



GRAND JURY

REFORM

SUBCOMMITTEE

SB 227 Passes
with Help from BASF

Tom Meyer and Frank Z. Leidman

photo by Jim Block



Back in March 2015, after the grand juries in Ferguson, Missouri, and Staten Island, New York, did not indict white police officers in the fatal shootings of unarmed black men during confrontations, protests sprouted up nationwide calling for grand jury reform. At issue were the lack of transparency and oversight in grand jury deliberations, which did not involve judges, defense attorneys, or the cross examination of witnesses, but were controlled exclusively by prosecutors who often work closely on a day-to-day basis with the very officers they were called upon to indict.

To address this fundamental flaw in California's grand jury system, State Senator Holly Mitchell of Los Angeles introduced a bill (Senate Bill 227), which prohibited the use of a criminal grand jury in cases involving the fatal use of force by police officers in California. No



sooner had the bill been submitted, than the California District Attorneys Association (CDAА) submitted its unequivocal opposition.

This was the context in which the Grand Jury Reform Subcommittee was formed. As it turned out, the timing could not have been better as far as the prospect of the bill's passage was concerned. Subcommittee members sprang into action just as the bill needed The Bar Association of San Francisco (BASF) and its ability to mobilize its resources effectively to support SB 227.

After receiving approval from the BASF Board of Directors to support SB 227, over the next several months, the subcommittee prepared a pro-SB 227 tool kit that consisted of separate written pieces on, among other matters, the exact wording of SB 227; a list of California legislators, by district, party, and contact information (including the name of the aide in charge of staffing the bill); a synopsis of the arguments in favor of passage of the bill; a proposed op-ed piece designed for the public and nonlawyer legislators; a question and answer preparation sheet on the need for the bill; and copies of letters of support from the Criminal Trial Lawyers Association of Northern California, the California Attorneys for Criminal Justice, and concerned academics and scholars, as well as a copy of the CDAА opposition letter.

These written pieces were eventually followed up by face-to-face meetings in Sacramento with leading California Senate and Assembly members, including each member of the Assembly Public Safety Committee, the Senate Committee on Public Safety, and key legislators in the Senate and Assembly and their aides. Later, the subcommittee worked closely with Senator Holly Mitchell's chief of staff to remain abreast of developments.

In preparation for the floor votes in the Senate and Assembly, the subcommittee contacted bar association officials throughout the state to inform them of upcoming votes

and the need for each of them to reach out to their respective state legislators and let them know how important it was to have their support on this access to justice issue.

After the bill cleared both houses of the legislature, subcommittee members turned their attention to Governor Jerry Brown's staff, making sure that they met with the key advisors, bringing them, particularly those who would be making recommendations to the governor, up to date on the arguments. Governor Brown signed SB 227 into law effective January 1, 2016.

Whether or not there will be a need at some point in the future for an expansion of the crime categories a grand jury is prohibited from considering remains to be seen.

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