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65 Current and Former Elected Prosecutors From Across the United States File Amicus Brief In Support of Los Angeles DA George Gascón’s Reforms

Elected DAs argue that Gascón’s policy eliminating most sentencing enhancements is consistent with prosecutorial discretion and the will of the community

LOS ANGELES, CA – Today, 65 current and former elected prosecutors, including two former Los Angeles County District Attorneys as well as other elected prosecutors from around the nation, filed an amicus brief in support of Los Angeles County District Attorney George Gascón’s implementation of a host of policies consistent with the vision for criminal justice he articulated throughout the course of his campaign. The amicus brief is in response to the lawsuit filed by the Los Angeles County Association of Deputy District Attorneys (ADDA), which seeks to bar District Attorney Gascón from implementing new policies he enacted upon assumption of office, including ending gang and “three strikes” enhancements that have fueled mass incarceration and not made communities safer.

The amicus brief stresses the inherent discretion of elected prosecutors to enact policies that guide who, when and what to prosecute, and notes that DA Gascón’s reforms are consistent with the interests of justice, public safety and the efficient use of limited prosecutorial resources. Amici further argue that the ADDA is seeking to unlawfully and unconstitutionally infringe on decisions uniquely entrusted to the DA and that voters specifically elected him to carry out.

“Thousands marched in the streets of Los Angeles over the past few months demanding a transformation of LA’s criminal legal system, and millions of voters elected DA Gascón with a mandate of reform,” said Miriam Krinsky, Executive Director of Fair and Just Prosecution (the organization that coordinated the brief) and a former federal prosecutor in Los Angeles, as well as the former Executive Director of the Los Angeles County’s Citizens’ Commission on Jail Violence and former President of LA’s Ethics Commission. “Efforts to prevent the duly elected District Attorney from implementing the exact vision and approach to criminal justice overwhelmingly supported by LA County voters – and increasingly embraced by communities around the nation – aren’t just an attack on prosecutorial discretion, they’re an attack on our community and our democratic process.”

The amicus brief notes that upon taking office, District Attorney Gascón immediately sought to reform a number of long-standing prosecutorial practices in his office that research shows have ballooned California’s incarcerated population. Amici highlight the fact that “there is no research that shows sentencing enhancements improve public safety, but there is evidence that excessive sentences increase recidivism and therefore create more victims in the future.” Gascón’s new policies seek to bring Los Angeles in line with best practices and research, and reduce recidivism and victimization.
“Historically, prosecutorial discretion has too often been used to impose harsher penalties that have particularly impacted people of color and harmed communities, not made them safer,” said former Los Angeles County District Attorney Gil Garcetti, a signatory on the brief. “DA Gascón made clear – and voters embraced – his intent to reverse that practice. While some prosecutors are having difficulty accepting these changes, there is only one elected official in the DA’s office.”

“As the amicus brief explains, no prosecutor has the ability and resources to prosecute every case and every violation of the law, and all elected prosecutors must make tough decisions about how limited resources are best used,” said Contra Costa County, Calif. District Attorney Diana Becton, another signatory on the brief.

In the brief, amici underscore the fundamental obligation of elected prosecutors to carry out their role in ways that take into account the interests of justice and the prudent use of limited resources. They also note that enjoining implementation of these reforms based on the disagreement of some line prosecutors in the office would undermine and intrude on the DA’s ability to effectively guide these important decisions, invite disparate results based on the fortuity of the individual prosecutor on the case, and erode the voters’ right to decide the vision of justice they sought through their election of new leadership in the office.

"To avoid unequal application of the law throughout an office of over 1,000 DDAs, serving a population of 10 million, broad issues of office policy must, of necessity, reside with the elected DA consistent with law and ultimately answerable to the public,” stressed former Los Angeles County District Attorney Ira Reiner, another signatory on the brief.

“All around the country, communities are demanding a change from the harsh and biased policies that led to mass incarceration. The Los Angeles community chose a DA who they knew would make that change possible,” said Erwin Chemerinsky, Dean of the University of California at Berkeley School of Law and one of the counsel for amici. “The current legal action threatens that community mandate and would set a dangerous precedent permitting concerning court and staff intrusion into discretion uniquely vested in elected prosecutors.”

Read the brief here; for a list of amici, see below.

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*Fair and Just Prosecution is a national network of elected prosecutors working towards common-sense, compassionate criminal justice reforms. To learn more about FJP’s work, visit our website and follow us on Facebook and Twitter.*

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