

## A better criminal justice system

**We need a criminal justice system that's prepared to serve as the caretaker of the community. We also need more domestic violence shelters, more social workers. We need more, a lot more, not less.**



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Eugene is a retired judge of the Santa Clara County Superior Court, where for 20 years he presided over cases in the criminal, civil, probate, family and delinquency divisions of the court. He has presided over an adult domestic violence court and in 1999 presided over the first juvenile domestic violence and family violence court in the United States.

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Amid a much-needed season of rebuilding, re-examination and reflection, the efforts to reform in the wake of the death of George Floyd are bearing fruit. But it's becoming hard to ignore that the most aggressive plans implemented to right our course seem to be getting people killed.

California has led the nation's reforms in many ways since Floyd's death in May, and some of the boldest among us have been our prosecutors, who have implemented plans that severely diminish the involvement of law enforcement and the role of the court system in the prosecution of crime.

Newly installed Los Angeles District Attorney George Gascón recently announced a sweeping slate of policy changes, chief among them his new stance on misdemeanors. Gascón said that with few exceptions, he would no longer pursue charges for low-level crimes like drug possession, trespassing and shoplifting.

"We can break the multigenerational cycles of violence, trauma and arrest and recidivism that has led America to incarcerate more people than any other nation," said Gascón at a swearing-in ceremony in December, according to the Times.

I don't doubt the intentions behind this stand-down; the injustice done to Floyd and others at the law enforcement in recent years were a catalyst, one that might finally allow us to address problems within the system that we've long known exist.

But as a former police officer, I've seen firsthand the role law enforcement can have in stopping "non-serious" crimes from escalating into serious ones that get people hurt, or killed. As a superior court judge, I saw how the court system could prove as a critical intervention point, one that offered a more gradual guard against the escalation of criminal activity and violent behavior.

I fear this is an overcorrection of the pendulum, one that not only ignores the voices of victims, but puts them increasingly at risk.

The Civic Research Institute's winter edition of its Domestic Violence Report highlights the most significant problems with this approach. Gascón's plans are oriented toward an overall ramping down within the criminal justice system, while the report notes the overwhelming majority of domestic violence survivors support the opposite.

"Domestic violence survivors are not advocating for abolishing or defunding the police. They want the police to do more, not less. They want better law enforcement responses, not reduced responses," wrote former San Diego City Attorney Casey Gwinn and Gael Strack, the chief executive officer and co-founder of Alliance for HOPE International, in a column for the report.

A study by the institute included in the report indicates that nearly 80% of survivors surveyed favored increasing work between police officers and service providers. More than half supported explicit and implicit bias training and screening for police and other forms of "smart" reform. Only 2.6% of respondents supported abolishing the police.

Chesa Boudin, who inherited Gascón's seat in the San Francisco district attorney's office as well as his pioneering prosecutorial spirit, has pursued and implemented similarly ambitious plans. Last week, the San Francisco Chronicle published an article about a man accused of shooting and killing his mother. He had been arrested and booked in a strong-arm robbery case weeks earlier, but Boudin's office declined to charge him.

"Had Boudin charged Hudson for the robbery in San Francisco, it is unclear whether that action would have kept him behind bars," the article posits.

If cases like these keep surfacing, as district attorneys continue to escalate their stand-down, people will begin to question whether shirking the roles of attorneys, judges and law enforcement amid the push to reform is costing vulnerable people their lives. What's an acceptable amount of casualties?

The problem with "defunding the police" is that it treats the criminal justice system as a zero sum game; interactions with it are always bad, opportunities to avoid it are good. But these interactions, however unpleasant, can be redemptive and rehabilitative. I've seen drug addictions kicked thanks to the work that goes down in the courtroom. I've seen families reunited, children spared from a cycle of foster care and recidivism. The focus should be on finding ways to limit the harm from these charges, rather than eliminating the charge themselves. These prosecutors view themselves as flexible and autonomous in their roles, but they refuse to allow courts that same benefit of the doubt. Most judges should be capable of identifying when someone with a drug addiction deserves to have charges dropped in lieu of rehabilitation, and if they're not, they should be trained to be.

The bail reform policies pursued by Gascón, Boudin and others are another denial of an often-crucial interaction point for the court. While the bail system as it has existed favors the rich and deserves dismantling, we should replace it with something that addresses these flaws and preserves the structure of the judicial system. Someone who gets a speeding ticket is more likely to keep their foot off the gas in the future compared to someone who gets off with a warning.

Similarly, we should re-examine who we hire in law enforcement and how we train them. We need a more diverse police force, not just in terms of race, gender and orientation but in background experience. We may need less police officers with degrees in administrative justice and more in majors like history, sociology and psychology. Police should be subject to implicit and explicit bias training, which has proven significantly effective and has been a heavily favored method of action by domestic violence survivor advocates.

We need a criminal justice system that's prepared to serve as the caretaker of the community. We also need more domestic violence shelters, more social workers. We need more, a lot more, not less. And we deserve a better criminal justice system, not a weaker one. □

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