

Domestic violence columnist should look to San Diego

In an Oct. 26 column "A dangerous policy of inaction in domestic violence cases," Los Angeles County Deputy District Attorney Cindy Wallace criticizes domestic violence reforms proposed by the newly elected George Gascón as a "seemingly humane proposal fraught with unintended consequences."



EUGENE M. HYMAN

Judge (Ret.), San Clara County Superior Court

Santa Clara Univ Law School

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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In an Oct. 26 column "A dangerous policy of inaction in domestic violence cases," Los Angeles County Deputy District Attorney Cindy Wallace criticizes domestic violence reforms proposed by the newly elected George Gascón as a "seemingly humane proposal fraught with unintended consequences."

Wallace argues the policy, under which victims would no longer be required to testify even when subpoenaed, strips domestic violence attorneys of their ability to effectively prosecute alleged abusers, leading to less prosecutions and more abuse.

But take a trip down the 5, and you will find decades of evidence to the contrary. And a scenic drive to boot.

Under the leadership of former District Attorney Casey Gwinn, San Diego County effectively embraced the practice of victimless prosecution in domestic violence cases more than 20 years ago. Pioneering an evidence-based approach, Gwinn's office began relying on testimony gathered from dispatcher audio or from first responders specifically trained to conduct on-scene interviews, among other forms of evidence that could collectively secure conviction in the absence of direct victim testimony.

Gwinn prosecuted more than 10,000 domestic violence cases during his time with the city, and his policy of victimless prosecution proved so effective that it's been widely adapted in jurisdictions throughout the U.S. Under Gascón's mandate, Los Angeles will now likely follow suit.

Critics argue this will lead to a lack of accountability, more domestic abuse, and less victim agency. They also believe if victim testimony is compulsory rather than mandatory, it will make victims more susceptible to abuse and manipulation that could motivate them to recant or alter their testimony.

But the example set by San Diego and other successful victimless prosecution programs proves that victimless prosecution isn't just a viable alternative but a preferable one.

Wallace speaks both professionally as a victims advocate and personally as a domestic violence survivor on the importance of supporting victims throughout the conviction process, and how it can make the difference between a conviction or a case that falls apart due to recanted testimony. On this issue I am sympathetic, and I agree that the lack of fulsome victim support services throughout the state is unacceptable. But the remedy to that problem has nothing to do with whether or not a victim offers direct testimony - it's as simple as funding those sufficiently support services - building more family justice centers, enhancing advocacy programs and social services, and so on.

A victim's testimony, while often highly influential, shouldn't be considered the ol' reliable lynchpin for a conviction. Shunting responsibility for conviction onto the person whose injustice you're attempting to cure is inhumane and dangerous.

Imagine if we held victims of murder to a similar standard. □

-- Eugene Hyman

#360382

Ben Armistead

Legal Editor
ben_armistead@dailyjournal.com