



PUBLIC INQUIRY UNIT
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May 29, 2008

PIU: 216881

Mr. Woodrow Higdon
2544 Rudder Road
Oceanside, CA 92054

RE: San Diego County District Attorney

Dear Mr. Higdon:

Thank you for your letter and documents sent to the Office of the Attorney General regarding the handling of a criminal case by the San Diego County District Attorney.

California law gives discretionary authority to a locally elected prosecutor in filing criminal actions. The decision whether or not to file charges calls for consideration of the prospects of obtaining a conviction against a particular defendant. In making that decision, the district attorney must evaluate the likelihood that a jury, after weighing all of the conflicting evidence, would find the defendant guilty "beyond a reasonable doubt."

We understand it is not uncommon for members of the public to differ with the district attorney on the question of whether the filing of criminal charges is warranted. However, that decision rests with the locally elected official responsible for such a decision, the district attorney.

The Attorney General's intervention is discretionary and is appropriate only where there is a demonstrated conflict of interest that would disqualify the district attorney from a particular case. Also, if there is an obvious abuse of the district attorney's legal discretion in the decision whether to file a criminal charge, the Attorney General may intervene. The fact that an incident has created strong feelings within the community does not provide a basis for intervention by the Attorney General, especially since the district attorney is the official elected by the people of the county to make prosecutorial decisions, including those which may be controversial or unpopular.

The primary authority to file criminal charges rests with the local district attorney. We suggest you contact that office for further assistance and information.

Furthermore, we are unable to assist you because the Attorney General's Office is prohibited by law from representing private individuals or providing legal advice, legal research or legal analysis to private individuals under any circumstances.

Therefore, we suggest that you consult with a private attorney to determine any civil remedies that may be available to you. An attorney would directly represent your interests and is the one whose advice would be most helpful to you.

Rec'd
5/29/08

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Sincerely,

A handwritten signature in cursive script that reads "M. Vega".

M. Vega
Public Inquiry Unit

For EDMUND G. BROWN JR.
Attorney General