

REPORT TO CITY COUNCIL

DATE: JULY 14, 2021

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

SUBJECT: DISCUSSION AND CONSIDERATION OF RESOLUTION NO. 21-1983;
EXPRESSING A VOTE OF NO CONFIDENCE IN LOS ANGELES
COUNTY DISTRICT ATTORNEY GEORGE GASCÓN

At the request of Mayor Weber, this item is being presented to the City Council for discussion and consideration. As evidenced by the City's budget allocations, public safety remains one of the top priorities of the City Council and the community. The City utilizes a contract with the Los Angeles County Sheriff's Department to provide a majority of these services that is aimed at the protection of the quality of life and the safety of our residents and businesses. Effective policing is essential to maintaining a rule of law in our community. In addition, effective prosecution is necessary in order to ensure accountability for those accused of a crime, support for victims, and as a deterrent for future criminal activity. Accountability resides with the District Attorney (DA), who is an elected county official established by Government Code Section 26500-26543, and is responsible for all of the prosecution of criminal violations of state and county ordinances occurring within Los Angeles County (County). The Los Angeles DA's Office prosecutes felony crimes and misdemeanor crimes in unincorporated areas and in 78 of the County's 88 cities, including Agoura Hills.

The Los Angeles County DA's Office has a legal responsibility to execute laws enacted by voters or the state legislature. These laws protect the public and uphold prosecutorial policies. The DA also oversees investigation, apprehension and prosecution of these in court. Los Angeles County DA George Gascón was elected as part of the November 3, 2020, General Election, capturing 54% of the Los Angeles County vote. Since his December 7, 2020, swearing-in ceremony, he has issued numerous special directives to reform criminal prosecutions in Los Angeles County.

Three (3) of these directives are briefly described in this report and a more comprehensive list of directives (total of nine (9)) is outlined as Attachment B in this report.

Special Directive 20-06: Pretrial Release Policy (Elimination of Cash Bail)

This Special Directive sets forth new policies and protocols on pretrial release and the use of cash bail. It prohibits Deputy District Attorneys (DDAs) from requesting cash bail for any misdemeanor, non-serious felony or non-violent felony offense. While there is a list of these felonies in this directive, there are 19 pretrial release conditions for the DDAs

to consider. If none of the 19 conditions are sufficient to ensure a return to court and public safety, then a DDA can consider requesting bail at an arraignment for:

- Felony offenses involving acts of violence on another person; or
- Felony offenses where the defendant has threatened another with great bodily harm; or
- Felony sexual assault offenses on another person.

This directive was issued in spite of the defeat of the 2020 California Proposition 25. The defeat of the proposition, with 56% of the voters voting no, repealed an earlier law eliminating cash bail.

Special Directive 20-07: Misdemeanor Case Management

This Special Directive listed numerous misdemeanor charges that shall be declined or dismissed before arraignment and without conditions unless "exceptions" or "factors for consideration" exist. The misdemeanors include:

- Trespassing,
- Disturbing the Peace,
- Criminal Threats,
- Drinking in Public,
- Public Intoxication,
- Under the Influence of Controlled Substance,
- Driving Without a Valid License,
- Driving on a Suspended License,
- Drug and Paraphernalia Possession,
- Minor in Possession of Alcohol,
- Loitering,
- Loitering to Commit Prostitution, and
- Resisting Arrest.

Exceptions and factors for consideration listed in Special Directive 20-07 include repeat offenders in the preceding 24 months; however, misdemeanors such as drug and paraphernalia possession, minor in possession of alcohol, drinking in public, public intoxication, under the influence of controlled substance and loitering to commit prostitution do not have exceptions or factors of consideration identified.

This is of special concern to our community as incidents and calls for service to the Sheriff's Department have been increasing over the years. This includes repeat offenders and the special directive gives law enforcement very little leeway in dealing with these incidents.

Special Directive 20-08: Sentencing Enhancements/Allegations

This Special Directive provides that the following sentence enhancements or sentencing allegations shall not be filed in any cases and shall be withdrawn in pending matters: Any prior-strike enhancements, including the Three Strikes Law; STEP Act enhancements (also known as "gang enhancements"); violations of bail; and firearm allegations.

Amendments 20-08.1 and 20-08.2 were issued on December 15, 2020, and December 18, 2020, to make further clarification of Special Directive 20-08, including: Deputy District Attorneys (DDAs) may pursue the following allegations, enhancements and alternative sentencing schemes: Hate Crime; Elder and Dependent Adult Abuse; Child Physical Abuse; Child and Adult Sexual Abuse; Human Sex Trafficking; and Financial Crime.

Of major concern are the burglary and vehicle break-ins that have occurred in more recent history in the community. Recent legislation, propositions, and directives from the Los Angeles County District Attorney have de-criminalized these actions leaving the residents of Agoura Hills with very little recourse.

The DA's office has a legal and ethical responsibility to execute laws by voters or the legislature that are intended to protect the public and uphold prosecutorial policies. The proposed resolution would affirm a vote of no confidence for DA George Gascón. The cities of Santa Clarita, Beverly Hills, Hidden Hills, and Pico Rivera are just some of the cities that have passed a similar resolution.

RECOMMENDATION

Staff is respectfully recommending the City Council discuss and consider the adoption of Resolution No. 21-1983, expressing a vote of no confidence in Los Angeles County District Attorney George Gascón.

Attachments: (A) Resolution No. 21-1983
(B) District Attorney Gascón's Special Directives

Attachment A

Resolution No. 21-1983

RESOLUTION NO. 21-1983

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, EXPRESSING A VOTE OF NO CONFIDENCE IN LOS ANGELES COUNTY DISTRICT ATTORNEY GEORGE GASCÓN

WHEREAS, the City of Agoura Hills (the "City") places a high priority on public safety and protecting its community; and

WHEREAS, the City has a history of supporting legislation that increase public safety and protect the community; and

WHEREAS, Los Angeles County District Attorney George Gascón unilaterally issued a series of Special Directives in December 2020, including Special Directives 20-06, 20-07, and 20-08; and

WHEREAS, Special Directive 20-06: Pretrial Release Policy, eliminated cash bail for any misdemeanor, non-serious felony, or non-violent felony offense; and

WHEREAS, Special Directive 20-07: Misdemeanor Case Management, lists numerous misdemeanor charges that will be declined or dismissed before arraignment and without conditions unless "exceptions" or "factors for consideration" exist. These misdemeanor charges include trespassing, disturbing the peace, criminal threats, drinking in public, drug and paraphernalia possession, under the influence of controlled substance in public, public intoxication, resisting arrest, driving without a valid license or with a suspended license, minor in possession of alcohol, loitering, and loitering to commit prostitution; and

WHEREAS, Special Directive 20-08: Sentencing Enhancements/Allegations eliminates several sentence enhancements, including the Three Strikes Law, gang enhancements, and violations of bail; and

WHEREAS, some of the Special Directives issued by Los Angeles County District Attorney George Gascón contradict state laws that were enacted through the state legislature as well as the legislative ballot initiative process, to prevent and prosecute crime and protect the general public; and

WHEREAS, policies that aim to restructure or amend prosecutorial directives need to be consistent with state law and issued with reasonable intent and priority to enhance public safety and protect the general public and victims' rights.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Agoura Hills as follows:

Section 1. The City Council of the City of Agoura Hills expresses a vote of no confidence in the Los Angeles County District Attorney George Gascón and hereby

directs City Staff to transmit the resolution to applicable and interested offices and organizations.

Section 2. That Los Angeles County District Attorney George Gascón rescind Special Directives 20-06, 20-07, and 20-08.

Section 3. The City Council of the City of Agoura Hills hereby insists that Los Angeles County District Attorney George Gascón uphold the laws of the state, whether they were established by the state legislature or the voters of this state, and demands no Special Directives be issued by Los Angeles County District Attorney George Gascón which contradict these laws.

Section 4. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 14th day of July, 2021, by the following vote to wit:

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

Attachment B

Special Directives (SD) 20-06 through 20-14

SD 20-06: Pretrial Release Policy

SD 20-06 sets forth new policies and protocols on pretrial release and the use of cash bail. The SD prohibits Deputy District Attorneys (DDAs) from requesting cash bail for any misdemeanor, non-serious felony, or non-violent felony offense. If cash bail is requested for other offenses, DDAs must recommend cash bail amounts that are aligned with the accused's ability to pay. Furthermore, bail and/or pretrial detention may only be considered if there are no other options to protect public safety and reasonably ensure the defendant's return to court. Additionally, DDAs shall not object to the release of anyone currently incarcerated in Los Angeles County on cash bail who would be eligible for release under this SD.

SD 20-07: Misdemeanor Case Management

SD 20-07 states that the following misdemeanor charges shall be declined or dismissed before arraignment and without conditions unless exceptions or factors for consideration exist: trespassing, disturbing the peace, driving without a valid license, driving on a suspended license, criminal threats, drug and paraphernalia possession, minor in possession of alcohol, drinking in public, under the influence of a controlled substance, public intoxication, loitering, loitering to commit prosecution, and resisting arrest. Exceptions and factors for consideration include repeat offenders in the preceding 24 months. However, some misdemeanors listed do not have exceptions or factors of consideration identified.

SD 20-08: Sentencing Enhancements/Allegations

SD 20-08 states that the following sentence enhancements or sentencing allegations shall not be filed in any cases and shall be withdrawn in pending matters: any prior strike enhancements, including the Three Strikes Law; STEP Act enhancements (also known as gang enhancements); violations of bail; and firearm allegations. This directive was further amended to state that DDAs may pursue the following allegations, enhancements, and alternative sentencing schemes: hate crime, elder and dependent adult abuse, child physical abuse, child and adult sexual abuse, human sex trafficking, and financial crimes.

SD 20-09 Youth Justice

SD 20-09 implements policies for crimes involving youth. Pursuant to this SD, youth accused of misdemeanors will not be prosecuted. If necessary and appropriate, youth accused of misdemeanor offenses and low-level felonies will be referred to pre-filing, community-based diversion programs. Youth will not be charged for crimes involving property damage or minor altercations with group home staff, foster parents, and/or other youth if the youth's behaviors can reasonably be related to the child's mental health or trauma history. The SD also provides that filings will generally consist of the lowest potential code section that corresponds to the alleged conduct and mandate one count per incident. Furthermore, youth will not be sent to the adult court system and enhancements shall not be filed on youth petitions.

SD 20-10 Habeas Corpus Litigation Unit

SD 20-10 establishes policies regarding the Habeas Corpus Litigation (HABLIT) Unit's review of non-capital cases. This SD is specific to a legal petition brought by detained or imprisoned inmates to challenge the constitutionality of the conviction and/or sentencing conditions.

SD 20-11 Death Penalty Policy

SD 20-11 provides that the DA's Office will not seek the death penalty in any case charged on or after December 8, 2020. The DA's Office will also not defend any existing death sentences and will engage in a thorough review of every existing death penalty judgment from Los Angeles County.

SD 20-12 Victim Services

SD 20-12 establishes policies related to services currently provided by the Bureau of Victim Services (BVS). These new policies include the following: (1) BVS will contact all victims of violent crime within 24 hours of receiving notification; (2) BVS will contact the families of individuals killed by law enforcement and provide support services; (3) BVS will support survivors and all others harmed by violence and crime regardless of immigration status, reporting, cooperation, or documentation; (4) BVS will establish a Victim Emergency Fund; and (5) BVS will not require cooperation as a condition of offering services.

SD 20-13 Conviction Integrity Unit

SD 20-13 establishes policies regarding the Conviction Integrity Unit (CIU). These policies relate to case review criteria, access to discovery, investigations in claims of wrongful conviction, and case resolution. This SD also provides that the CIU shall develop and maintain a database to track errors and other causes of wrongful convictions uncovered in the course of its case reviews. Pursuant to this SD, the database will track official misconduct, including the names of law enforcement officers found to have committed misconduct or whose testimony has otherwise been proven to be unreliable.

SD 20-14 Resentencing

SD 20-14 provides that the DA's Office will seek to review and remediate every sentence that does not comport with the new Sentencing Enhancement and Juvenile Policies. The DA's Office specifically commits to an expedited review of the following categories of cases: (1) Those who have already served 15 years or more; (2) Those who are currently 60 years of age or older; (3) Those who are at increased risk of COVID-19; (4) Those who have been recommended for resentencing by the California Department of Corrections and Rehabilitation; (5) Those who are criminalized survivors; and (6) Those who were 17 years of age or younger at the time of the offense and were prosecuted as an adult.