

**Remarks of Attorney General Gurbir Grewal  
Regarding Assembly Bill No. 3115/Senate Bill No. 1036  
Assembly Appropriations Committee  
December 10, 2018**

Thank you, Chairman Burzichelli, Vice Chairman Schaer, and members of the Appropriations Committee.

I am here to speak on Assembly Bill No. 3115 and its Senate counterpart, S-1036, which would require the Attorney General to take over the investigation and grand jury presentation of every matter where a death occurs during an encounter with or while in custody of law enforcement.

It is an important bill on a critically important subject matter.

I know firsthand the extraordinarily powerful emotions these incidents elicit, and the very difficult challenges these investigations bring.

I have sat with families who have lost loved ones, and I have also seen the heavy toll these fatal encounters take on the officers themselves.

I commend not only the sponsors, but also the groups here today in support of this legislation, for their advocacy and commitment.

One thing is abundantly clear: all of us are committed to improving transparency, accountability and trust between law enforcement in this state and the communities we serve.

That is precisely why I felt compelled to be here -- to tell you in person, as the State's Chief Law Enforcement Officer, as someone who has conducted, overseen and reviewed these investigations, and as someone who is committed to improving police-community relations, that this bill may, in the end, undermine public trust in law enforcement and will replace a system that already does everything that the sponsors seek to accomplish and much more.

I would like to speak first briefly about trust.

I have spent much of my time as Attorney General working to strengthen police-community relations, whether by mandating new rules on the release of body-cam footage, or requiring drug testing for police officers, or building trust between law enforcement and immigrant communities. During my tenure, I have tried to show the public that we can be both pro-law enforcement and pro-community, and that we can work together to develop good, smart policies that serve all members of the public.

At a time when other jurisdictions and the federal government may not be meeting their obligations in this regard, I firmly believe that we are in the midst of building something special here in New Jersey – something that can stand as a national model for law

enforcement policies – policies that ensure both public safety and law enforcement safety and importantly policies that bridge the divides between law enforcement and communities where such divisions may exist.

I believe that the passage of this bill would undermine all of those efforts.

It would send a troubling message to the public, that we cannot trust our prosecutors and their professional staffs to competently and impartially perform one of the most significant functions of their Offices.

As someone who has served in that role and who now oversees the functioning of County Prosecutors' Offices statewide, I know that this message is both unwarranted and inaccurate.

If the Legislature sends the message that we cannot trust our prosecutors to act with integrity on the most visible and critical of cases, we cannot expect the public to view their ability to handle matters of less gravity and visibility with anything but skepticism and mistrust.

As the bill sponsors clearly recognize, it is critically important to ensure that, when someone dies as a result of the use of force by a law enforcement officer, the investigation into the matter follows the most robust, transparent and fair process possible.

Justice demands nothing less, and the integrity of this process is an essential component to maintaining the bond of trust between the community and the police officers we entrust to enforce the law and protect us.

I believe, objectively and wholeheartedly, that the system we currently have in place, designed and implemented by my predecessors working in concert with community advocates and law enforcement experts, best meets these objectives.

This bill would be a step down from what we do now.

Under our process, the Attorney General can take over any investigation or presentation to a grand jury, and can assign a matter to the prosecutor in a different county if we find conflicts, or even just the appearance of a conflict, that would make it inappropriate for the first prosecutor to handle the case.

Under our process, County Prosecutors are required to conduct and submit to the Division of Criminal Justice a comprehensive conflicts check within 72 hours of any deadly force incident.

This ensures that we have full and timely information upon which to determine whether any individuals should be walled off from a case, or whether the entire matter should be assigned to another County Prosecutor, or taken over by my Office.

Our process also excludes from the investigation, with limited exceptions such as necessary crime scene/first responder services, the law enforcement agency of the officer or officers involved.

Our process, therefore, not only provides for an independent prosecutor – one that is impartial, free from conflicts of interest, and is independent of the law enforcement agency involved in the incident – in the form of a County Prosecutor who is answerable directly to the Attorney General, but it also incorporates an additional layer of independent review, performed by the Director of Criminal Justice in my Office, who would conduct a de novo review of any police-involved shooting incident where the independent prosecutor decides not to present a matter to the Grand Jury.

In this multi-tiered review system, the Director can order the prosecutor to present the case to the Grand Jury, conduct additional review or seek additional evidence, or independently concur with the prosecutor's conclusions. The bill would deprive us of that second, independent layer of review.

The bill would also result in less effective initial investigations, as my Office would need to dispatch investigators to the site of any incident, in situations where time is of the essence. County law enforcement personnel, who are closer geographically and generally are more familiar with the communities within their jurisdiction, are simply better situated to conduct a more effective investigation than are detectives who would need to be dispatched halfway across the State to a neighborhood with which they may have little to no familiarity.

To provide the same level of responsiveness, we would have to expend significant resources building out the capacity of an investigative unit (for example, having to assign additional personnel to staff the Major Crime Bureau, pay for increased overtime, purchase new equipment, etc.), to handle matters that right now are appropriately and capably conducted by County Prosecutors.

It is also not as simple as increasing staffing. Each of our County Prosecutors has investigators trained to investigate serious cases, including homicides, which require specialized detectives. The depth of experience necessary to investigate all of these cases statewide does not exist in one agency.

However, at the end of the day, this is not about money or resources, but about doing our jobs in the best way possible. Moving all of these investigations to the Attorney General's Office, will necessarily result in slower outcomes. From experience, delay of any type in these cases further erodes that trust that we have been trying to build. Indeed, the most frequent inquiries we already receive from the public concerning these investigations is why is it taking so long or when will you release additional information?

As Attorney General, I embrace the ultimate responsibility vested in my Office to ensure that, throughout the State, these matters are investigated fully and fairly, free from

conflict or undue influence, with appropriate transparency, to yield a result that both satisfies the interests of justice and instills in the public confidence in the criminal justice system and the legitimacy of the outcome.

Our current system exceeds all of those goals. Based on my own experience as well as discussions with other Attorneys General in other states, it is regarded as the Gold Standard.

Rather than moving forward on a bill that would weaken the process currently in place, I respectfully request that the Legislature consider codifying the process established under the Attorney General Directives, to ensure that, even with changes in Administrations, we are able to continue to conduct these investigations using independent prosecutors in the most effective way possible, and I commit to you that I will do whatever I can to assist in that endeavor.

I am happy to answer any questions you may have.