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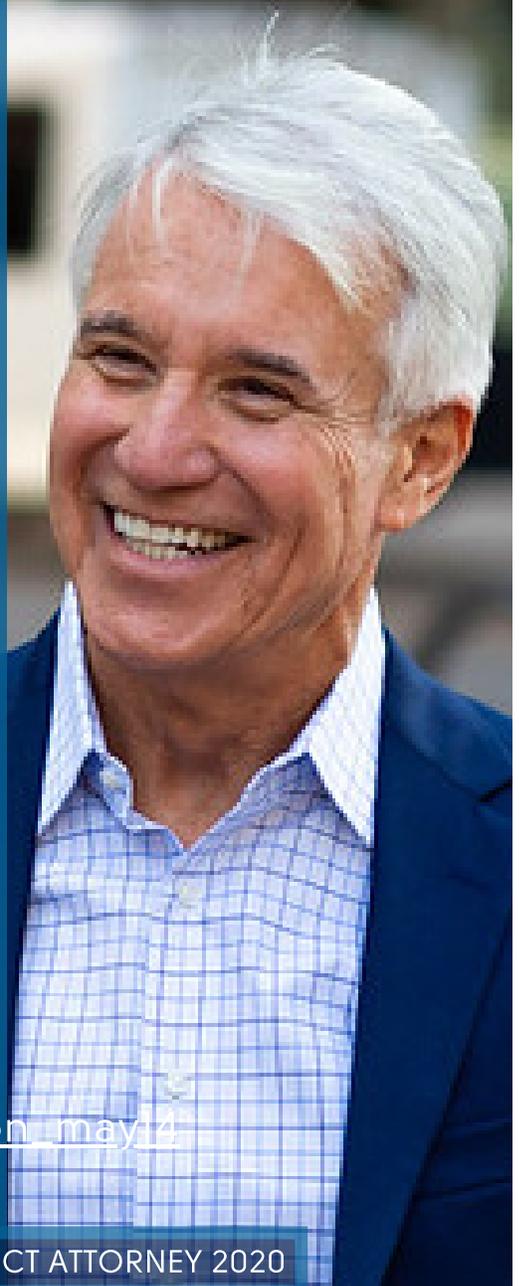
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GEORGE GASCON'S RECOMMENDATIONS ON ARREST, DETENTION, CHARGING, AND REENTRY DURING THE COVID-19 PANDEMIC

LA County is facing an unprecedented public health crisis—one with enormous public safety implications. The health, safety, and welfare of our community weighs heavily on me each and every day. Above all else, we express our profound gratitude to those on the front lines. As someone who proudly served in law enforcement for decades, I understand their sacrifice firsthand. The sacrifice of medical professionals, teachers, caregivers, parents, retail workers and others has also been invaluable.

As a proven criminal justice leader, I am aware of the respective roles we each play in times of crisis. During these uncertain times, strong and decisive leadership is critical. Sadly, we are already seeing the effects of those unwilling or unable to meet this challenge.

The role of the District Attorney is to be a steward for all of our residents. This requires a DA who can bring people together—a DA who is a trusted and unifying servant-leader. The task of any DA is to balance often-competing needs. In the face of a global pandemic, however, the choice is clearer than ever: A healthier community is a safer community. And championing and implementing policies that enhance public health will bolster public safety.

This document identifies areas where we as a County can do better, along with a list of recommendations for criminal justice stakeholders to consider. A successful response to this pernicious public health challenge hinges on our ability to come together.

Rest assured that I will keep listening to you. It is an extraordinary privilege to hear from so many residents and those working on the front-lines of our criminal justice system about the challenges they face and the course our leaders are charting. I appreciate your continued input as we move forward together as one County.

Despite the Obvious Public Health Threat, DA Jackie Lacey is Irresponsibly Pursuing Such Non-Violent Cases As Loitering, Public Intoxication, Panhandling and Driving on a Suspended License

In the numerous courtrooms that remain open during this crisis, the District Attorney is pursuing cases unconnected with violence, sex crimes, or other high-level offenses. Crimes of a serious nature need to proceed as a matter of public safety and justice for victims. However, it is simply not logical to insist that low-level misdemeanors proceed as scheduled when there is no serious threat to the community. In fact, just the opposite is true, as this approach will very possibly cost lives. This is because the prosecution of these small-time cases at this moment in time means line prosecutors, defense attorneys, judges, sheriff's deputies, clerks, court reporters, translators, families, victims, janitorial crews, and many more are forced to assemble and rub elbows with others, thereby exacerbating the threat of the pandemic.

The vacuum of leadership was on display this past Friday in an El Monte courtroom where a judge dismissed a loitering citation over the District Attorney's objection. Such a low-level case should have either been continued to a later date or unilaterally dismissed by the DA in advance of the hearing to avoid forcing so many persons to congregate. Unfortunately, this was not an isolated incident. In fact, last Friday, and also in El Monte, a misdemeanor panhandling case was called. Additionally, three men who were cited for drinking in public came to court and were arraigned because the DA chose to pursue these low-level misdemeanor cases. These charges, too, could have been unilaterally dismissed or continued for up to one year. Bear in mind these drinking in public cases are proceeding at a time when the state is allowing cocktails to be served to go.

Across the County similar occurrences are ongoing. This past Wednesday in Compton, a Deputy District Attorney objected to the release of a person in-custody for driving on a suspended license. The only reason to do so being to force a plea in exchange for their release. These are backwards priorities, particularly during a global pandemic that threatens public health. Nearby in an Inglewood courtroom on Friday March 20th, defendants facing low-level misdemeanor drug charges and driving on a suspended license were finally dismissed, but only after they'd spent six days in custody. Those cases were filed while these individuals were in-custody but after the courts had largely shut their doors, forcing them to remain jailed, instead of delaying filing.

These choices reflect priorities that are out-of-touch with the threat posed by the pandemic. Subjecting public employees to these risks in order to pursue low-level offenses is dangerously poor judgment. The District Attorney has failed to appreciate the drastic risk to public health posed by pursuing non-violent offenses, thereby forcing public sector workers to assemble in crowded spaces in greater numbers, unnecessarily, and in direct defiance of the guidance of Los Angeles County, State and CDC public health officials.

Our country is facing a far worse COVID-19 outbreak because President Trump refuses to listen to the insistent pleas of medical professionals. We must do better here in Los Angeles. A real leader would have acted decisively to delay the prosecution of non-violent offenses and would have deemed them non-essential days ago. And a real leader would have ensured that directive was adhered to if for no other reason than to protect the thousands of dedicated men and women who work tirelessly to support our system of justice.

This administration's cavalier pursuit of non-essential cases suggests this DA is more concerned with punishment than preserving the public's health and wellbeing, as jails and prisons cycle large numbers of people in and out of close, unsanitary quarters on a daily basis. Many people are arrested and booked into jail on the same day, while others are released within a short time back to their community. In the absence of clear evidence that detention is necessary to protect the public from harm, the arrest, detention, and prosecution of low-level, non-violent cases must be delayed in order to protect our community's public health. Until such time, the vacuum of leadership will continue to threaten our entire community.

The DA's office must be a constructive player in our collective fight against COVID-19. Continuing to ignore public health experts while conducting business as usual will result in disastrous consequences for many LA County families.

The DA and criminal justice stakeholders must band together and act swiftly. The 10-million-plus residents of LA County deserve a DA who listens to the experts and pays attention to public health. Therefore, consistent with that approach:

The Los Angeles District Attorney Must Suspend Prosecutions of All Non-Serious and Non-Violent Offenses

As the County's chief law enforcement official, the DA's decisions and policy choices naturally have wide-ranging implications, with effects touching virtually every County resident. The DA must, therefore, exercise their charging discretion in a thoughtful and considered way and must limit exposure of office staff. In this climate, and to protect the public health, the DA must:

- Protect staff by reducing the number of people physically reporting to office and court.
- Safeguard essential staff needed to handle remaining courtroom calendars.
- Direct office staff to call in sick if they are experiencing cold or flu-like symptoms.
- Direct those staff members that are in an assignment that can be performed remotely to work from home even if they are asymptomatic.
- All staff members considered vulnerable due to age or an underlying health condition should be permitted to work from home.
- Postpone all in-person trainings/meetings, and move convenings online.
- Urge staff to encourage criminal justice stakeholders to conduct business via phone or email as much as possible.
- Cease in-person reviews of cases from arresting agencies. All requests for charges should be made telephonically with reports and evidence transmitted electronically.
- Request additional County support (e.g., laptops) so victim advocates can work remotely and provide better service from home to clients as domestic violence cases surge.
- Seek and support thoughtful and considered options for eligible offenders (i.e., those not posing a threat to public safety) to be released early, including the Governor's request for clemency.
- Allow preliminary hearings under Proposition 115 to proceed in order to avoid having civilian witnesses physically testify in court.
- For out-of-custody defendants, line deputies should:
 - Waive defendant's appearance at next court date.
 - Agree to bench warrant holds if they fail to appear at an upcoming court date.
 - Where a defendant does appear on their case they should be allowed to leave, and line deputies should not oppose defense counsel appearing PC 977 in their stead so their client need not wait in the building to have the case called.
- For in-custody arraignments/bail hearings, if there is no threat to public safety, do not oppose release on OR or with conditions for misdemeanor or felony 1170(h) offenses.

- For in-custody plea deals, line deputies should consider credit-for-time-served offers for all probation cases.
- Affirmatively seek the resentencing and release of people in custody for 1170(h) cases (prison sentences eligible to be served locally in county jail) with 60 actual days or less left on sentence to shorten time to release immediately.
- Pursue the release of anyone held pretrial and that does not pose a safety risk to specific person(s). For persons who do not have community support, staff should work to secure hotel room vouchers to counteract homelessness.
- Expedite requests for presentence reports on current pretrial cases and consider release and/or settlement if there is no public safety danger.
- Affirmatively notify victims of cancelled court dates and sentence changes prior to release.
- Review cases of all detained people over age 65 for potential sentence modifications.
- Not oppose release in any motion filed by the Probation Department to revoke based on technical violations of probation or parole.
- Continue sentencing for violent in-custody offenders to avoid their transport to state prison, causing further strain on the prison system.
- Identify cases where both sides agree to a continuance and place on a “consent calendar” to avoid appearances.
- Close public-facing service areas/windows and move public communications to phone, email, and other channels.
- Defer prosecutions where appropriate. Conduct all possible court appearances via video conference lines.
- Encourage the Superior Court to approve video, in-custody arraignments to the extent appropriate and possible.
- For those most at-risk of becoming homeless upon reentry, coordinate with advocates to identify individuals in custody eligible for temporary housing.

The District Attorney, Sheriff, and Probation Department Must Prioritize Reentry Services for Our Most Vulnerable

In light of the forthcoming strain on reentry services, criminal justice system stakeholders must prioritize reentry services for those persons most at-risk of homelessness and exposure to COVID-19.

Persons who do not have family to return to should be provided hotel room vouchers to keep them off the streets. Juveniles without a supportive family environment—especially LGBT+ youth, who face record rates of homelessness—must be supported by County foster care providers. Persons with behavioral health challenges must receive treatment and transitional housing.

Criminal Justice Stakeholders Must Protect Our Front-Line Officers, and Law Enforcement Should Be Encouraged to Minimize Arrests in Non-Violent Offenses

Our dedicated law enforcement officers are in direct and constant contact with members of the public. They are at a high risk of exposure, and at least 15 members of the LAPD have already tested positive for COVID-19. We must guarantee adequate protective gear for our officers. Those officers who come into contact with individuals known to be infected must be tested and permitted to stay home pending their test results.

The Superior Court has reduced the bail schedule for many offenses, enabling law enforcement to delay taking physical custody of an offender. This will reduce the influx to our overburdened jail system and limit all parties' risk of exposure.

The Court's responsive action provides an opening for law enforcement officers to exercise their discretion in felony cases and opt to cite, rather than arrest, non-violent offenders. It is also vital for system stakeholders to seek a waiver of the 25-day rule for arraignment misdemeanor citations.

The Los Angeles Sheriff's Department Must Adopt Cite-and-Release Policies for Offenders Posing No Public Safety Threat

The Los Angeles Sheriff's Department must adopt cite-and-release policies for offenders that pose no threat to the community. Beyond that, the following classes of persons should be considered for release:

- Populations that the CDC has identified as being especially vulnerable to COVID-19
- Individuals detained solely because they cannot afford cash bail or for the simple possession of controlled substances
- Individuals within 6 months of completing their sentence
- Individuals held due to technical violations of probation or parole

As a general matter, the jail population must be minimized to ensure that there are sufficient medical beds and staff to account for the health and safety of all parties. Any outbreak of COVID-19 in our jails poses a threat to our community at large, given that the virus will not be contained within the walls.

LASD must avoid the use of widespread lockdowns or solitary confinement as a containment measure and implement targeted quarantines to control the spread of infection. Straightforward measures such as education for those in custody and staff about the virus and the measures they can take to minimize their risk of contracting/spreading the virus are essential. LASD must also develop and implement a plan for housing those persons who contract COVID-19 but cannot be released due to public safety and other factors.

LA County Probation and County Officials Must Immediately Enact Emergency Measures For Young People Under Probation Custody and Supervision

Given the emphasis on the medically vulnerable individuals and elderly persons, young people who are currently incarcerated have largely been left out of the conversation of how to mitigate potential outbreaks of COVID-19 in incarceration settings. Yet, should an outbreak of the novel coronavirus occur in juvenile correctional facilities, such a scenario presents the same risk that the virus will spread community-wide, far beyond the walls of these facilities.

To reduce the risk to our community, these young people, and the staff that work in juvenile facilities, Los Angeles County officials, including the DA, must:

- Immediately downsize the populations at all juvenile correctional facilities by placing a moratorium on any new detentions and releasing young people currently incarcerated for technical probation violations as well as misdemeanor and low-level felony arrests and bench warrants.
- Immediately release youth detained at local, municipal police and school police facilities rather than transferring them to a juvenile facility for assessment.
- Ensure that all unhoused or under-housed youth (homeless or foster youth) be provided safe housing during the COVID-19 crisis and extend these resources to their families if they are under the care of family members.
- Cancel probation appointments or move them online or to telephone.
- Postpone mandated programs that are not available online until the threat of COVID-19 infection has been eliminated.
- Discharge young people from probation who no longer need supervision and allow others to check in by telephone.
- Ensure that families and communities are informed by:
 - Establishing and advertising broadly a regular community webinar to field questions, concerns and solutions from people who are system involved.
 - Sharing a revised COVID-19 plan for youth on the Los Angeles County District Attorney and County Probation website, the LA County Board of Supervisors website, the Los Angeles County Sheriff's website, and the Department of Health Services website.
 - Ensure that information is posted and distributed at all juvenile halls, probation camps, youth diversion and development program hubs, probation offices, county jails, Sheriff's stations and municipal and school police department stations, area offices and jails.
 - Provide regular, online and phone updates on impact of COVID-19 on people under Probation supervision or custody and the County's response.

Additionally, for those who remain in juvenile facilities, their due process rights must be protected, and meaningful education must continue without interruption. To do so:

- Young people must be guaranteed access to legal counsel through confidential visits or teleconferencing while detained or incarcerated.
- Use teleconferencing to ensure that people have access to all court proceedings as calendared.

- Place a moratorium on all imposition of court-ordered fees and fines – including program fees.
- Guarantee access to unlimited, free phone calls, Skype, Facetime and teleconferencing to provide reassurance to increase family connection and provide regular access to families worried about their loved ones inside.

For additional recommendations regarding youth release, protecting due process rights and providing continued meaningful education during this public health crisis, refer to this letter by a coalition of community and policy leaders.

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In closing, the 10-million-plus residents of LA County deserve nothing less than a DA, and a system at-large, that carefully balances the needs of public health and public safety. Elected officials have an obligation to keep our community safe so our residents can flourish. Ignoring medical experts and conducting business as usual is not sound governance. It is irresponsible and will result in disastrous consequences for many families, including those of our first responders.

Thankfully, we as a County have time to course-correct. By bringing stakeholders together and implementing these common-sense policies, we can make a difference. Ultimately, I am confident that our community and criminal justice system will emerge from this challenge stronger and fairer.