Legislation Details (With Text)

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Title: Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S.5046, legislation relating to the prosecution of cases involving civilian deaths and injuries by law enforcement officers, and calling upon the Special Prosecutor and district attorneys to proceed with such cases with preliminary hearings instead of grand juries until the passage of S.5046.

Sponsors:

Indexes:

Attachments: 1. Res. No. 10, 2. January 31, 2018 - Stated Meeting Agenda, 3. Hearing Transcript - Stated Meeting 01-31-2018, 4. Minutes of the Stated Meeting - January 31, 2018

Date	Ver.	Action By	Action	Result
1/31/2018	*	City Council	Introduced by Council	
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12/31/2021	*	City Council	Filed (End of Session)	

Res. No. 10

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S.5046, legislation relating to the prosecution of cases involving civilian deaths and injuries by law enforcement officers, and calling upon the Special Prosecutor and district attorneys to proceed with such cases with preliminary hearings instead of grand juries until the passage of S.5046.

By Council Member Barron

Whereas, Recent high-profile cases of police killings of unarmed civilians, especially cases that result in non-indictments by grand juries, have focused intense attention on the grand jury process; and

Whereas, A prosecutor typically presents all felony cases to a grand jury, which, during a secret proceeding sealed to the public, returns an indictment if it decides there is “reasonable cause to believe” that the defendant committed an offense; and

Whereas, Prosecutors secure indictments from grand juries in an overwhelming majority of cases, according to data from the U.S. Department of Justice showing that grand juries returned indictments in more

than 99.9 percent of the 162,000 cases brought by federal prosecutors in 2010; and

Whereas, However, there is evidence that in cases involving police killings of civilians, a very small proportion of officers are indicted; and

Whereas, Research by the Bowling Green State University found that during a seven-year period ending in 2011, 2,600 "justifiable" police homicides across the country were reported by police departments to the Federal Bureau of Investigation, when only 41 police officers over that same period were indicted on murder or manslaughter charges for shootings while on duty; and

Whereas, In New York City, from 1999 to 2014, at least 179 people were killed by on-duty officers of the New York City Police Department (NYPD), resulting in only three indictments and one conviction with no jail time, according to an analysis by the *New York Daily News*; and

Whereas, In the case of Eric Garner, an unarmed black man who died in July of 2014 after an alleged chokehold by NYPD officer Daniel Pantaleo, a grand jury failed to return an indictment against Panteleo, causing outrage among many police reform advocates; and

Whereas, In response, New York City Public Advocate Letitia James, the Legal Aid Society, the New York Civil Liberties Union, the New York Post, and the National Association for the Advancement of Colored People petitioned a New York state judge to release records of the grand jury proceedings; and

Whereas, In July of 2015, an appellate court upheld the trial court's denial of the requested disclosure, claiming that "curbing community unrest and restoring faith in courts and prosecutors did not represent a compelling and particularized need, as is necessary to overcome the presumption of confidentiality attached to grand jury proceedings"; and

Whereas, In an attempt to remove the secretive grand jury process from cases involving civilian deaths and injuries stemming from police encounters, New York State Senator Kevin Parker introduced S5046 in March 2017, legislation that would prohibit a grand jury from inquiring into an offense that involves a shooting

or use of excessive force by a peace officer that led to the death or injury of a civilian; and

Whereas, Similar legislation was formerly introduced by New York State Assembly Member Charles Barron in August of 2015, and has been reintroduced subsequently each year; and

Whereas, S5046 seeks to address the lack of transparency highlighted in the grand jury process of the Garner case, with the aim of increasing accountability of police behavior; and

Whereas, Another effort to address the perceived unfair indictment process is the examination of district attorneys' ability to objectively prosecute police officers, whom they almost always use as witnesses in prosecuting cases; and

Whereas, In July of 2015, New York Governor Andrew Cuomo appointed New York Attorney General Eric Schneiderman as Special Prosecutor in cases where a law enforcement officer kills an unarmed civilian, including cases where there is uncertainty as to whether the civilian is armed and dangerous; and

Whereas, Until S5046 is in effect, district attorneys prosecuting cases involving armed civilians as well as Special Prosecutor Schneiderman should avoid commencing a case with the confidential grand jury process but instead file a felony complaint; and

Whereas, Pursuant to Section 180.60 of the New York Criminal Procedure Law, a felony prosecution may proceed with a grand jury indictment or a preliminary hearing; and

Whereas, A judge determines in such a hearing whether there is "sufficient evidence to warrant the court in holding him [or her] for the action of a grand jury"; and

Whereas, A preliminary hearing is an open hearing, unlike the grand jury process, which is closed to public scrutiny; and

Whereas, Before more permanent reform is enacted by S5046, prosecutors should utilize preliminary hearings to provide the transparency sought in cases involving civilian deaths and injuries resulting from police encounters; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign, S5046, legislation relating to the prosecution of cases involving civilian deaths and injuries by law enforcement officers, and calls upon the Special Prosecutor and district attorneys to proceed with such cases with preliminary hearings instead of grand juries until the passage of S5046.

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