I accuse!*"...You may trigger history and enter it.

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