

EDC DA wins appeal in cop-grand jury case

By Kathryn Reed

A court decision handed down Tuesday in El Dorado County District Attorney Vern Pierson's favor could have reverberations throughout the state.

The 3rd District Court of Appeal, which rarely publishes public opinions, on Jan. 10 said the California Legislature overstepped its bounds when in 2015 it enacted a law prohibiting grand juries from investigating police shootings.

The court ruled the Legislature would have to change the Constitution; that simply creating the law was not enough, nor did it have the legal power to do so.

"Every day peace officers put their lives on the line for all us. However, sometimes they make mistakes and sometimes they commit criminal misconduct up to murder. The public is entitled to a comprehensive, professional, and transparent investigation of any use of force, particularly one including the loss of life. Unfortunately, the legislature was misled by fake news – hands up don't shoot – and restricted our ability to conduct those investigations," Pierson told *Lake Tahoe News*.

Missing in the Superior and Appellate court hearings have been the Legislature and Attorney General's Office. It was the AG who told lawmakers what they were doing was legal.

A grand jury gives the prosecutor great latitude to control a case because only their side is presented, and only what they want divulged comes out. Many people actually believe grand juries are actually skewed toward protecting the officer and not providing true transparency.

Pierson has a vested interest in the law because he is tasked with deciding whether to prosecute South Lake Tahoe police Officer Josh Klinge in the June 15, 2015, fatal shooting of 22-year-old Kris Jackson of Sacramento. Klinge said he thought Jackson had a gun when he fired the single bullet into his chest as the suspect was escaping through a window at the Tahoe Hacienda Motel on Lake Tahoe Boulevard. Klinge has been on paid administrative leave all this time.

On Feb. 1, 2016, Pierson issued subpoenas to Police Chief Brian Uhler, Klinge and four other officers. The grand jury sessions were to begin a month later.

South Lake Tahoe Police Officers' Association and Police Supervisors' Association filed motions to quash the subpoenas and dismiss the grand jury. The city of South Lake Tahoe then became a party of interest.

"Both the chief and myself could not tell police officers to act contrary to state law," City Attorney Tom Watson told *Lake Tahoe News*. "We support our officer because we believe our officer will be vindicated whether in criminal or civil court."

El Dorado County Superior Court Judge Jim Wagoner did not find the legislation unconstitutional.

Pierson challenged that decision and prevailed Tuesday.

The police association has 60 days to decide if it wants to take this to the state Supreme Court.