

STATE OF NEW YORK

316--A

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. MYRIE, BAILEY, KAMINSKY, SEPULVEDA, HOYLMAN, BIAGGI, BRISPORT, GOUNARDES, JACKSON, RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommended to said committee

AN ACT to amend the criminal procedure law, in relation to providing for the release of certain grand jury proceeding materials on the basis of enduring historical importance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 4 of section 190.25 of the
2 criminal procedure law, as amended by chapter 677 of the laws of 1985,
3 is amended to read as follows:

4 (a) [~~Grand~~] (i) Except as otherwise provided by law, grand jury
5 proceedings are secret, and no grand juror, or other person specified in
6 subdivision three of this section or section 215.70 of the penal law,
7 may, except in the lawful discharge of his duties or upon written order
8 of the court, disclose the nature or substance of any grand jury testi-
9 mony, evidence, or any decision, result or other matter attending a
10 grand jury proceeding. For the purpose of assisting the grand jury in
11 conducting its investigation, evidence obtained by a grand jury may be
12 independently examined by the district attorney, members of his staff,
13 police officers specifically assigned to the investigation, and such
14 other persons as the court may specifically authorize. Such evidence may
15 not be disclosed to other persons without a court order. Nothing
16 contained herein shall prohibit a witness from disclosing his own testi-
17 mony.

18 (ii) In proceedings where a grand jury is impaneled to hear and exam-
19 ine evidence concerning offenses, misconduct, nonfeasance and neglect
20 by a public officer or employee, whether criminal or otherwise, in

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

LBD02424-03-1

1 which a charge that a designated person committed a crime is dismissed
2 pursuant to subdivision one of section 190.75 of this article or
3 concluded without an indictment, any person may file a written petition
4 seeking the release of material concerning or related to such grand jury
5 proceeding, including but not limited to transcripts, reports, exhibits,
6 and material of any nature or substance of any grand jury testimony,
7 evidence or any decision, result or any other matter which occurred
8 during a grand jury proceeding upon the basis of enduring historical
9 importance. Enduring historical importance shall include grand jury
10 records forty years old or older and there shall be a rebuttable
11 presumption of the historical importance of such records pursuant to
12 this subparagraph. For the purposes of this subparagraph, "enduring
13 historical importance" shall mean a matter where the release of such
14 grand jury information would enhance the existing historical record,
15 foster further scholarly discussion, and improve the public's under-
16 standing of a significant historical event. In all such cases, upon a
17 finding of enduring historical importance, a court shall release such
18 grand jury records in a manner and form as determined by the court.

19 § 2. This act shall take effect immediately and shall apply to such
20 records created before, on or after such date.