



Legislation Alert

SB 227

There has been a good deal of public debate recently about whether district attorneys use grand jury indictments to avoid public scrutiny in cases against peace officers where the use of force resulted in a civilian's death. There is a bill going through the state Legislature that would affect the grand jury's indictment power in these cases.

Senate Bill 227 by Senator Holly Mitchell has passed the Senate on a split vote and is now in the Assembly's Committee on Public Safety. According to Senator Mitchell's staff, the committee is likely to hold hearings on the bill in June.

SB 227, as currently worded, would amend PC §917 to prohibit a grand jury from inquiring into "an offense that involves the shooting or use of excessive force by a peace officer ... that led to the death of a person being detained or arrested by the peace officer" except as provided by PC §918. The latter section allows the grand jury to inquire into any matter brought to the attention of the grand jury by a juror who "knows, or has reason to believe, that a public offense, triable within the county, has been committed."

This means that a district attorney will no longer be able to ask the regular grand jury (or convene a separate criminal grand jury) to consider an indictment of a peace officer in connection with the death of a person in custody. However, under PC §918, the regular grand jury, on its own initiative, will still be able to conduct an indictment proceeding, bring an accusation to remove the officer from office, and/or conduct a civil investigation into the incident.

According to the bill's author, the objective of this legislation is to require district attorneys to use the preliminary hearing process rather than indictments in cases related the death of an arrested or detained individual.

The bill is supported by the California Public Defenders Association and several other groups and individuals. It is opposed by the California District Attorneys Association.

The Board of Directors will be sending a letter of opposition to this bill to the Assembly Committee on Public Safety, stating that CGJA believes that any limitation on the power of a district attorney to use the grand jury indictment process unnecessarily curtails the grand jury's jurisdiction and could lead to attempts to further erode its powers.

The members of the Committee on Public Safety are Bill Quirk (Chair), Melissa Melendez, Reginald Jones-Sawyer, Sr., Tom Lackey, Evan Low, and Miguel Santiago. If you have a good working relationship with a member of the committee, or any other Assembly member who could be a resource for CGJA, please let us know.

CGJA's Legal and Legislative Resources Committee (LLRC) will continue to monitor this legislation and will provide updates to the membership.

Your input is welcome. Please send any comments you might have to president@cgja.org.

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California Grand Jurors' Association | 1017 L Street | # 320 | Sacramento | CA | 95814