

.March 19, 2015

To: The Oregon Legislature

Greetings:

My name is LARRY KANZLER and I have asked Police Sergeant Robbie Graves to read my comments into the record, as I am unable to be present and speak directly to the Committee.

I served as a law enforcement officer and administrator in Oregon for forty-two (42) years. I earned a BS in Management from Concordia University, Graduated the United States Army Command and General Staff College, Graduated the FBI National Academy, and hold an Executive Certificate from the Department of Public Safety Standards and Training. I served as a police officer for both large and small agencies. Those agencies included the Portland Police Bureau as a Lieutenant, Chief in Toledo (an eight person agency), and Chief in Milwaukie.

REFERENCE: SENATE BILL - SB871

Para (1 & 2) As this bill is written it presumes that appointments of "special prosecutors" will occur seamlessly once the Attorney General is notified. And once notified the Attorney General will immediately appoint the special prosecutor who, by my reading, doesn't have to be the member of any State District Attorney's Office, and in fact only has to be an attorney; one capable of "leading the investigation...and to initiate prosecution." This bill presumes "prosecution" by the very wording of paragraph 2.

Para (3) Directs the law enforcement agency to "fully cooperate" with an investigation described earlier. It is important to keep in mind that the "crime scene" is where the investigation starts. This Bill presumes that the investigation of the "crime scene" will be lead by "the special prosecutor". It is physically impossible to maintain and secure a crime scene for 24-hours while the agency notifies the Attorney General, and then continues to maintain the security of that crime scene while an "attorney" is identified, notified, and finally responds. Assuming the agency was large enough to have the staffing to fully secure a crime scene for 24-hours, which requires three (3) shift changes of crime scene officers, a roster and log of all personnel coming and going, not to mention the preservation of perishable evidence. There would be a 300% rotation of officers assigned to the crime scene (assuming 8-hour shifts) and that's highly unlikely to happen – there would be lapses and an opportunity for evidence to be contaminated, destroyed, or removed while the "special prosecutor" who may have never had any previous experience investigating the use of deadly force, responds. This would be an even bigger challenge in some of Oregon's more remote counties. In fact, I would presume that it would be impossible to accomplish – the crime scene would be compromised for sure.

REFERENCE: SENATE BILL - SB911

SB911 is flawed in much the same way as SB871. Both Senate Bills presume that the 36 elected District Attorneys in Oregon are not capable of presiding over a law enforcement officer's use of deadly force, or that the county elected District Attorney has no role in identifying performance standards for county law enforcement accountability – and that certainly hasn't been my experience – my experience is that County District Attorneys take great pride in demanding accountability for law enforcement misconduct and want the public to trust that they will operate legally, impartially, and ethically.

OPINION:

I served on the Governor's taskforce during the formulation of SB111. This bill provides for every county in the State to identify "protocols" to address officer involved deadly use of force investigations. Statewide, those protocols were established in 2008. Most city and county police agencies have, for years, investigated serious crimes through the use of "Major Crime Teams" or identified multijurisdictional teams. These "Major Crime Teams" have identified protocols to investigate the deadly use of force by police. Those protocols dictate that the District Attorney for the affected county is the elected senior law enforcement officer in that county, and as such is responsible for the investigation of use of deadly force, not some "appointed" attorney who may or may not have any use of deadly force investigative experience.

Keep in mind, the leadership and investigation of the use of deadly force, whether by law enforcement or the public, requires extensive skills in every manner of investigation – be it the forensic value of computer data, blood spatter analysis, bullet trajectory analysis, or crime scene reconstruction. Prosecutors and investigators must be well trained, current and up to date on new trends, techniques, and technology to effectively investigate these crimes. Many of these skill sets require constant refresher training because the skills that are learned are perishable if not used and trained. That said the attorney leading the investigation also has to know the strengths and weaknesses of investigative techniques and have the background to resolve potential conflicts. Appointing an "attorney" to lead an investigation who has no understanding of the strength, or weaknesses of the investigative unit guarantees confusion and distrust. This is not the direction or manner the legislature should be mandating.

There is no problem with the creditability of Oregon's investigation of law enforcement's use of deadly force, nor is there a need to deflect the responsibility of Oregon's District Attorney's. SB 111 answered all these concerns and provides much better guidance than either SB871 or SB910.

Rather than fund the Department of Justice to study the use of deadly force by police in this state, fund six (6) additional full-time (FTE) State Police Detective positions and the training they would require to effectively and properly investigate the use of deadly force and then provide their expertise to shorthanded county Major Crime Teams to assist them.