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**My Word**

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Recent public comments about criminal grand jury proceedings motivate me to offer some information about the process.

The criminal grand jury process is an alternative to preliminary hearings for the initial step in formally charging someone with a crime. The process dates back more than a thousand years; it remains the primary charging method used in some states and the U.S. federal system.

The fundamental role of a criminal grand jury proceeding is to have the community evaluate evidence concerning possible criminal charges. In mid-sized California counties such as Humboldt, the community is represented by criminal grand juries of 19 randomly selected people who determine their own ability to serve. Thus, criminal grand juries usually include people with a broad range in the extent and nature of their pre-conceptions about a case, in their perceptions about the people involved in the grand jury process, and perhaps in their conclusions on indictment. The likely diversity of perspectives among criminal grand jurors is incorporated in the fact that unanimity is not required – indictments occur when deliberation results in 12 or more of the 19 people agreeing on that conclusion.

Criminal grand juries receive information only from a prosecutor – the proceeding is not attended by a judge or a defense attorney. In California, the law now requires that the prosecutor present relevant information both for and against indicting someone. This requirement emerged through case law in the 1970s and a change in the penal code in 1997, in response to concerns about the misuse of grand juries to obtain indictments.

Adequate balance in the presentation of information is essential because a grand jury indictment is not an end in itself, an indictment simply creates the possibility of a trial. Ultimately, people get convicted only when a trial jury of 12 people unanimously concludes guilt beyond a reasonable doubt. To reach a conclusion that leads to justice, at the grand-jury stage jurors must be made aware of issues that will be raised at trial.

In almost all cases involving physical conflicts, self-defense exemplifies an issue almost certain to be raised at trial. For example, in the recently completed Hinson trial that resulted in a conviction for voluntary manslaughter stemming from an incident in Garberville, the judge

instructed the trial jury on the possibility of self-defense, even though the defendant claimed he had left the scene before the killing of the victim. Our criminal justice process does not limit defendants to a single argument in their favor. As a second example: self-defense would be an issue in any trial that involved a defendant with injuries, regardless of any statements the defendant might have made.

If a criminal grand jury indicts someone, all information, testimony and legal instructions become public. This fact recognizes that any indicted person should have the opportunity to assess the fairness of the process. Indictments that appear to result from biased presentation of information will be challenged and face dismissal before trial. For example, an indictment obtained by the former Humboldt County District Attorney was dismissed in 2008, in part because a judge concluded relevant information was not made available to the grand jury.

Particularly in situations where the strength of the evidence cannot be clearly established beforehand, one-sided criminal grand jury proceedings can lead to something worse than the dismissal of an indictment: a trial based on evidence inadequate to prove someone guilty beyond a reasonable doubt. Such trials end the pursuit of justice because a person cannot be tried twice for the same crime. Conversely, criminal grand juries that do not result in indictments leave open all options for the pursuit of justice.

The pursuit of justice - for both those who might be accused and the community as a whole - does not allow one-sided presentation of information in criminal proceedings. In preliminary hearings and trials, defendants have the right to effective representation. In grand jury proceedings where people who might be accused do not have representation, prosecutors accomplish their mission to achieve justice by fairly presenting relevant information on both sides. No one with a commitment to justice could prefer a system in which a biased presentation of evidence was enough to bring someone to trial.