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LB 1004

SENATOR ENGEL: Can we mandate the county attorneys to do that?

SENATOR CHAMBERS: Yes, we can. They do what we tell them under the law to do. When it is something like this of a procedural nature, we can say that you must do this, and if you fail to do it, then we're not going to allow any convictions that come out of your office to stand.

SENATOR ENGEL: Could I ask another question then?

SENATOR CHAMBERS: (Laugh) Yes.

SENATOR ENGEL: Now, can...can we force them to prosecute an existing DUI?

SENATOR CHAMBERS: No.

SENATOR ENGEL: Okay, so therefore...

SENATOR CHAMBERS: But I'll tell you what you could do...

SENATOR ENGEL: ...would we be shooting ourselves in the foot by...by mandating this other?

SENATOR CHAMBERS: If...if you find a prosecutor for whatever reason failing to enforce the law, and I studied the law because I use it to make the mayor and police chief comply with the law, if you find a prosecutor not enforcing the law, as he or she should, or the police not enforcing the law, then you can bring an action against them. They are not free to totally not bring prosecutions simply because they have discretion. Discretion means to use judgment and determine whether you think the evidence is sufficient to procure a conviction, not to say, well, I don't want to prosecute this person, so exercising my discretion I'm not going to prosecute.

SENATOR CUDABACK: One minute.

SENATOR ENGEL: Well, I would rather give them the...the incentive to do what their job is to do, and that is check everyone. But as far as mandates, I don't know whether that would work.