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LOCAL IMPACT

Changes in grand jury process eyed

Fairfield judge part of task force examining state grand jury system.

By Lauren Pack

Staff Writer

BUTLER COUNTY — When Fairfield Municipal Court Judge Joyce Campbell received a call from Ohio Supreme Court Justice Maureen O'Connor, she knew it was important.

"You know that is a call you always take," Campbell said.

The subject of the call was a hot-button topic in recent months — the state's grand jury system.

Campbell is now part of an 18-member panel, officially called the Task Force to Examine Improvements to the Ohio Grand Jury System.

Controversial grand jury decisions — such as recent ones failing to indict police officers in the deaths of unarmed black men — have had some civil rights advocates and others around the country calling for an overhaul in the way grand juries are used in criminal cases.

The grand jury has been a part of the federal courts since 1791 and part of the Ohio Constitution's Bill of Rights since 1802.

"To be clear, this task force is being asked to recommend ways to improve the functioning of grand juries and to see what additional steps can be taken to improve the public's confidence in our justice system," O'Connor said. "It is not being asked to determine whether the grand jury system should be eliminated."

Campbell said the committee will be taking a deep look at the procedures, which she termed "important work."

But she noted it is also a good opportunity to educate those who do not have an understanding about the grand jury system, simply because they are not part of the legal system. "This is a lot about educating the public, which is good," Campbell said. "People should have the right to understand and have questions answered."

Campbell said she foresees the committee looking into the inner workings to assure grand jurors feel free to "do the right thing" when considering charges in procedures that are secret.

"We are only as civil as we allow ourselves to be," the judge said. "If there are things that are wrong, we will take a look at it."

Grand juries meet in secret, review criminal charges brought by police and prosecutors and investigate possible criminal behavior. The proceedings are usually one-sided, the accused is not present and witnesses are not cross-examined.

A grand jury may issue an indictment if it finds probable cause that a crime was committed and the accused person is responsible. An indictment is an accusation that must then be proven in court. The grand jury may also elect to issue no indictment.

Prosecutors in Butler and Warren counties and even some defense attorneys believe there is a need for secrecy in the grand jury procedures. But to what extent is up for debate.

"It is fundamental to the success of the grand jury system that it be conducted in secret and not open to public view and review. Secrecy of proceedings guarantees that the grand jury will not be influenced by outside pressures, political correctness and guarantees that one suspected of a crime will not be subjected to public disclosure and condemnation," said Butler County Prosecutor Michael Gmoser.

The rub for some critics comes from who is presenting evidence to the grand jury; it is solely the prosecutor's show. The prosecutor presents the evidence, and there are no defense attorneys allowed in the proceeding.

Because grand jury is run by the prosecutor's office, there is a common expression: "A prosecutor can get a ham sandwich indicted," Gmoser said.

"Nothing is further from the truth here. It doesn't serve justice, and frankly, it doesn't serve the prosecution. Why would I want to get an indictment for a case that cannot be won based on the evidence? I am always mindful, the charge has to meet the test of going to trial," Gmoser said.

Warren County Prosecutor David Fornshell said, "It does no good to hide the ball at grand jury. I tell them what I think my weaknesses are, and if there is any evidence that is truly exculpatory (favorable to the accused)."

"I don't want indictments in cases that don't have a realistic chance of getting a conviction," he added.

Both Gmoser and Fornshell said they do not believe changes are needed in Ohio's grand jury process.

"It is a system that has worked well for a long period of time," Fornshell said. "I think this has happened because people don't like the outcome of some grand jury decisions."

Longtime Butler County defense attorney Greg Howard said, "I don't think we have an abuse of the grand jury in this county."

He noted on occasions he has sent clients to testify at grand jury, which have resulted in a "no bill" or no indictment.

"In those cases, secrecy is good because it is protecting a person who is not charged with a crime," Howard said. But after an indictment is handed down and is public, that is when Howard said he would like to be able to access what was presented at grand jury.

"It would nice to see some changes, don't necessarily believe it needs to be done," Howard said.

Defense attorney Lawrence Hawkins III agreed.

"It's a little bit curious when the rest of the justice system is so public and all parts of the grand jury process are secret," Hawkins said.

The task force will be chaired by Franklin County Common Pleas Judge Stephen McIntosh and will include judges, prosecutors, defense attorneys, law professors, legislators, members of law enforcement and community leaders.

The task force will first meet Feb. 17 at the Ohio Judicial Center in Columbus. The meeting will be open to the public.



The Butler County grand jury room is on the fifth floor of the Government Services Center in Hamilton. GREG LYNCH / STAFF