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District Attorney Stephan Calls Out False Claim by LA District Attorney Regarding Sirhan Parole Hearing for the Murder of Senator Kennedy

Cites Prosecutors' Legal Responsibility to Represent Victims and the People

San Diego County District Attorney Summer Stephan today rejected as false and inaccurate the claim by Los Angeles County District Attorney George Gascón's office that the District Attorney's role to pursue justice ends at the original sentencing and does not extend to parole hearings. This misrepresentation of the law was provided as the reason behind the LA District Attorney's decision not to have one of his attorneys appear at today's parole hearing for Sirhan Sirhan, 77, convicted of assassinating Senator Robert F. Kennedy. The hearing, being held at Donovan State Prison in San Diego, is Sirhan's 16th time seeking release.

Gascón's office said it will not be at the hearing, making it the first time prosecutors won't be in attendance. The LA DA is also not sending a letter in support of the parole, saying he wants his office to remain neutral in the case. News reports quoted the LA District Attorney's Office as saying, "The role of a prosecutor and their access to information ends at sentencing."

Stephan said that statement is not true, took exception with the decision and released the following statement:

"While Sirhan is an inmate at a San Diego prison, the law provides jurisdiction to the DA of the county that prosecuted the murder to represent the People at the parole hearing and that is the LA DA's office not San Diego. My office would never abandon our legal duties to represent a victim whose voice is forever silenced by murder. Robert F. Kennedy served honorably as U.S. Attorney General where he fought for civil rights and dignity and fought against organized crime and corruption. Senator Kennedy, along with any victim of crime, deserves to have the DA represent them as well as protect the safety and wellbeing of the people they are sworn to protect. I am heartbroken to see crime victims and their families continue to be victimized by dangerous

and legally false policies that abandon them. Robert F. Kennedy deserves better. The community deserves better. By abdicating his role and refusing prosecutor presence at parole hearings, it leaves victims to fend for themselves, leaves them unrepresented, and fails to uphold his duty, as required by law, to represent the interests of the people. Our system of justice cannot function if the only advocate is the one for the person who committed a horrific crime. Decisions like this whittle away at victims' rights and public safety. The District Attorney plays a significant role in ensuring equal and fair justice for all and strives to uphold and promote the protection of victims' rights, the rights of those accused of a crime and the right of the community to be safe from the harm that crime brings. Part of that role requires presence at parole hearings.”

The law clearly shows that the statements by LA District Attorney's Office about the role of the DA ending at sentencing are not true. In fact, DA Gascón's policy contradicts his rationale because it in fact does allow his prosecutors to weigh in at parole hearings, but only if in support of the inmate but not if in support of the victim or the people

The California legislature recognized the significant role the prosecutor plays in parole hearings by creating specific laws that require notice to the prosecutor, requires the prosecutor to represent the interests of the people, and mandates the parole board to consider all statements and recommendations which may have been submitted by the judge, district attorney, and sheriff. (Penal Code section 3041.7) These statutes are further codified in California's Code of Regulations, the full text of which are posted on the California Department of Corrections and Rehabilitation's public website.

Title 15, section 2030 of the California Code of Regulations, which is entitled Prosecution Participation, states: “The role of the prosecutor is to comment on the facts of the case and present an opinion about the appropriate disposition. In making comments, supporting documentation in the file should be cited.” Regarding access to information, the regulation specifically states, “The prosecutor may review the prisoner's central file and submit any relevant documents including the Appellant's and Respondent's Statements of the Case and Statements of Facts filed in any appeal that may have been taken from the judgment.” However, despite the fact Sirhan is currently imprisoned in San Diego County, the ability to appear is allotted to the office which prosecuted the prisoner, not the District Attorney's Office where the prison is located.

Parole hearings are an important function of the criminal justice system, where individuals who are incarcerated under a life sentence shall be entitled to representation of counsel and where the public prosecutor is legally authorized to present an opinion reflective of public safety. San Diego County Deputy District Attorneys will fulfill their duties and role as outlined in the law, specifically to present an opinion whether the individual inmate will pose an unreasonable risk of danger to society if released from prison, and to provide the Board of Parole Hearings an appreciation for the impact that the crime has had on the victim's life and/or next of kin.

Victims in California have the right to have notice of, be present at, and be heard at parole hearings. (California Constitution Article 1, Section 28(b)(7) and (b)(8); Penal Code section 679.02(a)(5).) They also have the right to have the safety of the victim, the victim's family, and the public considered before any parole or other post-judgment release decision is made. (California Constitution, Article 1, Section 28(b)(16).)

Failure to represent the interest of the victims and the community at parole hearings is an abdication of the role of the public prosecutor and violates the victims Constitutional Rights under Article 1, section 28 of the California Constitution.

It maybe that a prosecutor, after reviewing all the facts and the evidence at a parole hearing, carefully scrutinizing the prison record and researching the law, determines that parole is suitable. However, simply creating a policy not based in law that abandons the DA's legal duty is not the way a civilized nation based in law can function.

The San Diego County District Attorney maintains a Lifer Hearing Unit which has two main goals: to ensure that dangerous prisoners with life sentences are not released carelessly or improvidently, and to ensure that crime victims and their families are given an opportunity to participate in the parole hearing process and have their voices heard.

When a defendant is given a life sentence, the Lifer Hearing Unit processes the case to ensure that it is ready for future parole suitability hearings. This involves preserving victims' statements and documenting the gravity of the crimes to ensure the offenders serve sentences proportional to their crimes.

Each year, hundreds of lifer parole hearings are scheduled. Even though there has been a shift statewide to a higher rate of parole grants, San Diego County is determined to fulfill our legal duty and to pursue justice in every case.

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About the San Diego County District Attorney's Office

The San Diego County DA's Office prosecutes all felony crimes in the county and misdemeanor crimes committed outside the City of San Diego. The office files about 40,000 criminal cases a year and balances prosecution with numerous crime prevention programs. District Attorney Summer Stephan leads the office of more than 1,000 dedicated employees who pursue fair and equal justice, and support victims daily across San Diego County.

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