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IN THE SUPERIOR COURT

OF THE STATE OF CALIFORNIA

LOS ANGELES COUNTY

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. ERIK GALEN MENENDEZ and JOSEPH LYLE MENENDEZ Defendants.	No.: BA068880 NOTICE OF MOTION AND MOTION TO DISQUALIFY DISTRICT ATTORNEY (Penal Code section 1424)

TO: District Attorney Nathan Hochman and his deputy Steven Katz; and

TO: Attorney General Rob Bonta and his deputies; and

TO: Hon. Michael V. Jesic, Judge of the Superior Court;

PLEASE TAKE NOTICE that on May 9, 2025, at 9:30 or as soon thereafter as the matter may be heard, defendants Erik Galen Menendez and Joseph Lyle Menendez, through counsel, will move the court for an order disqualifying the office of the District

Attorney and any of his deputies from participating in the resentencing proceedings scheduled in this case. This motion is brought under the constitutions of the United States and the State of California as well as California Penal Code section 1424, and is made on the grounds that, absent recusal, a conflict of interest would render it likely that the defendants will receive neither a fair hearing nor fair treatment through all related proceedings. This motion is based on the files and records of this case, on the attached exhibits, on the attached memorandum of points and authorities, and on such further evidence or argument as may be presented at or before the hearing on this motion.

Pursuant to section 1424, defendants request that the District Attorney's office be recused. In the alternative, defendants request an evidentiary hearing. The witnesses defendants intend to present at the evidentiary hearing include Anamaria Baralt, Tamara Goodall, Nathan Hochman and Kathleen Cady.

Dated: April 25, 2025

Respectfully submitted,

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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT

OF MOTION TO RECUSE

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INTRODUCTION

After initial hung juries, Erik and Lyle Menendez were convicted of murder in the shooting deaths of their parents, Kitty and Jose Menendez. The matter is now before the Court for resentencing. By now, the Court is well aware of the major dispute between the parties as to the actual resentencing.

From the defense perspective, both defendants have long admitted the shooting. They have contended that the offense was not murder, but manslaughter committed out of fear based on a lifetime of physical and sexual abuse. At trial, they testified in graphic detail as to the sexual abuse. And the abuse was corroborated by Kitty's niece, Diane Vandermolen; Lyle told her about the abuse when he was only 8 years old, pleading for help. It was corroborated by Jose's nephew, Andy Cano; Erik told him about the abuse when he (Erik) was 12 or 13 years old. It was corroborated by prosecution witness Donovan Goodreau; Goodreau admitted that well before the shooting Lyle told him that both he and Erik had been sexually abused by their father. It was corroborated by Kitty and Jose's nieces Kathy Simonton and Diane Vandermolen, along with their nephew Brian Andersen; all three testified to the extraordinary "hallway rule" Jose demanded, and Kitty enforced, in the Menendez home. It was corroborated by Lyle's ninth grade essay about child molestation. In light of their record of rehabilitation during their 35 years in custody, including achievements for the prison community, strides in education, consistent programming, disciplinary records, the views of prison officials and both their demonstrated remorse for the crimes and the uniform view of the victims' family (including the surviving siblings of Jose and Kitty Menendez), resentencing is proper.

The District Attorney has a very different view. In the prosecution's view, there was no sexual abuse at all. Resentencing is not appropriate because although defendants have admitted the shooting for decades, they continue to maintain (as they have since trial) that they had been sexually abused since they were children. Under the District Attorney's view, there can be no rehabilitation unless defendants not only admit the

shooting, but disclaim the corroborated history of sexual abuse which caused the first juries to reach verdicts evenly split between murder and manslaughter. (*But see In re Twinn* (2010) 190 Cal.App.4th 447, 466 ["an inmate need not agree or adopt the official version of a crime in order to demonstrate insight and remorse."]; *In re Palermo* (2009) 171 Cal.App.4th 1096, 1110, 1112 [same]; *In re Jackson* (2011) 193 Cal.App.4th 1376, 1391 [same]; *In re Pugh* (2012) 205 Cal.App.4th 260, 269 [same]; *In re Young* (2012) 204 Cal.App.4th 288, 315 [same].)

The stark dispute between these two positions is for another day – the actual resentencing. The question this motion asks the Court to resolve is whether the Los Angeles District Attorney's office should be disqualified from further litigating this case. As discussed below, this requires the Court to ask two questions: (1) does the record show a conflict of interest and (2) if so, is the conflict is so severe as to disqualify the district attorney from acting? As also discussed below, the answer to both questions is yes. Because the record shows a conflict that renders it unlikely Erik and Lyle can receive a fair resentencing hearing, recusal is proper.

STATEMENT OF FACTS

A. The District Attorney Meets With Menendez Family Members And Requests Resentencing.

On October 3, 2024, Los Angeles District Attorney George Gascon announced he was considering a request for resentencing in the cases of Erik and Lyle Menendez. (*See* https://www.courttv.com/news/menendez-brothers-la-da-announces-hes-investigating-new-evidence/.) On October 16, 2024, 20 family members of Jose and Kitty Menendez came to Los Angeles to meet with representatives of the District Attorney's office. In accord with Marsy's law, they were met by representatives of the District Attorney's Department of Victim Services. (Declaration of Mark Geragos at para. 2, attached as Exhibit A.) In addition, they met with deputy district attorney Nancy Theberge, in charge

of the resentencing unit and deputy district attorney Brock Lunsford, Assistant Head Deputy of the Post-Conviction and Litigation Unit. (*Ibid.*) These 20 family members came from all over the country -- from New Jersey, Illinois, Pennsylvania, Arizona, Nevada, Washington and Colorado. (*Id.* at para. 3.) They included Kitty's older sister, Joan VanderMolen, as well as numerous nieces and nephews of both Jose and Kitty. (*Ibid.*) These family members shared their consistent view that nearly 35 years in prison was enough and Erik and Lyle should indeed be resentenced. (*Id.* at para. 3.) The meeting lasted more than two hours. (*Id.* at para. 2.)

On October 23, 2024, private attorney Kathleen Cady stepped into the fray, filing what she called an "Application to File an Amicus Brief and Amicus Curiae Brief re Habeas Claim and any Potential Resentencing Petition; Declaration of Kathleen Cady." (*See* Application attached as Exhibit B.) Ms. Cady was representing Milton Andersen, Kitty Menendez's brother. (Exhibit B at p. 1.) According to Ms. Cady's filing, and in contrast to Joan VanderMolen (Kitty Menendez's older sister), Teresa Baralt (Jose Menendez's sister) and all of Kitty and Jose Menendez's other family members, Mr. Andersen opposed resentencing.

The next day, on October 24, 2024, the District Attorney filed a 56-page "Motion Requesting 1172.1 Recall of Sentence & Resentencing Hearing" signed by Ms. Theberge and Mr. Lunsford. In a section of this motion addressing Marsy's law, this request accurately informed the Court that (1) all but one member of the Menendez family supported resentencing, many of whom had met with the District Attorney's office and (2) one member, Milton Andersen, opposed resentencing, but had declined the District Attorney's invitation to meet, instead electing to communicate his views through counsel Kathleen Cady. (Request to Resentence at 52-53.)[1]

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[1] The District Attorney filed an Amended Motion on November 7, 2024.

B. Mr. Hochman Wins The Election, Fires Nancy Theberge, Transfers Brock Lunsford After He Refuses To "Join The Team" And Appoints Kathleen Cady Head Of Victim Services.

Weeks later, at the November 5, 2024 election, Nathan Hochman defeated Mr. Gascon. As the new District Attorney recently noted, this electoral victory gave him the unfettered "right to assign the administrative staff of his choosing." (Reply to Defendant's Reply to Motion to Withdraw ("Reply") at 15, n.5.)

Which he did. Only three days after being sworn in he fired Ms. Theberge, sending her to the County Alternate Public Defender's Office. (*See* Letter of December 10, 2024, attached as Exhibit C.) Days later, veteran prosecutor Lunsford -- who had never received even a single a poor performance review in his 24-year career as a prosecutor -- was stripped of all supervisory responsibilities and transferred to the Norwalk courthouse as a calendar attorney. (*See* Claim for Damages, attached as Exhibit D.)

In a carefully worded footnote, the new District Attorney now admits that before transferring Mr. Lunsford, he met with him and asked if he (Lunsford) wanted to "review the original [Menendez] resentencing motion" he had co-signed and, if so, he (Lunsford) could "join the team." (Reply 15, n.5.) When Mr. Lunsford made clear he did not wish to change his position, the offer to "join the team" was apparently rescinded and the transfer to Norwalk was finalized. (*Ibid.*) All the careful phrasing in the world cannot disguise what was really going on. Mr. Lunsford had failed the litmus test required to "join the team." So it was off to Norwalk with him.

But the new District Attorney did not just wield the power to fire. He also wielded the power to hire. Thus, the office needed a lawyer to head the Office of Victim Services. In a December 13, 2024 interview, Mr. Hochman admitted that he had already spoken with Kathleen Cady, the lawyer representing Milton Andersen, the only family member to oppose resentencing. (*See* Transcript of December 13, 2024 Interview, attached as Exhibit E.) Less then two weeks later, it was Ms. Cady who Mr. Hochman selected to be

the new head of the Department of Victim Services. (*See* http://www. metnews. com/articles/ 2024/ cady_122624.htm, attached as Exhibit F.)[2]

C. Kathleen Cady And The District Attorney Both Recognize The Conflict Of Interest.

To her credit, Kathleen Cady recognized there was a conflict of interest in (1) working on the Menendez case, (2) heading up the Department of Victim Services and, at the same time, (3) representing one of the victims. According, she filed a "Notice of Withdrawal as Attorney of Record for Mr. Andersen." (*See* Notice of Withdrawal, attached as Exhibit G.)

Mr. Hochman is also to be credited. His office properly recognized the conflict, and on the record assured this Court that Ms. Cady has been "walled off" from the Menendez case. (Reporter's Transcript of April 11, 2025 at p. 94, attached as Exhibit H.) Mr. Hochman was equally reassuring in many of the press conferences and interviews he did about this case, repeating the refrain: Ms. Cady had been "walled off" from the case:

- "Ms. Cady has been walled off from any participation or contact with the Menendez case." (Exhibit I.)
- Ms. Cady has been "'walled off' from any involvement . . . ." (Exhibit J.)
- "Hochman said Friday that Ms. Cady has been 'walled off from the Menendez case.'" (Exhibit K.)

If the Court grants an evidentiary hearing as requested, we may learn how this

---

[2] The sharply contrasting fates of Therberge and Lunsford on the one hand, and Cady on the other, are not the only "assign[ments of] the administrative staff" suggesting the importance of a particular view as to the Menendez case. Thus, deputy district attorney John Lewin is a vocal critic of the Menendez brothers, publicly and repeatedly voicing his opinion (as he was free to do). (Exhibit X.) After Mr. Hochman was elected, he promoted Mr. Lewin to the Major Crimes division and rewarded Lewin with a six figure settlement of his lawsuit on Day 1 of the Hochman reign. "Doing the hard work" apparently pays off.

ethical wall was designed to work. As discussed below, what we know from the actual practice is that (1) the family members who Ms. Cady did not represent were deprived of any victim support services from the District Attorney at all, (2) absent any constraints from the Department of Victim Services, the District Attorney proceeded to ignore explicit victims' rights obligations imposed by both Marsy's Law and his own Legal Policy Manual and (3) after defense counsel objected to the District Attorney's treatment of the family victims, Ms. Cady and Mr. Hochman appeared together at a victims' rights gathering sponsored by a group called Justice for Homicide Victims -- a group of which Kathleen Cady is a board member -- where the group "condemn[ed] [the] Menendez brothers' resentencing."

D. Special Directive 24-5 And The Legal Policy Manual.

The day the new District Attorney was sworn in, he issued "Special Directive 24-5" to restore the "Los Angeles County District Attorney's Office Legal Policies Manual (LPM) in effect on December 6, 2020." (Exhibit L.) That LPM provides:

- "Deputies shall be sensitive to the concerns of victims and the families in all cases. *Deputies shall be especially sensitive to the emotional needs and problems of families of homicide victims.*" (Exhibit W at p. 353, emphasis added.)
- "Deputies should refer victims to the Bureau of Victim Services ("BVS" for available services." (*Ibid.*)
- "District Attorney personnel should take protective measures to prevent the insensitive handling . . . of . . . photos . . . . It is our responsibility that when victims . . . participate in the criminal justice system they are not caused undue emotional trauma, harassment or embarrassment. Examples include the . . . unnecessary dissemination of distressing photos . . . ." (*Id.* at p. 355.)

In a section of the manual entitled "Respect and Dignity" (*id.* at p. 357), the LPM alerts prosecutors about the impact on victims of "[e]vidence from cases, especially gruesome crime scene photos" and advises that "when feasible" victims should be contacted and

advised before sensitive materials are "made public in court." (*Id.* at pp. 356, 357.)

The LPM mirrors, and gives voice to, requirements set forth in Marsy's law. That law provides victims with a number of rights, set forth in the constitution, including the right to (1) "be treated with fairness and respect . . . and to be free from intimidation, harassment, and abuse" and to (2) "reasonable notice of all . . . post-conviction release proceedings." (California Constitution, Article I, sections 28(b)(1) and (7).)

To be sure, as the Court itself observed at the April 17 hearing it is important to note that this case presents a wrinkle. It is quite apparent that the views of the family as to continued punishment do not align with the views of the new District Attorney. Instead, they are a full 180-degrees apart. The Court's observation was spot on.

But it is equally important to note that nothing in Marsy's Law says the District Attorney's obligation to treat victims with fairness and respect applies only to victims who march in lock step with the District Attorney's views on crime and punishment. And nothing in the District Attorney's own LPM says that only victims who agree with the elected District Attorney on issues of punishment are entitled to the "respect and dignity" owed victims, the prosecutor's special sensitivity to victims in homicide cases or notice before distressing crime scene photographs are presented in public. As the District Attorney's new Department of Victim Services head noted in publically calling for Mr. Gascon to be defeated in the 2024 election, advocates from the District Attorney's victim services department are "essential in guiding victims through the criminal justice system, offering them support and helping them heal." (Exhibit M.)

But not in this case. On January 3, 2025, Mr. Hochman met with a group of more than 20 family members. There were five members of the District Attorney's office present for all or part of the meeting: Nathan Hochman, Steve Katz, Seth Carmack, Habib Balian and Ethan Mullius. (Exhibit A at para. 4.) In contrast to the family's October meeting with the office, there was no-one there from victim services. (*Ibid.*; *see also* Declaration of Anamaria Baralt, attached as Exhibit R, at para. 4) In a civil complaint

filed with the Civil Rights Section of the United States Attorney's office, one of those victims, Tamara Goodell, made clear what occurred at this meeting:

> In a tear-filled meeting, numerous family members shared the ongoing trauma and suffering we have endured for more than 30 years. Instead, of responding with compassion, acknowledgment, or support, DA Hochman proceeded to verbally and emotionally re-traumatize the family by shaming us for allegedly not listening to his public press briefings. His hostile, dismissive, and patronizing tone created an intimidating and bullying atmosphere, leaving us, the victims, more distressed and feeling humiliated. (Exhibit N at p. 1.)

Ms. Goodell explained that "[r]ather than focusing on the trauma and concerns expressed by the family, DA Hochman shifted the meeting's focus onto himself, making it a lecture on how he was being personally treated." (*Ibid.*)

After the family meeting, Ms. Goodell, and her 14 year-old son Lucius, had a private meeting with the district attorneys, along with Mark Geragos and Bryan Freedman. (*Id.* at p. 2.) When Ms. Goodell shared her concerns about impartiality given Ms. Cady's appointment -- concerns Mr. Hochman himself recognized in "walling off" Ms. Cady -- Mr. Hochman became "visibly agitated, dismissive and aggressive" and "question[ed] what [Ms. Goodell] knew about Kathy Cady's prior work." (*Ibid.*)

Given that both Ms. Cady and Mr. Hochman have properly recognized the conflict caused by Ms. Cady's appointment to head the victim services department, this reaction was surprising. The conflict is so obvious that a question from a concerned member of the family about the conflict is neither insulting nor out of bounds. According to Ms. Goodell, Mr. Hochman accused her of "lambasting" Ms. Cady in the press, and when advised that Ms. Goodell had done no such thing, Mr. Hochman said he was really talking about "others in the room," adding that Mark Geragos represented "horrible people." (*Ibid.*) Mr. Hochman explained that Ms. Goodell "was welcome to refuse" any assistance from victim services. (*Ibid.*)

Although Ms. Cady was to be "walled off," in the months since the January 3 meeting, no-one from the District Attorney's victim services department has contacted

even a single one the family members whose views conflicted with the views of Ms. Cady's former client. (Exhibit R at para. 4-5.) No one from victim services has assisted with notices of court appearances or logistics. (*Ibid.*) As the Court is aware, there were 16 family members on the witness list for the April 17 resentencing, coming from all parts of the country. No one from Ms. Cady's Department of Victim Services informed even a single one of these family witness that on the afternoon of April 16 -- the day before the hearing -- the District Attorney had moved for a continuance. (*Ibid.*) The treatment the victims family has received from victim services under Ms. Cady's leadership is starkly inconsistent with the treatment they received from the prior administration. (Exhibit R at para. 2-5.)[3]

And from what happened at the April 11 hearing, the Court is also aware that the LPM's expressed concerns about sensitivity to family members of homicide victims, and the importance of advance notice when distressing crime scene photographs are displayed, was honored more in the breach than in the observance. With no warning to the many family members sitting in the courtroom, the District Attorney displayed gruesome crime scene photographs on several occasions.

To be sure, notwithstanding the narrow legal issue presented to the Court for resolution on April 11, Erik and Lyle recognize that the parties may have legitimate, good faith disagreements as to the relevance of such photographs to that issue. Counsel from both side expressed those disagreements at the April 11 hearing; that is to be expected in an adversary system. But there should be no disagreement that even if the family members differ with the newly elected District Attorney as to the matter of continued punishment, they are still victims, they still lost family members and they are still entitled to the respect and consideration aspired to in the LPM.

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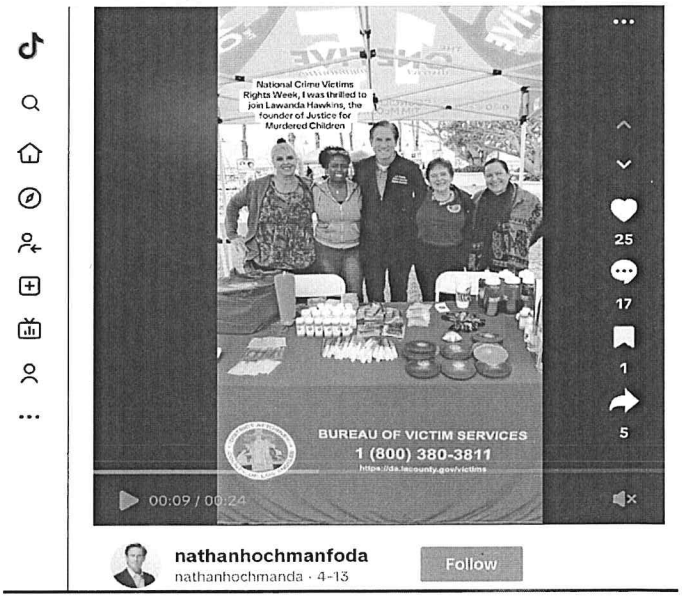
[3] Erik and Lyle will be clear. They do not fault the line deputies for seeking a continuance on April 16, given that they learned of the basis for their request the day before. The difficulty is that Ms. Cady's Department of Victim Services elected not to alert either the victims, traveling from across the country, or their counsel.

Although counsel for Erik and Lyle do not represent the victims, they objected during the April 11 proceedings to the surprise presentation of these photographs without warning to the family. With good reason as it turns out. On the evening of April 11 -- after the photographs had been displayed -- it became clear that Jose Menendez's 85-year old sister, Theresa Baralt, had been in the courtroom, had never seen the photographs before and was traumatized. (Exhibit O). The next day, Saturday, Ms. Baralt was found unresponsive and rushed to intensive care. (Exhibit P.)[4]

E. The Ethical Wall.

In addition to being the new head of the Department of Victim Services, "walled off" attorney Kathleen Cady is also a board member for a victims' rights group, Justice for Murdered Children. (Exhibit Q.) The group was founded by Lawanda Hawkins. (*Ibid.*)

On Sunday, April 13 -- the day after Ms. Baralt was hospitalized -- Ms. Hawkins' group held a rally. Press was there. So were both Ms. Cady and Mr. Hochman, posing together for photographs. (Exhibit S.)



[4] As of the writing of this motion, undersigned counsel has been notified that Ms. Baralt is recovering. It is unclear, however, if she will be coming back to court.

In fact, in an April 10 Facebook post, Ms. Hawkins had announced Mr. Hochman as one of the featured speakers. (Exhibit T.) Erik and Lyle recognize that although Ms. Cady is a board member of the organization, the mere fact that Mr. Hochman was speaking does not in-and-of-itself suggest a breach in the ethical wall prohibiting Ms. Cady from assisting on the case.

But it turns out this was not just another gathering of a victims' rights group. As the headline in that days' news story notes:

> Crime victim advocacy groups gather in San Pedro to condemn Menendez brothers' resentencing. (Exhibit U.)

The article goes on to note that "some of the participants" -- including founder Lawanda Hawkins -- "used the time to share how the resentencing of the Menendez brothers would undermine justice for crime victims." (*Ibid.*)

In short, (1) Ms. Hawkins founded Justice for Murdered Children, (2) Ms. Cady is on the Board of that same organization, (3) Ms. Cady represented Milton Anderson who was opposed to the Menendez resentencing, (4) Ms. Cady and Mr. Hochman (along with press) were present at the April 13 rally and (5) the rally "condemn[ed] [the] Menendez brothers' resentencing." There are, of course, two possibilities. First, the focus of the rally -- to "condemn [the] Menendez resentencing" and Ms. Hawkins' statements to that effect -- were simply a coincidence and the ethical wall remained intact. Second, the focus of the rally was not just a coincidence and the ethical wall prohibiting Ms. Cady's from assisting in the case has crumbled.

F. Summary.

So here is where we are. Mr. Hochman fired Nancy Theberge. He transferred Brock Lunsford to Norwalk after deciding he could not "join the team." He hired Kathleen Cady to the team and made her head of victim services. He and Ms. Cady have both recognized the conflict in her hiring; the District Attorney maintains she has been

"walled off" from the case. But since her appointment, the family members who had views different from Ms. Cady's former client have received no victim services at all from the department, they have been met with what they perceive as hostility when they met with the District Attorney and one of the matriarchs of the family has been hospitalized after the District Attorney ignored his own policy about exposing victims to gruesome crime scene photographs without warning. Moreover, a victim advocacy group on which Ms. Cady serves as a board member arranged for Mr. Hochman to appear at a rally which "condemn[ed] [the] Menendez brothers' resentencing."[5]

ARGUMENT

I. THE DISTRICT ATTORNEY'S ACTIONS IN THIS CASE DECISION SHOW A REASONABLE POSSIBILITY THE OFFICE MAY NOT EXERCISE ITS DISCRETION IN AN EVENHANDED MANNER, AND RECUSAL IS THEREFOR PROPER.

A. The Standards Governing A Motion To Recuse.

A defendant's motion to recuse a district attorney is governed by Penal Code

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[5] In evaluating the impact of Mr. Hochman's decision to appoint Ms. Cady as Director of Victim Services on his ability to exercise discretion in a fair manner, a quick review of her amicus brief is useful. The amicus brief contains a statement of facts without a single citation to the record. (Exhibit B at pp. 4-8.) It contains a reference to unnamed sources -- unsupported by any declaration filed under penalty of perjury -- about "fraud," alleging that one of the pieces of new evidence on which the habeas petition relies (a 1989 letter from Erik Menendez to his cousin Andy Cano) "was written in the last few years." (*Ibid.*)

That is a serious allegation. To check this allegation, all Ms. Cady would have had to do was log on to YouTube. It turns out that in a television special aired a decade ago (November 2015), Barbara Walters explains that this same letter was given to her by Andy Cano's mother *and Ms. Walters' then shows the letter on screen*. Ms. Cady's entirely unsupported allegation of recent fabrication simply ignores that the same letter was actually shown on air in 2015. (https://www.youtube.com/watch?v= KavYPuL3XUA at 00:00:17 - 00:00:43.) The Application is riddled with similarly inadmissible, unattributed and unreliable hearsay.

section 1424. That section contains both procedural and substantive provisions.

In terms of procedure, section 1424, subdivision (a) requires a defendant seeking recusal to file a "notice of motion [which] shall contain a statement of the facts setting forth the grounds for the claimed disqualification and the legal authorities relied upon by the moving party." The District Attorney may file a written response and the court must then "determine whether or not an evidentiary hearing is necessary." When a defendant's papers (including affidavits and exhibits) "establish a prima facie case for recusal—that is, if the defendant's affidavits, if credited, would require recusal," the court may hold an evidentiary to resolve any factual deputes between the parties. (*Packer v. Superior Court* (2014) 60 Cal.4th 695, 710.)

Section 1424 also sets forth the substantive standard to be applied in deciding whether recusal is required, providing that recusal is proper whenever "the evidence shows that a conflict of interest exists that would render it unlikely that the defendant would receive a fair trial." Although motions to recuse a district attorney are most typically made in the context of an actual criminal prosecution, the broad language of section 1424 does not limit its application to criminal cases. Instead, and by its own terms, the conflict of interest standard set forth in section 1424 permits disqualification of a district attorney in connection with "performing any authorized duty." (*People v. AWI Builders, Inc.* (2022) 80 Cal.App.5th 248, 266–267.)

In terms of the substantive standard, section 1424 mandates two inquiries in connection with a recusal motion: (1) is there is a conflict of interest and (2) if so, is the conflict is so severe as to disqualify the district attorney from acting? (*People v. Bryant, Smith and Wheeler* (2014) 60 Cal.4th 335, 373.) As the Supreme Court has made clear, under section 1424 the conflict need not be actual; an "appearance of conflict" will be sufficient. (*People v. Conner* (1983) 34 Cal.3d 141, 147-148. *Accord Packer v. Superior Court* (2014) 60 Cal.4th 695, 709.) The conflict inquiry is not overly technical -- it asks whether the circumstances raise "a reasonable possibility that the DA's office may not

exercise its discretionary function in an evenhanded manner." (*Conner*, *supra*, 34 Cal.3d at pp. 147-148; *Packer*, *supra*, 60 Cal.4th at p. 709.)

The second inquiry asks "whether any such possibility is so great that it is more likely than not the defendant will be treated unfairly during some portion of the criminal proceedings." (*Packer*, *supra*, 60 Cal.4th at p. 710 citing *Haraguchi v. Superior Court* (2008) 43 Cal.4th 706, 713.) No one factor will compel disqualification of a prosecutor in all cases; rather, the entire complex of facts must be reviewed to determine whether the conflict of interest makes fair and impartial treatment of the defendant unlikely. (*Hambarian v. Superior Court* (2002) 27 Cal.4th 826, 834.)

In applying section 1424, and in deciding whether recusal of an entire office is proper, courts have recognized a clear distinction between conflicts impacting a line deputy, and conflicts impacting the elected District Attorney. Thus it is generally true that "the 'threshold necessary for recusing an entire office is higher than that for an individual prosecutor.'" (*Schumb v. Superior Court* (2021) 64 Cal.App.5th 973, 981.) But courts do not blink reality; courts recognize that real world practicalities may require office-wide recusal when a potential conflict involves not just a line deputy prosecuting a case, but the elected district attorney with power to manage, hire, supervise, promote and transfer employees of the office. (*Schumb*, *supra*, 64 Cal.App.5th at pp. 982-984. *See In re Charlisse C.* (2008) 45 Cal.4th 145, 163 [noting that "where the attorney with the actual conflict has managerial, supervisorial, and/or policymaking responsibilities in a public law office, screening may not be sufficient to avoid vicarious disqualification of the entire office."]; *City and County of San Francisco v. Cobra Solutions, Inc.* (2006) 38 Cal.4th 839, 853-854 [noting that where the conflict involves the elected district attorney, "the attorneys who serve directly under [him or her] cannot be entirely insulated from . . . real or perceived concerns as to what their boss wants. The power to review, hire, and fire is a potent one."]; *People v. Choi* (2000) 80 Cal.App.4th 476, 483 [where conflict involves elected prosecutor, recusal of entire office was warranted because of the

"potential bias that might result from the fact that [prosecuting] deputies are hired, evaluated and promoted by the district attorney."]; *People v. Lepe* (1985) 164 Cal.App.3d 685, 689 [same].)

So there are three questions to be answered in connection with this motion. First, is there an actual or apparent conflict? That is, do the circumstances raise "a reasonable possibility that the DA's office may not exercise its discretionary function in an evenhanded manner?" (*Packer*, *supra*, 60 Cal.4th at p. 709.) Second, if so, it is "more likely than not the defendant will be treated unfairly during some portion of the criminal proceedings?" (*Id.* at p. 710.) Third, because the conflict here involves the elected District Attorney, and not simply a line deputy, is recusal of the entire office required or may an ethical wall cure the problem? It is to these three questions defendants now turn.

B. Because There Is A Reasonable Possibility The District Attorney May Not Exercise His Discretionary Function In An Evenhanded Manner, And That Defendants May Be Treated Unfairly During The Resentencing Process, Recusal Is Proper.

The initial question section 1424 requires the Court to answer is whether the circumstances raise "a reasonable possibility that the DA's office may not exercise its discretionary function in an evenhanded manner." (*Conner*, *supra*, 34 Cal.3d at pp. 147-148; *Packer*, *supra*, 60 Cal.4th at p. 709.) They do.

The Court will, at some point, be addressing the District Attorney's request for resentencing. In connection with the resentencing process the District Attorney certainly has great discretion in deciding not only when and how to meet with victims and what kind of victim support services to provide, and has equally great discretion in how much to credit the voices of victims in the resentencing process. Indeed, for years it was Ms. Cady herself criticizing Mr. Gascon for paying insufficient heed to the victims of crime. (*See* Exhibit M.) Having discharged Ms. Theberge, having provided Mr. Lunsford with "freeway therapy," having elevated Ms. Cady (who represented Mr. Andersen and opposed resentencing) to Director of Victim Services, having deprived the victims of

victim services, there is a "reasonable possibility that the DA's office may not exercise its discretionary function [as to the remaining victims] in an evenhanded manner."

But there is an additional problem. When a District Attorney moves to recall a sentence, the trial court is charged with deciding two questions; (1) whether to recall the sentence and (2) if so, what sentence to impose. As to this latter question, Penal Code section 1172.1, subdivision (a)(3) gives the trial court discretion to "[r]educe a defendant's term of imprisonment by modifying the sentence" or "[v]acate the defendant's conviction and impose judgment on any necessarily included lesser offense or lesser related offense . . . with the concurrence of the defendant, and then resentence the defendant to a reduced term of imprisonment."

In the original motion to recall sentence, the District Attorney position was that the court should vacate the special circumstance finding and impose a 50-year to life term -- one 25-year-to-life term for each of the murder charges. At the resentencing hearing, and based on the evidence to be presented there, Erik and Lyle will urge the court to impose a lesser sentence than special circumstances murder, which could include either first degree murder without special circumstances, second degree murder or manslaughter. Given that Theberge was fired, and Lunsford transferred, simply for seeking resentencing in the first instance, it is difficult to imagine any deputy district attorney giving fair consideration (either in settlement negotiations or in court) to evidence supporting imposition of any of the lesser offenses.

This leaves two remaining questions in assessing the need for recusal: is it "more likely than not the defendant will be treated unfairly during some portion of the criminal proceedings" (*Packer*, *supra*, 60 Cal.4th at p. 710) and, if so, since the conflict here involves at least Mr. Hochman himself, is recusal of the entire Los Angeles District Attorney required? Erik and Lyle will take these two questions together. Given the actions which have already occurred in this case, the answer to both questions is yes.

Section 1172.1, subdivision (a)(5) sets forth the factors courts should consider in

deciding whether to resentence; in their original 56-page request for resentencing deputy district attorneys Theberge and Lunsford reviewed literally thousands of pages of material, analyzing these factors in great detail. Thus, in accord with subdivision (a)(5)'s focus on "the disciplinary record and record of rehabilitation of the defendant[s] while incarcerated," they discussed the remarkable evidence of rehabilitation for both Erik and Lyle. (Amended Resentencing Motion 20-48.) There is no need to repeat that evidence here; what is noteworthy is that this record of rehabilitation was all accomplished when the defendants were under a sentence of life without possibility of parole, with no hope that such conduct could somehow inure to their benefit.[6]

But Ms. Theberge was fired from the office. Mr. Lunsford was transferred in an act of "freeway therapy." The lawyer representing the one family member opposed to resentencing, a lawyer who -- without ever noting that the evidence was broadcast on television a decade ago -- has accused Erik and Lyle of recently fabricating the evidence

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[6] The prison records show these achievements consist not only of personal achievements (education, programming and work related), but they also include remarkable contributions to benefit the prison community. This is why the District Attorney concluded that both Erik and Lyle "ha[ve] proven [themselves] to be . . . incredible asset[s] to [their] prison community." (Request for Resentencing at pp. 22, 45.)

The District Attorney was correct. Erik (1) co-founded the Life Care and Hospice Connection Program to provide support for disabled and elderly inmates, (2) founded of the "Victim Impact & Victim Empathy for Vulnerable Populations, (3) co-founded a Twelve Step Recovery and Mediation program and (4) co-founded the Starlight Peace Project Class. (*Id.* at pp. 23, 26, 27, 30.) Lyle (1) held "significant leadership roles for more than a decade" in the prison community," (2) in that role "foster[ed] a positive programming culture at [Mule Creek State Prison], (3) "work[ed] with inmate population to build consensus to allow integrated housing . . . without inmate pushback," and (4) "created four new programs within the prison system to assist and better his follow inmates' quality of life" including the Greenspace program to beautify the prison, the Rehabilitation Through Beautification volunteer work group, the Adverse Childhood Experience and Rehabilitation program and a mentoring group for LWOP prisoners. (*Id.* at pp. 45, 46-47.)

for their state habeas petition, has been plucked from private practice and not just employed as a deputy district attorney, but elevated to Director of Victim Services. And although this lawyer was supposed to be "walled off," the treatment the family has received since the change in administrations, and the April 13 rally, suggest the wall is porous at best.

Sometimes actions speak louder than words. No lawyer employed by the Los Angeles County District Attorney's Office could misread these signs. If you want a career at the office -- to "join the team" -- it is clear what position the team captain requires an attorney to take. And as noted above, courts have long recognized that where the risk of unfair treatment arises at the very top of a District Attorney's office, recusal of the entire office is required because "the attorneys who serve directly under [him or her] cannot be entirely insulated from . . . real or perceived concerns as to what their boss wants. The power to review, hire, and fire is a potent one." (*Cobra Solutions, Inc.*, *supra*, 38 Cal.4th at pp. 853-854. *Accord Choi*, *supra*, 80 Cal.App.4th at p. 483.) Indeed, as noted above, the new District Attorney himself concedes the point, maintaining that his election victory gives him free reign to hire and fire. (Reply at 15, n.5.)

Erik and Lyle Menendez are entitled to a fair resentencing process. Jose and Kitty Menendez's family members -- regardless of what position they take as to resentencing -- are all entitled to a fair sentencing process. The public is entitled to a process that appears fair. Because the actions here raise "a reasonable possibility that the DA's office may not exercise its discretionary function in an evenhanded manner" and there is a genuine risk that Erik and Lyle will "be treated unfairly during some portion of the . . . proceedings" recusal is required.[7]

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[7] In *People v. Cruikshank*, YJ39858, Ms. Cady herself sought to disqualify the Los Angeles District Attorney from a criminal case because the office had manifested "a fundamental inability to be fair" to the victims in that case. (Exhibit V at p. 5.) In Ms. Cady's view, family victims have "the specific right to expect elected officials to act in good faith" and Marsy's law includes "a mechanism to move the Court to remove a prosecuting agency which has flagrantly violated those rights." (*Id.* at p. 3.) Here too the

CONCLUSION

The Court should recuse the Los Angeles District Attorney's office from this case. In the alternative, the Court should grant an evidentiary hearing to explore whether either Ms. Cady or Mr. Hochman can be successfully "walled off" from this case.

Dated: April 25, 2025

Respectfully submitted,

MARK GERAGOS
ALEXANDRA KAZARIAN

CLIFF GARDNER

MILENA BLAKE
MICHAEL ROMANO

By_____
Mark Geragos

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repeated violations of Marsy's law and the LPM, and the likely breach of the ethical wall, compel a similar result.

EXHIBIT A

DECLARATION OF MARK GERAGOS

I, Mark Geragos, declare:

1) I am a lawyer licenced to practice in California. I am co-counsel for Lyle and Erik Menendez in connection with their resentencing proceedings.

2) On October 16, 2024, I was present for a meeting at the District Attorney's office and approximately 20 family members of Jose and Kitty Menendez. There were representatives of Department of Victim Services at the meeting as well and deputy district attorneys Nancy Theberge and Brock Lunsford.

3) These family members came from all over the country, including New Jersey, Illinois, Pennsylvania, Arizona, Nevada, Washington and Colorado. Among the members to attend were Kitty Menendez's older sister, Joan VanderMolen, as well as numerous nieces and nephews of both Jose and Kitty. They shared their views that nearly 35 years in prison was enough and Erik and Lyle should indeed be resentenced. The meeting lasted more than two hours.

4) I was also with the family on January 3, 2025 when they met with newly elected District Attorney Nathan Hochman. There were five members of the District Attorney's office present for all or part of the meeting: Nathan Hochman, Steve Katz, Seth Carmack, Habib Balian (by

telephone) and Ethan Mullius. There was no-one there from victim services.

I declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief. Executed this ____ day of April, 2025 in Los Angeles, California, under penalty of perjury.

_____

Mark Geragos

EXHIBIT B

Kathleen Cady SBN 143093
Dordulian Law Group
550 N. Brand Blvd, Suite 1990
Glendale, California 91203
Telephone: 818-788-4919

Attorney for Milton Andersen, brother of murder victim Kitty Menendez

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA, vs. ERIC MENENDEZ and LYLE MENENDEZ, Defendants	**No.: BA068880** **APPLICATION TO FILE AN AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF RE HABEAS CLAIM AND ANY POTENTIAL RESENTENCING PETITION; DECLARATION OF KATHLEEN CADY**
In re ERIK MENENDEZ and LYLE MENENDEZ, Petitioners, On Habeas Corpus	

TO THE HONORABLE WILLIAM C. RYAN, JUDGE OF THE SUPERIOR COURT, GEORGE GASCON, PROSECUTOR, AND MARK GERAGOS AND CLIFF GARDNER, COUNSEL FOR DEFENDANTS/PETITIONERS:

Kathleen Cady submits this Application requesting permission to file an Amicus Curiae Brief to assist the court by providing informed perspective of the murder victim, Kitty Menendez'

brother, Milton Andersen, as well as relevant law regarding any pending Habeas Claim and/or Petition for Resentencing. Cal. Rules of Court, Rule 8.882(d).

Although there is no clear authority for permitting an amicus curiae brief in the trial court, there is also no authority that precludes the court from allowing the filing of an amicus curiae brief if the court finds it helpful.

"Amicus curiae presentations assist the court by broadening its perspective on the issues raised by the parties. Among other services, they facilitate informed judicial consideration of a wide variety of information and points of view that may bear on important legal questions." *Billy v. Arthur Young & Co.* (1992) 3 Cal.4th 370, 405. "Amicus curiae briefs in the trial court are permitted at the discretion of the court when the court feels that the amicus has something to add to the issue. *Jersey Maid Milk Products Co., Inc. v. Brock* (1939) 13 Cal.2d 661, 665; *La Mesa Lemon Grove & Spring Valley Irr. Dist. V. Halley* (1925) 195 Ca. 739, 743; *McFarland v. City of Sausalito* (1990) 218 C.A.3d. 909, 912.

A Petition for Habeas Corpus relief was filed in May, 2023. "[I]f the district attorney in the county of conviction or the Attorney General concedes or stipulates to a factual or legal basis for habeas relief, there shall be a presumption in favor of granting relief. This presumption may be overcome only if the record before the court contradicts the concession or stipulation or it would lead to the court issuing an order contrary to law." Penal Code 1473(g).

The elected District Attorney has publicly stated that he is considering the Habeas Petition and is also potentially considering a Resentencing Petition. The media has reported that Gascon's office stated a decision would be made within 10 days of October 16.

Despite numerous requests on behalf of Milton Andersen to "reasonably confer," and to receive notice of any decision, the District Attorney's Office has not provided any substantive

information or responded to the request to "reasonably confer." This leaves Mr. Andersen in a difficult position of having no idea of how or what position Mr. Gascon intends to take on the Habeas Petition. Mr. Andersen also does not know whether Mr. Gascon intends to file a Resentencing Petition or upon what code Mr. Gascon would rely for such a Resentencing Petition.

This leaves Mr. Andersen in the untenable position of filing a Amicus Curiae brief for the court's consideration.

California Rules of Court, rule 8.882(d)(1) establishes the rules for filing an amicus curiae brief with the appellate court:

Applicant's Interest in the Proceedings (California Rules of Court 8.200(c)(2))

Applicant's Interest is to ensure that the court is aware of all facts before ruling on a Habeas claim.

Purpose and Assistance of Proposed Amicus Brief (California Rules of Court 8.200(c)(2))

Applicant seeks to have the court consider Mr. Andersen's objection to a concession of the Habeas Petition or to any Resentencing Petition.

Authorship of the Brief (California Rules of Court 8.200(c)(3))

Applicant's proposed brief was authored by signing counsel who is pro bono and has received no monetary contribution for preparation or submission of the brief. See Declaration of Kathleen Cady.

Based on the foregoing, Mr. Andersen respectfully requests that the application for permission to file a brief as *amicus curiae* be granted.

Respectfully submitted this 22nd day of October, 2024.

KATHLEEN CADY, Applicant

AMICUS CURIAE BRIEF

STATEMENT OF FACTS[1]

At approximately 10:30 p.m. on August 20, 1989, Joseph Lyle Menendez and Erik Galen Menendez entered the den of their parents' home in Beverly Hills and fired shotguns multiple times, killing their parents, Jose Menendez and Kitty Menendez. The shotguns had been purchased two days earlier in San Diego by the defendants using false identification.

At the time of the shooting, Jose and Kitty were unarmed, watching television and eating.

Jose suffered four gunshot blasts with buckshot ammunition. Kitty suffered seven gunshot blasts with buckshot ammunition and two gunshot blasts with birdshot ammunition.

Lyle told an attorney and friend of the family that he thought his father might have changed his will and that changes might be in the family computer.

Lyle told witnesses that either the Colombian Cartel or Mafia were responsible for the killings.

Jose and Kitty's assets were valued at over 10 million dollars.

Erik and Lyle each received over $325,000 in life insurance proceeds.

Erik and Lyle told a therapist that they killed their father because they hated him and the murder of their mother was a "mercy killing."

Two witnesses, Amir Eslaminia and Jamie Pisarcik, testified about efforts to fabricate evidence. Eslaminia, a high school friend of Erik's from Beverly Hills High School, started visiting the brothers in jail. Lyle asked Eslaminia to give testimony favorable to the defense, specifically to testify falsely that the day before the murders, Lyle and Erik came to him and said they needed a

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[1] These facts are taken directly from the February 27, 1998 Court of Appeal opinion and the Declaration of Kathleen Cady.

handgun for protection from their parents. Pisarcik was the other witness who testified that Lyle had asked her to give false testimony. In December 1990, Lyle asked her to testify that his father had done to her what had been done to a character in a movie called "At Close Range." Pisarcik was familiar with this moving, having seen it with Lyle. In the movie, a man gives his son's girlfriend a sedative, then tells the girl to stop seeing his son. The girl refuses, and the father violently rapes the girl. Lyle said Pisarcik had to do it because a large sum of money was to be placed in her bank account. Pisarcik said if money appeared in her account she would tell the police.

Erik Menendez testified at trial that his father had molested him. Erik's cousin, Andy Cano testified at trial that Erik told Cano that his father had been touching him in a sexual manner. Neither mentioned anything about Erik having written Cano a letter that referenced abuse.

On March 20, 1996, the jury found defendants guilty of 2 counts of murder with the special circumstance of lying in wait and conspiracy to commit the murders. On July 2, 1996, the trial court imposed consecutive terms of life without parole on the murders and stayed the conspiracy sentence.

On May 3, 2023, the defense filed a Petition for Habeas Corpus claiming to have new evidence.

Gascon is facing re-election. His opponent is Nathan Hochman.

On September 30, 2024, NBC reported a recent survey showed Gascon trailing Hochman by 24 points.

On October 3, 2024, the LA Times front page headline read "Teen killer's case haunts Gascon."[2]

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[2] This headline was later changed to "Gascón gave teen killer second chance — now she's charged again."

On October 3, 2024, Gascon called a press conference. He made no announcement other than to say he was considering the Habeas petition in the Menendez case and was also considering possible Resentencing.

On October 8, 2024, at a recorded debate, when asked about the Menendez Habeas and/or Resentencing, Gascon said "the decision will be mine."

On October 14, 2024, Mr. Andersen's attorney notified Mr. Gascon via email that Mr. Andersen was asserting and requesting all his constitutional and statutory rights. Included in the email was the following:

> Mr. Andersen specifically asserts his right to be treated with fairness and respect for his dignity; right to reasonably confer with you; reasonable notice of all public proceedings; and right to be heard regarding the sentence or post-conviction release decision. Because you have confirmed that you, personally, will be making the decision as to how to proceed, Mr. Andersen is asserting his right to meet with you, personally, to discuss this case and the decision that you have apparently made.
>
> Kitty Menendez' brutal murder was not political. Jose Menendez' vicious murder was not political. Erik and Lyle Menendez' motive was pure greed.
>
> Mr. Andersen demands that any decision you make not be political. He requests to confer with you immediately and hear your decision before you hold another press conference to announce your decision to the press and the general public.

On October 16, 2024 the following email was sent to Mr. Gascon:

> On October 16, 2024 at 9:35 a.m. I emailed Ms. Theberge asking her to confirm that your office will provide notice before any action is taken in court. To date, I have not received a response. This morning I filed the attached Notice of Appearance and Assertion of Rights in Judge Ryan's court and served you and defense.
>
> On October 15 at 2:50 p.m. Ms. Theberge invited me and my client to attend a meeting on October 16 at 1:30 p.m. that was "just scheduled." I informed her that I was unable to participate as I had a had a conflicting court appearance that that had been scheduled for several weeks.

The media has been reporting that as of Wednesday, October 16, you will make a decision about the case in the "next 10 days." Although you have not responded to my October 14 email, Mr. Iniguez attempted to chastise me for making assumptions based on "tabloid gossip, not official information from our Office." We wait with anticipation for your "Office" [to] provide information. Until that time, we have no alternative but to gather information from the tabloids since that appears to be your preferred method of communicating.

The current Habeas Petition asserts a false narrative that the jury was precluded from hearing evidence of abuse at the second trial. The 2/27/1998 Court of Appeal opinion, however, confirms that substantial evidence of the alleged abuse was admitted at the second trial. In addition to Erik's testimony, several witnesses testified that Erik and/or Lyle were abused. Any excluded evidence was determined to be cumulative. The jury also heard evidence that Lyle asked two witnesses to commit perjury: Amir Eslaminia testified that Lyle asked him to lie and testify that the day before the murders the brothers told him they needed a handgun for protection from their parents; and Jamie Pisarcik testified that Lyle asked her to lie and testify that Jose Menendez gave her a sedative and then violently raped her. The alleged "new" evidence which is referenced in the Habeas of the letter is suspect because Erik and and [sic] Andy Cano both testified at the second trial and neither mentioned the letter. While we certainly hope that the DA's office has undertaken an analysis of the letter, it is much more likely that the letter, if written by Erik, was written in the last few years and not before the murders as the defense now suggests. In just the last few days I have received information from several different sources that the letter is essentially a fraud. Some of the people providing the information to me have informed me that they have made multiple efforts to get this information to you, but have been ignored. Additionally, even if legitimate, this "new" evidence is not sufficient to warrant granting the Habeas because this evidence does not justify an imperfect self-defense instruction. The evidence does not demonstrate that the brothers were in imminent peril when they murdered their parents. Based on that, we urge you to oppose the Habeas.

. . . it is unclear what type of "Resentencing" you may be contemplating. Of great concern is that the defendants/petitioners are still fabricating a fraud on you and the court. If that is true, they are certainly not rehabilitated. I have also received information that while in prison the brothers have violated regulations and use cell phones for drug trafficking. Again, this would demonstrate a complete lack of remorse and rehabilitation.

Contrary to your public assertion that you will be handling this case, on October 15 Mr. Iniguez informed me "The Habeas matter is being handled by the Writs and Appeals Division. The review for potential resentencing is being handled by the resentencing unit." Please clarify which DDA is handling the Habeas and/or Resentencing petition and whether you will be making the final decision.

Mr. Andersen once again requests that you meet with him and provide notice of any upcoming hearing, filing or decision before any public announcement is made or any information is leaked to the media.

Although Mr. Gascon has not responded to a request to meet with Kitty's brother, Milton Andersen, on October 21, 2024, Gascon took the time to be interviewed by People. As reported in People, "Gascon says he will make a decision on whether or not to recommend resentencing for Erik and Lyle Menendez in a matter of days – and that the brothers are not a danger to society. 'Based on everything that I know, I don't believe they are,' Gascon tells People. 'Quite frankly, they probably haven't been for a very long time, if they ever were. I think this is not like they were going around killing people or robbing people on the street."[3]

On October 22, 2024, the following email inquiry was sent to the District Attorney's Office:

> To ensure my client constitutional rights are not violated, can you please respond to the following questions:
>
> .....
>
> 1. What DDA(s) is/are assigned to review/consider a potential resentencing in this case?
> 2. Under what code section(s) is a potential resentencing being contemplated?
> 3. Has a decision regarding resentencing been made?
> 4. Can you confirm that we will receive notice of any decision before any statement is released or leaked to the media and/or document filed with the court?
>
> .....
>
> 1. What DDA(s) is/are assigned to review/consider the pending Habeas petition?
> 2. I have received information casting doubt on the veracity of the "new" alleged evidence referenced in the Habeas petition. Given the DA's ethical obligation to fully investigate any and all claims, when should I expect someone to contact me about the information I have received?
> 3. Has a decision regarding the Habeas claims been made?
> 4. Can you confirm that we will receive notice of any decision before any statement is released or leaked to the media and/or document filed with the court?

To date, we have not received responses to our inquiries or any substantive information on what decision Mr. Gascon may have made regarding this case.

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[3] https://people.com/menendez-brothers-resentencing-not-danger-society-da-says-exclusive-8731524

POINTS AND AUTHORITIES

I. THE ALLEGED NEW EVIDENCE IS NOT NEW AND DOES NOT WARRANT GRANTING AN IMPERFECT SELF-DEFENSE INSTRUCTION

Given the defendants attempts to suborn perjury, the "new evidence" should be viewed with skepticism. Even at face value, however, the "new evidence" would not require an instruction on imperfect self-defense.

Quoting from the 1998 Court of Appeal opinion at pages 109-110, "Erik argues that the trial court's refusal to instruct on heat of passion was error. We disagree. The trial court determined that the evidence presented in the case did not justify the giving of the instruction. The evidence indicates that defendants, after initially shooting their parents realizing that their mother was still alive, went out to Erik's car and reloaded Lyle's shotgun and went back into the residence to complete the act of murder."

The 9th Circuit also evaluated the imperfect self-defense claim and determined "the instruction was not warranted under California law. Had either Erik or Lyle presented evidence that, at the moment of the killings, they had an actual fear in the need to defend against *imminent* peril to life or great bodily injury, this evidence would have helped explain why they had that unreasonable fear. Nonetheless, the fears leading up to the murders and the reasons why such fears might have existed simply are not the threshold issue for California's imperfect self-defense instruction. Consequently, the state court's decision was not error, let alone a violation of due process." 422 F.3d 1012, 1030 (Citation omitted).

Should the District Attorney's Office concede any Habeas claims, we ask the Court to set the matter for an evidentiary hearing pursuant to Penal Code 1473 so the court can examine all the evidence to determine whether the claim should be granted.

II. PENAL CODE 1385.1 PRECLUDES STRICKING OR DISMISSING A SPECIAL CIRCUMSTANCE ALLEGATION FOUND TRUE BY A JURY

Despite requests to learn under Penal Code section Mr. Gascon may be contemplating regarding filing a Resentencing Petition, we have not been provided with that information. Penal Code 1385 requires that any dismissal of charges or Special Circumstance allegation be in the interest of justice.

Based on the horrific actions taken by Lyle and Erik Menendez on August 20, 1989 which the jury determined was motivated by their desire to inherit their parent's fortune, Mr. Andersen believes that justice was served when the jury found Erik and Lyle Menendez guilty of multiple murders for financial gain and the judge sentenced them to life without the possibility of parole.

Respectfully submitted this 22nd day of October 2024.

KATHLEEN CADY

DECLARATION OF KATHLEEN CADY

I, Kathleen Cady declare as follows:

1. I am an attorney licensed to practice law in the State of California.
2. I represent Milton Andersen, brother of Kitty Menendez.
3. I am pro bono and receive no compensation for representing Mr. Andersen in this action.
4. Los Angeles County District Attorney Gascon is facing re-election. His opponent is Nathan Hochman.
5. On September 30, 2024, NBC reported a recent survey showed Gascon trailing Hochman by 24 points.
6. On October 3, 2024, the LA Times front page headline read "Teen killer's case haunts Gascon."[1]
7. On October 3, 2024, Gascon called a press conference. He made no announcement other than to say he was considering the Habeas petition in the Menendez case and was also considering possible Resentencing.
8. On October 8, 2024, I attended a debate between Gascon and Hochman. When asked about the Menendez Habeas and/or Resentencing, Gascon said "the decision will be mine."
9. On October 14, 2024, I notified Mr. Gascon via email that Mr. Andersen was asserting and requesting all his constitutional and statutory rights. Included in the email was the following:

> Mr. Andersen specifically asserts his right to be treated with fairness and respect for his dignity; right to reasonably confer with you; reasonable notice of all public proceedings; and right to be heard regarding the sentence or post-conviction release decision. Because you have confirmed that you, personally, will be making the decision as to how to proceed,

[1] This headline was later changed to "Gascón gave teen killer second chance — now she's charged again."

Mr. Andersen is asserting his right to meet with you, personally, to discuss this case and the decision that you have apparently made.

Kitty Menendez' brutal murder was not political. Jose Menendez' vicious murder was not political. Erik and Lyle Menendez' motive was pure greed.

Mr. Andersen demands that any decision you make not be political. He requests to confer with you immediately and hear your decision before you hold another press conference to announce your decision to the press and the general public.

10. On October 16, 2024 I sent the following email to Mr. Gascon:

On October 16, 2024 at 9:35 a.m. I emailed Ms. Theberge asking her to confirm that your office will provide notice before any action is taken in court. To date, I have not received a response. This morning I filed the attached Notice of Appearance and Assertion of Rights in Judge Ryan's court and served you and defense.

On October 15 at 2:50 p.m. Ms. Theberge invited me and my client to attend a meeting on October 16 at 1:30 p.m. that was "just scheduled." I informed her that I was unable to participate as I had a had a conflicting court appearance that that had been scheduled for several weeks.

The media has been reporting that as of Wednesday, October 16, you will make a decision about the case in the "next 10 days." Although you have not responded to my October 14 email, Mr. Iniguez attempted to chastise me for making assumptions based on "tabloid gossip, not official information from our Office." We wait with anticipation for your "Office" [to] provide information. Until that time, we have no alternative but to gather information from the tabloids since that appears to be your preferred method of communicating.

The current Habeas Petition asserts a false narrative that the jury was precluded from hearing evidence of abuse at the second trial. The 2/27/1998 Court of Appeal opinion, however, confirms that substantial evidence of the alleged abuse was admitted at the second trial. In addition to Erik's testimony, several witnesses testified that Erik and/or Lyle were abused. Any excluded evidence was determined to be cumulative. The jury also heard evidence that Lyle asked two witnesses to commit perjury: Amir Eslaminia testified that Lyle asked him to lie and testify that the day before the murders the brothers told him they needed a handgun for protection from their parents; and Jamie Pisarcik testified that Lyle asked her to lie and testify that Jose Menendez gave her a sedative and then violently raped her. The alleged "new" evidence which is referenced in the Habeas of the letter is suspect because Erik and and [sic]Andy Cano both testified at the second trial and neither mentioned the letter. While we certainly hope that the DA's office has undertaken an analysis of the letter, it is much more likely that the letter, if written by Erik, was written in the last few years and not before the murders as the defense now suggests. In just the last few days I have received information from several different sources that the letter is essentially a fraud. Some of the people providing the information to me have informed me that they have made multiple efforts to get this information to

you, but have been ignored. Additionally, even if legitimate, this "new" evidence is not sufficient to warrant granting the Habeas because this evidence does not justify an imperfect self-defense instruction. The evidence does not demonstrate that the brothers were in imminent peril when they murdered their parents. Based on that, we urge you to oppose the Habeas.

. . . [I]t is unclear what type of "Resentencing" you may be contemplating. Of great concern is that the defendants/petitioners are still fabricating a fraud on you and the court. If that is true, they are certainly not rehabilitated. I have also received information that while in prison the brothers have violated regulations and use cell phones for drug trafficking. Again, this would demonstrate a complete lack of remorse and rehabilitation.

Contrary to your public assertion that you will be handling this case, on October 15 Mr. Iniguez informed me "The Habeas matter is being handled by the Writs and Appeals Division. The review for potential resentencing is being handled by the resentencing unit." Please clarify which DDA is handling the Habeas and/or Resentencing petition and whether you will be making the final decision.

Mr. Andersen once again requests that you meet with him and provide notice of any upcoming hearing, filing or decision before any public announcement is made or any information is leaked to the media.

11. As reported in People, Gascon was interviewed by People October 21, 2024. The article reported, "Gascon says he will make a decision on whether or not to recommend resentencing for Erik and Lyle Menendez in a matter of days – and that the brothers are not a danger to society. 'Based on everything that I know, I don't believe they are,' Gascon tells People. 'Quite frankly, they probably haven't been for a very long time, if they ever were. I think this is not like they were going around killing people or robbing people on the street."[2]

12. On October 22, 2024, I sent the following email inquiry to the District Attorney's Office:

> To ensure my client constitutional rights are not violated, can you please respond to the following questions:
>
> . . . .
>
> 1. What DDA(s) is/are assigned to review/consider a potential resentencing in this case?

[2] https://people.com/menendez-brothers-resentencing-not-danger-society-da-says-exclusive-8731524

2. Under what code section(s) is a potential resentencing being contemplated?
3. Has a decision regarding resentencing been made?
4. Can you confirm that we will receive notice of any decision before any statement is released or leaked to the media and/or document filed with the court?

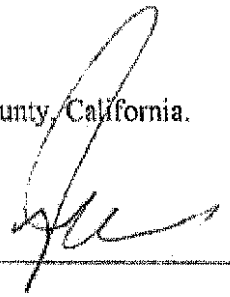
.....

1. What DDA(s) is/are assigned to review/consider the pending Habeas petition?
2. I have received information casting doubt on the veracity of the "new" alleged evidence referenced in the Habeas petition. Given the DA's ethical obligation to fully investigate any and all claims, when should I expect someone to contact me about the information I have received?
3. Has a decision regarding the Habeas claims been made?
4. Can you confirm that we will receive notice of any decision before any statement is released or leaked to the media and/or document filed with the court?

13. To date, I have not received responses to my inquiries or any substantive information on what decision Mr. Gascon may have made regarding this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 23rd day of October 2024 in Los Angeles County, California.



Kathleen Cady

PROOF OF SERVICE

Case Name: People v. Menendez

In re Erik and Lyle Menendez, Petitioners

Los Angeles Superior Court Case Number: BA068880

I, Kathleen Cady, represent the victim. I am over the age of 18 years and not a party to the action.

My business address is Dordulian Law Group, 550 N Brand Blvd., Ste. 1990, Glendale, CA 91203.

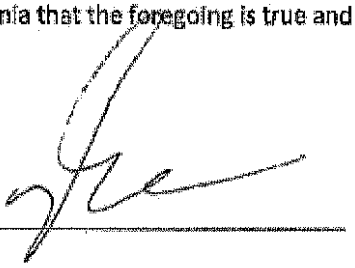
On October 23, 2024, I electronically served a copy of Application to File an Amicus Curiae Brief and Amicus Curiae Brief re Habeas Claim and any Potential Resentencing Petition and Declaration of Kathleen Cady from my electronic service address of kcady@dlawgroup.com to the following individuals at the electronic mail addresses provided, with no error message received:

Prosecutor: George Gascon at ggascon@da.lacounty.gov and Joseph Iniguez at jiniguez@da.lacounty.gov

Attorneys for defendant: Mark Geragos at Mark@geragos.com and Cliff Gardner at Casetris@aol.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 23, 2024



Kathleen Cady

EXHIBIT C

COUNTY OF LOS ANGELES
DEPARTMENT OF HUMAN RESOURCES

[redacted]

EXHIBIT D

CLAIMS FOR DAMAGES TO PERSON OR PROPERTY

COUNTY OF LOS ANGELES

TIME STAMP
OFFICE USE ONLY

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
FILED

2025 FEB -3 A 9:32

INSTRUCTIONS:

1. Read claim thoroughly.
2. Fill out claim as indicated; attach additional information if necessary.
3. Please use one claim form for each claimant.
4. Return this original signed claim and any attachments supporting your claim. This form must be signed.

DELIVER OR U.S. MAIL TO:
EXECUTIVE OFFICER, BOARD OF SUPERVISORS, ATTENTION: CLAIMS
500 WEST TEMPLE STREET, ROOM 383,
KENNETH HAHN HALL OF ADMINISTRATION, LOS ANGELES, CA 90012
(213) 974-1440

1 [X] Mr [ ] Ms [ ] Mrs LAST NAME: Lunsford | FIRST NAME: Brock | M.I:

2. ADDRESS OF CLAIMANT: [redacted]

CITY: [redacted] STATE: | ZIP CODE: [redacted]

HOME PHONE: [redacted] ALTERNATE PHONE: [redacted]

3. CLAIMANT'S BIRTHDATE: [redacted] 4. CLAIMANT'S SOCIAL SECURITY NUMBER: [redacted]

5. ADDRESS TO WHICH CORRESPONDENCE SHOULD BE SENT
11520 San Vincente Blvd
STREET | CITY: Los Angeles | STATE: CA | ZIP CODE: 90049

6. DATE AND TIME OF INCIDENT
12/14/2024 12:00 am

7. WHERE DID DAMAGE OR INJURY OCCUR?
211 West Temple Suite 1200
STREET | CITY: Los Angeles | STATE: CA | ZIP CODE: 90012

8. DESCRIBE IN DETAIL HOW DAMAGE OR INJURY OCCURRED AND LIST DAMAGES (attach copies of receipts or repair estimates):
Please see attached letter.

9. WERE POLICE OR PARAMEDICS CALLED? YES [ ] NO [X]

(IF YES) AGENCY'S NAME _____ REPORT # _____

CHECK IF LIMITED CIVIL CASE [ ]

TOTAL DAMAGES TO DATE: $ 5,000,000.00

TOTAL ESTIMATED PROSPECTIVE DAMAGES: $ 5,000,000.00

10. WHY DO YOU CLAIM COUNTY IS RESPONSIBLE?
Please see attached letter.

11. NAMES OF ANY COUNTY EMPLOYEES (AND THEIR DEPARTMENTS) INVOLVED IN INJURY OR DAMAGE (IF APPLICABLE):

NAME	DEPARTMENT
Nathan Hochman	District Attorney's Office
John Lewin	District Attorney's Office

12. WITNESS(ES) TO DAMAGES OR INJURY: LIST ALL PERSONS AND ADDRESSES OF PERSONS KNOWN TO HAVE INFORMATION:

NAME	PHONE
Lori Deary	(213) 974-3512

ADDRESS: 211 West Temple Suite 1200

NAME	PHONE
James Garrison	(213) 974-3512

ADDRESS: 211 West Temple Suite 1200

13. IF PHYSICIAN(S) WERE VISTED DUE TO INJURY, PROVIDE NAME, ADDRESS, PHONE NUMBER, AND DATE OF FIRST VISIT FOR EACH:

DATE OF FIRST VISIT	PHYSICIAN'S NAME	PHONE

STREET | CITY | STATE | ZIP CODE

DATE OF FIRST VISIT	PHYSICIAN'S NAME	PHONE

STREET | CITY | STATE | ZIP CODE

THIS CLAIM MUST BE *SIGNED*

NOTE: PRESENTATION OF A FALSE CLAIM IS A FELONY (PENAL CODE SECTION 72)

CLAIMS FOR DEATH, INJURY TO PERSON OR TO PERSONAL PROPERTY MUST BE FILED NOT LATER THAN 6 MONTHS AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)

ALL OTHER CLAIMS FOR DAMAGES MUST BE FILED NOT LATER THAN ONE YEAR AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)

14. PRINT OR TYPE NAME	DATE	15. SIGNATURE OF CLAIMANT OR PERSON FILING ON HIS/HER BEHALF GIVING RELATIONSHIP TO CLAIMANT	DATE
Carney Shegerian (For Brock Lunsford)			

Revised 11-2016

Shegerian & Associates

Phone: (310) 860-0770 | Fax: (310) 860-0771 | shegerianlaw.com

February 3, 2025

SENT VIA PERSONAL SERVICE AND CERTIFIED U.S. MAIL

Executive Officer Board of Supervisors
Attn: Claims
Los Angeles County Board of Supervisors
County of Los Angeles
500 West Temple Street, Room 383
Los Angeles, California 90012

211 West Temple Street
Suite 1200
Los Angeles, CA 90012

Re: ***Tort Claim Form for Brock Lunsford—Pursuant to California Government Code Section 910***

To whom it may concern:

Please be advised that my office has been retained to represent Brock Lunsford ("Lunsford") in connection with his employment with the County of Los Angeles ("COLA") and the Los Angeles District Attorney's Office ("LACDA") (collectively "Entity Defendants"). By this letter, we present the following claim for damages on his behalf in what is commonly referred to as a tort claim form.

INDIVIDUALS AND ENTITIES AGAINST WHOM CLAIMS ARE BROUGHT

The names of the public entities and public employees who caused Lunsford injuries include but are not limited to: COLA; LACDA; Nathan Hochman and John Lewin.

FACTS SUPPORTING CLAIMS

Brock Lunsford began his distinguished career with the Entity Defendants in June 2000, dedicating over two decades to public service with the goal of fostering a safer and more just Los Angeles County. Rising through the ranks of the District Attorney's Office, Lunsford ultimately attained a supervisory position in the Resentencing Unit.

Despite his notable career achievements, Lunsford's professional trajectory has been derailed due to retaliation and defamation stemming both from his insistence that the County of Los Angeles comply with the law and his opposition to harassment and discrimination.

Lunsford Exemplary Employment

Lunsford most recent assignment with Entity Defendants was post-conviction litigation and discovery. Lunsford was an exemplary employee throughout his employment with Entity Defendants. Throughout his employment, Lunsford never received poor performance review.

Lunsford's Political Affiliation

Lunsford openly supported George Gascon as District Attorney and his reelection for that same office. Lunsford supported and attempted to carry out to the best of her ability every lawful policy adopted by Gascon.

Advocacy for Resentencing Under Penal Code Section 1172.1

California Penal Code Section 1172.1 was passed into law in 2022. The law allows a criminal defendant to be resentenced, if among other factors, continued incarceration is no longer in the interest of justice. As explained further below, Lunsford reported both internally to Entity Defendants and externally to the California Courts that Eric and Lyle Menendez should be resentenced because their incarceration is no longer in the interest of justice and that to recommend against resentencing would be a violation of Penal Code Section 1172.1

Lunsford, both in internal communications and court filings, expressed his belief that Eric and Lyle Menendez should be resentenced pursuant to Penal Code section 1172.1. He reasonably believed that any other position would violate the statute. Starting in the beginning of October 2024, Lunsford had meetings of the Executive Team concerning the motion for resentencing. Present at these meetings were Lunsford, Nancy Theberge, George Gascon, the District Attorney at the time; Joseph Iniguez, Gascon's deputy, Head deputy Lori Dery, Director Stephanie Pearl Meyer and the Assistant Deputy DA James Garrison. Lunsford stated during this October 2024 meeting that failure to advocate for resentencing would violate Penal Code Section 1172.1. While Gascon and Iniguez supported Lunsford's position, Lori Deary and James Garrison appeared displeased and said they disagreed with Lunsford and Theberge. Lunsford played a pivotal role as the primary author of a motion advocating for their resentencing. This memorandum, co-authored with Nancy Theberge,

articulated the legal and procedural basis for resentencing. Lunsford's position, based solely on his interpretation of the law, was met with resistance from leadership within the District Attorney's Office

Association with and Advocacy for Nancy Theberge

As a supervisor, Lunsford worked closely with Nancy Theberge, an attorney over 40 years old who is female. Leadership in the District Attorney's Office undermined Theberge in ways not experienced by male or younger employees. Lunsford believed that Theberge was discriminated against because of her age and gender. Recognizing this discriminatory treatment, Lunsford took action to support her. On multiple occasions, he opposed efforts by leadership to violate the chain of command, thereby engaging in protected activity by opposing age and gender discrimination. For example, on or around October 22, 2024, Head deputy Lori Dery, and the Assistant Deputy DA James Garrison attempted to circumvent the chain of command and under Nancy Theberge. Lunsford opposed and prevented this attempt, which he believed was an example of less favorable treatment towards a female and older employee.

Retaliation Against Lunsford

The District Attorney's Office retaliated against Lunsford for at least three unlawful reasons:

1. His report to George Gascon, the District Attorney at the time; Joseph Iniguez, Gascon's deputy, Head deputy Lori Deary, Director Stephanie Pearl Meyer and the Assistant Deputy DA James Garrison. in October 2024 and his motion to the superior court advocacy for the resentencing of Eric and Lyle Menendez under Penal Code section 1172.1 and his internal and external report(s) that there would be a violation of the statute if a contrary position was taken.

2. Nathan Hochman's belief that Lunsford supported his political opponent, a violation of civil service rules and California Statutes prohibiting political discrimination. This belief includes but is not limited to Lunsford's October 2024 motion for resentencing.

3. His association with Nancy Theberge as a female and an older employee and his opposition to the harassment and discrimination directed at her.

Following Hochman's election to District Attorney, Pearl, Deary and Garrison all supported and participated in the decision to demote Lunsford. Lunsford was stripped of all supervisory responsibilities, as of December 14, 2024, he has been reassigned as

a calendar attorney in Department T of the Norwalk Courthouse, a position he had held years earlier with no opportunities for promotion or advancement. This was in retaliation for the protected activities described above. In his new role, Lunsford is required to report to a less experienced attorney and must clear his schedule with other attorneys, a stark demotion from his prior ability to set his own schedule.

John Lewin was at all times relevant Acting as the Agent of Nathan Hochman

John Lewin is and was a Deputy District Attorney employed by Entity Defendants. Lewin, while acting within the course and scope of his employment with the District Attorney's Office, defamed Theberge. Lewin and Hochman acted in concert. Hochman either authorized Lewin's conduct and/or ratified it. On September 28, 2024, Hochman's website publicly listed John Lewin as a supporter and praised Lewin for "stand[ing] up and be individually counted."

On or around November 27, 2024, while acting within the course and scope of his employment with the District Attorney's Office, John Lewin defamed Lunsford by publicly referring to him as a "quisling," which means a Nazi collaborator. This statement is offensive on its face and has caused significant harm to Lunsford's professional reputation by imputing malice and incompetence to him. Lewin's statement stated outright that Lunsford is incompetent in his profession.

Hochman, after Lewin defamed Lunsford promoted Lewin, effectively ratified this defamatory conduct by promoting Lewin to a position with major crimes.

Lunsford was coerced to republish Defendant's defamatory statement to colleagues and family in order to refute the allegations and protect his professional reputation.

Harm to Lunsford's Career and Reputation

As a direct result of the retaliation and defamation, Lunsford's career has been irreparably harmed. He has been relegated to a position with no potential for advancement, his professional standing has been undermined, and his reputation has been damaged by the baseless and inflammatory statements of a colleague.

POTENTIAL LEGAL THEORIES/CLAIMS

Lunsford anticipates bringing causes of action based on the following legal violations and theories: (1) Associational discrimination and harassment on the basis of

gender and age; (2) Retaliation, including retaliation for complaining about discrimination or harassment; (3) Failure to prevent discrimination, harassment, or retaliation; (4) Violation of California Labor Code section 1102.5; (5) Violation of Labor Code sections 232.5; (7) Violation of Labor Code Section 1101-1102 (8) Defamation; (7) Coerced Self Defamation; (8) Negligent Infliction of Emotional Distress; (9) Intentional Infliction of Emotional Distress; and (10) Negligent hiring, supervision and retention. Additional causes of action and/or theories of relief may be raised on the basis of the facts generally set forth above, as is permitted by *Blair v. Superior Court* (1990) 218 Cal.App.3d 221.

DAMAGES SOUGHT

Lunsford seeks economic damages of over $250,000 and non-economic damages in an amount over $5,000,000.00 for total damages of over $5,000,000.00. Lunsford also seeks interest, attorneys' fees, and costs, although the amounts of such interest, fees, and costs are not known currently. The proper jurisdiction for litigation in this matter is Los Angeles County Superior Court, as an unlimited case.

NOTICE

Lunsford's address is [redacted] Our client requests that all notices concerning this claim be sent to us, his counsel of record,

Shegerian & Associates
11520 San Vicente Boulevard, Los Angeles, California 90049;
telephone: (310) 860-0770;
facsimile: (310) 860-0771.

Our e-mail addresses are as follows:

- Carney Shegerian, Esq., CShegerian@shegerianlaw.com;
- Mahru Madjidi, Esq., MMadjidi@shegerianlaw.com;
- Alex DiBona, Esq., ADibona@shegerianlaw.com;
- Justin W. Shegerian, Esq., JShegerian@shegerianlaw.com.

ACTING ON CLIENT'S BEHALF

Pursuant to Government Code section 910, our firm is "acting on behalf" of Lunsford in submitting this demand. It is hereby signed by Alex DiBona on his behalf, pursuant to Government Code section 910.2.

Thank you for your review and consideration of the above.

Very truly yours,

SHEGERIAN & ASSOCIATES

Alex DiBona

Alex DiBona, Esq.

EXHIBIT E

(L-R) The Menendez Brother, LA County DA Nathan Hochman, Donald Trump and Harvey Weinstein Getty Images

HOME / BUSINESS / LEGAL

New L.A. D.A. Nathan Hochman Says Menendez Brothers Lawyer's "Narrative Is Absolutely Wrong"; Vows To Enforce Sanctuary Laws Against Trump Deportation Threats – The Deadline Q&A

By Dominic Patten

December 13, 2024 7:01am

EXCLUSIVE: Up on the top floor of downtown's Hall of Justice, the Los Angeles District Attorney's office has little of the grandeur that the rest of the nearly 100-year-old ornate building itself would suggest, as the newly sworn-in Nathan Hochman himself points out.

"I wondered why all the windows were facing upwards, why they had what looked like bars on them," the former U.S. Assistant Attorney General says. "I discovered this used to be the County jail before the building reopened in 2015," Hochman adds with a laugh, waving his arms around his own largely bare office not far from where now dead Charles Manson and still living Sirhan Sirhan were once incarcerated.

Just a few days into his term, after a landslide victory over one-termer George Gascón with support from Netflix's Ted Sarandos and Oscar nominated documentarian Rory Kennedy, ex-Republican Hochman makes no secret of the fact he's trying to settle in quickly, figuratively and literally. Yet, in a sprawling county larger and with a greater population than most states, no matter how fast he goes, time is not something Hochman has in abundance as a thirst for change, a need for safety, and anger at incumbents was what turned so many Angelenos against Gascón.

Among one of the matters ticking away in Hochman's inbox is the revived case of the Menendez brothers.

Convicted of first-degree murder in a second trial in 1996, and sentenced to life without parole, the now middle-aged brothers' case was brought back into the courts by Gascón earlier this year as new-ish evidence of sexual abuse by their father became known. In one of the most media driven towns on the planet, the siblings' 1989 murder of their parents in the family's Beverly Hills home was also back in the spotlight over the past year by well-watched shows on Peacock and Netflix.

In the dying days of his regime, with a hopeful eye on the polls, Gascón recommended resentencing and even backed a plea for clemency for the brothers before Gov. Gavin Newsom.

With now D.A. Hochman diving into the particulars of the case, that's now all on hold until a January 30 hearing for 54-year-old Erik and 56-year-old Lyle Menendez. A hearing that likely won't see the duo free immediately, but could certainly see the two out of prison in the next year.

At the same time as the Menendez case captures headlines and social media posts, Hochman faces other high-profile cases, a depleted staff, getting his own team in place, and Donald Trump's return to the White House with promises of mass deportations. Sitting in the casual conference area of his

personal office, the new D.A. discussed all this with me, as well as challenges he faces inside and outside the building and the county.

DEADLINE: How has the first week been in terms of learning the job and seeing what the full responsibilities of the job are?

NATHAN HOCHMAN: You know, I view the first week like I've used the first day, or even the anticipation the first day as an opportunity of a lifetime, I'll get a chance, and I've been now exploring it at its fullest extent, of working with some of the most diverse and talented lawyers in the legal profession, not just as prosecutors.

Part of that is I will be visiting the visiting the staff, visiting the prosecutors in the 15 different offices we have. I'll be talking with law enforcement, eventually talking with probation officers, talking to judges, even talking with public defenders and alternate public defenders. Look, the system is broken. The system I came into just wasn't working. This office wasn't working.

DEADLINE: How so?

HOCHMAN: It lost 20% of its workforce in recent years. People who just stopped believing in that the DA was on mission, and they'd just as soon leave or find some other jobs or retire. And now it's a sense of, I don't know if it's the word relief, as much as it's hope. You know, I find a sense of energy when I go talk to people that they just fired up to get going with the job.

DEADLINE: I hear you with that, but that's inside baseball to most. Regardless of where one stands on the political spectrum, there are a lot of people in LA County who can't get any real response from a 911 call, who see justice as being very selective. And to be honest, the extremes have overwhelmed real dialogue, and they feel they've been abandoned.

HOCHMAN: Unfortunately, it's not a shock that people feel that way, because the feeling is based in reality.

DEADLINE: Certainly, people whose families have suffered tragic or fatal consequences from crime, like Netflix co-CEO Ted Sarandos, one of your biggest supporters in the campaign, know that feeling strongly. Then what

do you, and I mean you, what do you do about that?

HOCHMAN: What I say to that is that part of striking the right balance is having the right set of procedures and the right D.A in place.

DEADLINE: Which is what?

HOCHMAN: If a DA came in and said, instead of decarceration, we're now going to emphasize mass incarceration again, If they said, we want to send a message to the criminal element that we're just going to put them in jail, literally, until we get the courts telling us we put too many people in jail. I'm telling you I reject that, I reject both extremes. I reject extreme policies. I come down in the middle. I call it the hard work middle, or the hard middle, because it requires you to do the work. Blanket policies are inherently reckless and lazy. The middle requires you look at each case, individually. That's what I'm going to do.

DEADLINE: Let's talk about a big individual case on your desk: the Menendez brothers.

HOCHMAN: I knew this was coming .

DEADLINE: I know you knew, because you yourself have spoken about the brothers and the renewed interest in their case for several months now as momentum has accelerated for a reexamination of their case - something your predecessor picked up on in the closing days of the campaign.

HOCHMAN: Yes .

DEADLINE: Even before the election, even as then DA Gascón pressed ahead with resentencing recommendations and more, you said you weren't going to make any promises. You said that when you got here, you're going to look at the files and you're going to look at the cases. Just before Thanksgiving, even before you took office, Judge Michael Jesic pushed a previously scheduled resentencing hearing to the end of January as a courtesy towards you and your office to give you the time to decide what you wanted to do. so where do things stand with the case of Erik and Lyle Menendez with you?

HOCHMAN: First of all, the courtesy by Judge Jesic is much appreciated,

much appreciated. We have begun the process. I have begun the process.

DEADLINE: What has that entailed?

HOCHMAN: I've gotten access now to more and more of the files that were confidential, the transcripts from the actual trials. We're looking through the testimony, as opposed to the highlights of testimony that people have been happy to share. We're looking at the law dealing with resentencing as well as the law dealing with the habeas situation. Do you know the difference?

DEADLINE: I do.

HOCHMAN: They're different. You know, there can be different results depending on which way the law actually plays out. Once I get up to speed on my end, I'm going to call Mark Geragos, invite him to come in and make any level presentation he wants. I'll make the same offer to any victim family member if they want a personal audience with me.

DEADLINE: A lot of the family have been quite vocal about seeing the brothers released after almost 30 years in prison, but it's no secret that family is divided.

HOCHMAN: Yes, I've spoken to the lawyer for the brother of Kitty Menendez, who has a different opinion than the rest of the family and filed different paperwork for it, you know?

Anyway, at the end of it, we'll make the call, because the resentencing law is somewhat unique for California, and it operates on much different principles than most people really understand. In other words, that once this process is triggered by a DA's motion, because the defense can't trigger it on its own, then the judge gets enormous amounts of discretion on what the judge wants to do. Still has to look at the interests of justice, rehabilitation, the gravity of the offense to begin with, different data points as the law has multiple factors, but it is still somewhat amorphous.

DEADLINE: This may seem pedantic, but do you think we'd be talking about the Menendez brothers now if Ryan Murphy and Netflix hadn't made a hit show about them?

HOCHMAN: That I don't know one or the other. You'll have to talk to my

predecessor about that. But here's where I like the attention. I like the attention in that, you know, if people are focused on criminal justice issues, that is a net positive for our society. If it's the Menendez case that got them interested, to at least start exploring these, these different types of issues, then that's good.

DEADLINE: On that note, there's a big difference between campaigning and holding the office, so with the knowledge of the reality out of there that many people in many different parts of the county feel, now that you are in the DA's chair, what are the biggest challenges you have set for yourself?

HOCHMAN: Initial challenges is getting the two main drivers of criminal justice and enforcement, back on track.

That's my own office. Start with that. I mean, I'm entering an office that, at one point voted 98% to support their boss's recall. That's almost unheard of.

So, these folks have been, again, enormously receptive to a newcomer, to someone who's basically said to them that the greatest asset of the DA's office is not the courtrooms, the cases or the computers, but the prosecutors themselves. To me, the mission of the DA is to maximize the greatest asset, which is that. So, I basically said: look, I have your back. You need training, you need resources, you need credit for the good work you've been doing. I can deliver on all that. Getting their trust back has been something that's been absolutely a Day One project, and we're well on the way. You then need to convert that over to law enforcement, because it's great to be able to prosecute the cases. But ultimately, the pipeline of getting cases to the DA's office is law enforcement.

DEADLINE: To that, one of the elements of the Menendez case is this notion that society has changed dramatically since the 1990s in our attitude and response to rape and sexual violence to men. There is a notion among some supporters of the brothers, that with the assaults they allegedly suffered from their father and the role that played in their shotgun killing of him and their mother, we would look at what happened differently today, with a possible different outcome. What's your perspective on that historical curve theory?

HOCHMAN: Well, the changing values in society, certainly the changing technology that helps you do a better job of truly understanding who's guilty

and who's not. I think it's a bit simplistic to say that society back in the '90s, didn't recognize sexual abuse of young boys or men. I think it did. I think there's plenty of cases that this office and offices across the state were bringing to the courts

DEADLINE: That's not the mantra you hear from Menendez lawyer Mark Garagos.

HOCHMAN: Mr. Geragos has been very happy to repeat that mantra, and the media has repeated Mr. Geragos' mantra. What I'm saying is that whether or not the mantra is actually true, is that no one's actually looked, that I'm aware, to see what types of cases, in the volume of cases that were brought where the victims were young boys or young men.

They make it seem like it never happened. I know for a fact it did.

That's part one of your question, which is the assumption that this was never prosecuted, so that the social mores at the time is that it couldn't happen. Second assumption of your question is that in the second trial, that the issue wasn't raised, because, again, that's Mr. Geragos mantra, which the media has repeated.

DEADLINE: It sounds like you view it as a battle on two fronts .

HOCHMAN: Do you know whether or not Erik Menendez testified in the second trial?

DEADLINE: Off the top of my head, I do not, I believe he did .

HOCHMAN: He did, for seven trial days.

Probably, if I had to guess, close to 40 hours of testimony where he went into great detail, as he did in the first trial. Incident by incident by incident, between the ages, I think of about six to 18 of what his father had done to him. Andy Cano, the cousin, he testified in the second trial for days, also about the sexual abuse that was experienced by Erik that he was aware of. So, the notion, again, the mantra, that sexual abuse wasn't explored in the second trial that the judge kept out all the evidence actually isn't true.

DEADLINE: So why do you think that has become so accepted then?

HOCHMAN: I mean, I've been doing this for 34 years, I've seen it. The media is in search of simple narratives, conflicting narratives, and so it adopted the Geragos narrative. Which was very smart, very creative. It's basically that the trial was all about sexual abuse, that their response was because of sexual abuse. It's that a conviction was only attained because the evidence of sexual abuse didn't occur in the second trial, but occurred in the first trial, and therefore that the underlying conviction is wrong and should be fixed. Very simple narrative. What makes it a little bit more complicated? And that's why the media would have to do additional work. No offense to your profession.

DEADLINE: That's okay, my profession is the enemy of the people in some circles, like yours is in some other circles, so your criticism is just fine. With that perspective you've outlined, how will you approach looking at this case?

HOCHMAN: Knowing the Geragos narrative is absolutely wrong, the issues that we'll be looking at for the trial will be whether or not the these two young men faced an immediate threat to their life? Why they got to that point? How they got to the point is irrelevant for the trial. For the convictions, maybe not irrelevant. By the way, certainly for resentencing, and it actually plays a different role in resentencing.

As I said, Erik Menendez was able to testify in great detail about all the sexual abuse he experienced. He was even able to testify about sexual abuse that Lyle experienced. He was even able to testify about the fact that Lyle purportedly confronted his father, their father, about this whole issue, which is why they had some level of fear that the father was going to kill them. All that was presented to the jury, and the jury still convicted them both of first-degree murder.

DEADLINE: Heading towards next month's resentencing hearing, what are you preparing right now?

HOCHMAN: Well, ultimately, the resentencing law allows rehabilitation to come into a mix, so it's not just whether or not the underlying crime was proven and sustained on appeal, and all that. You now are entering in the concept of rehabilitation and the interests of Justice on top of that. And you do this with a fairly vague standard that doesn't give judges particular guidance on how to evaluate all these factors only to figure out whether or

not someone is a threat to society, poses a danger to society, and otherwise has been rehabilitated, so and it's somewhat California unique in that respect.

So, we're going to go through all that evidence and weigh all the factors and ultimately come to the judge and say, to the judge, here's all the records. Here are your options. And make sure that whatever decision is ultimately made is the best-informed decision possible.

DEADLINE: On the surface, it seems like all your office does sometimes is manage high profile cases, the Danny Mastersons, Scientology and the like. Then there is the matter of Harvey Weinstein, who was successful in having his East Coast conviction tossed out on appeal and is now awaiting, depending on his health, a new trial next year. Weinstein is also trying to get his 2022 conviction here on sex crimes and the 16 year sentence it carried with it dismissed. So, my question is what will your office do if you have to face another Weinstein trial?

HOCHMAN: Again, I come from the world of doing the work in every case. So, even if something gets media attention, certainly we're going to make sure that we get that right. But we're going to make sure we get it right, even if there's no media attention.

With respect to Weinstein, it would depend on how they reversed it, assuming there is a reversal, which is a huge assumption, by the way.

DEADLINE: Point taken.

HOCHMAN: But if they reversed it based on saying that, I'll just make up a number. Let's say there was four different other bad acts that were let in, and they say two of them don't meet the legal standard. Two will be let in. Let's say they're requiring a new trial, assuming we then proceed to trial and there's no settlement. In the meantime, we would come up with a trial strategy that would now be in accord with the new rules set forth by the appellate court in that particular case. We would be very convinced, or we wouldn't bring the case, that we could win that case beyond a reasonable doubt.

DEADLINE: When it comes to doubt, and I say this to you with your past life in George W. Bush's DOJ, there is a lot of doubt, a lot of fear among the undocumented in LA that once Trump gets back in power, the wild dogs will be off the leash and they will be rounded up for his mass deportations, put in camps in the desert like Japanese Americans were in World War II. What do you say to those in this county who see a D.A. who served in a Republican administration, who, even though he ran as an Independent for D.A., ran unsuccessfully as a Republican for state Attorney General, and ask, will this guy protect us?

HOCHMAN: Here's what those people should know. They first should know a little history. History is a scarce resource on people's consideration. But we don't have to go back that far. I'll go seven years, 2017. The California Value Act, SB54 is a sanctuary state legislation. If you compare that sanctuary state legislation against, for instance, the sanctuary city ordinance had just passed, there's almost no difference. It's almost symbolic now. SB54 was challenged by the Trump administration in the courts back in 2018 or 2019 and when they challenged it, they lost.

Now, now we're going to go into a little bit more ancient history.

The LAPD has had a provision for years that says that it will not arrest someone on just an immigration violation, and it won't even ask them when they're being arrested, whether or not they're here legally or documented or undocumented, here legally or illegally. That provision is 40-plus years old at this point. 45 years old. So, the fears that people have, I get it. I get the understanding that if Donald Trump comes in and says, we're going to be doing massive deportation, how is he exactly going to do it? Is that going to involve local law enforcement giving up, the undocumented grandmother who's cleaning houses or whatnot, there's nothing to suggest that, that there's any law, state law that will allow local law enforcement to do that.

DEADLINE: I understand what you are saying, but let me ask again, can people, the undocumented, who work and live among us all over this county, in this City of Angels in all industries, can they look to you in these times, and amidst Trump's threats, for protection?

HOCHMAN: The answer is yes, I will protect all legal rights that immigrants have in this county to the fullest extent, full stop. I don't need to go beyond that statement.

I will uphold all the laws that are out there, including the ones that protect immigrants here in Los Angeles County, full stop. You know, if you're asking whether or not I will enforce the sanctuary state laws, I will enforce the sanctuary state law and now the sanctuary city laws.

Like I said, you can enforce the sanctuary city laws by just enforcing the sanctuary state laws, because they were mostly symbolic, they just repeated what was already done seven years ago, that the courts have already affirmed, and by saying that the courts have affirmed it. But make sure you understand what I'm saying is that on the same arguments that the Trump administration may or may not attack the current laws.

They've already been attacked here.

The Ninth Circuit has already weighed in. So, unless it somehow gets back to the U.S. Supreme Court to overturn the Ninth Circuit, the Ninth Circuit controls the Western federal states, including California. So, the sanctuary state law is the law of this state, and right now, at least there's no federal law that trumps it, which is a bad pun, I know.

DEADLINE: With that, and just days after taking over as DA of a county that is larger and more populated that most states, D.A. Hochman are you running for Governor in 2026?

HOCHMAN: [LAUGHS] I will be beyond thrilled if I could just do this job, hopefully, really, really well. So, no, I absolutely tell you I am not running for that job.

EXHIBIT F

Metropolitan News-Enterprise

Thursday, December 26, 2024

Page 1

Cady Named to Post in D.A.'s Office

By a MetNews Staff Writer

Kathleen Cady—who, over the past four years, during George Gascón's tenure as Los Angeles County district attorney, has been acting as a pro bono victims' rights counsel—on Tuesday was named director of the department's Bureau of Victim Services.

District Attorney Nathan Hochman noted that the appointment, to be effective Jan. 6, is "pending approval by County authorities."

Cady—who has been named by the METNEWS as one of six 2024 "persons of the year"—remarked:

"I'm very honored and excited."

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EXHIBIT G

Kathleen Cady, Esq. (SBN 143093)
Dordulian Law Group
550 N. Brand Blvd, Suite 1990
Glendale, California 91203
Telephone: 818-788-4919
kcady@dlawgroup.com

Attorney for Milton Andersen, brother of Kitty Menendez

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA, vs. ERIC MENENDEZ and LYLE MENENDEZ, Defendants	**No.: BA068880** **NOTICE OF WITHDRAWAL AS ATTORNEY OF RECORD**
In re ERIK MENENDEZ and LYLE MENENDEZ, Petitioners, On Habeas Corpus.	

TO THE HONORABLE MICHAEL V. JESIC, JUDGE OF THE SUPERIOR COURT, THE HONORABLE WILLIAM C. RYAN, JUDGE OF THE SUPERIOR COURT, SETH CARMACK AND HABIB BALIAN, PROSECUTORS, AND MARK GERAGOS AND CLIFF GARDNER, COUNSEL FOR DEFENDANTS/PETITIONERS:

Please be advised that Kathleen Cady hereby withdraws as counsel of record for Milton Andersen, brother of Kitty Menendez.

Dated this 26th day of December 2024

RESPECTFULLY SUBMITTED,

KATHLEEN CADY

PROOF OF SERVICE

Case Name: People v. Cox

Los Angeles Superior Court Case Number: A758447

I, Kathleen Cady, represent the victim. I am over the age of 18 years and not a party to the action.

My business address is Dordulian Law Group, 550 N Brand Blvd., Ste. 1990, Glendale, CA 91203.

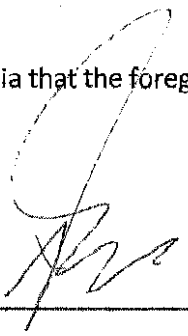
On December 26, 2024, I electronically served a copy of NOTICE OF WITHDRAWAL AS ATTORNEY OF RECORD from my electronic service address of kcady@dlawgroup.com to the following individuals at the electronic mail addresses provided, with no error message received:

Prosecutors: Seth Carmack at scarmack@da.lacounty.gov and Habib Balian at hbalian@da.lacounty.gov

Attorneys for defendant: Mark Geragos at Mark@geragos.com and Cliff Gardner at Casetris@aol.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: December 26, 2024



Kathleen Cady

EXHIBIT H

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NW S HON. MICHAEL V. JESIC, JUDGE

-000-

THE PEOPLE OF THE STATE OF CALIFORNIA,

PLAINTIFF,

VS. CASE NO. BA068880

01-ERIK GALEN MENENDEZ AND
02-JOSEPH LYLE MENENDEZ,

DEFENDANTS.

REPORTER'S TRANSCRIPT OF PROCEEDINGS
FRIDAY, APRIL 11, 2025

APPEARANCES:

FOR THE PEOPLE: NATHAN HOCHMAN, DISTRICT ATTORNEY
BY: HABIB BALIAN, DEPUTY
ETHAN MILIUS, DEPUTY
SETH CARMACK, DEPUTY

FOR THE DEFENDANTS: MARK GERAGOS, ATTORNEY AT LAW
ALEXANDRA KAZARIAN, ATTORNEY AT LAW

LEANNA J. ROESSELL, CSR NO. 11240
OFFICIAL REPORTER

HISTORY, THE ACTUAL PRACTICAL CULTURAL SHIFT THAT HAS HAPPENED.

THE LEGISLATIVE HISTORY WAS SINCE 2006 WAS WE NEED TO FIND AN ESCAPE. WE NEED A WAY TO PUT A CARROT OUT THERE. WE CAN'T JUST KEEP BEATING PEOPLE WITH A STICK. WE WANT 1172. WE WANT PEOPLE WHO HAVE NO HOPE AND WHO HAD LESS HOPE THAN THE MENENDEZ BROTHERS BACK THEN, WHO IN EVERY TURN, AT EVERY POINT IN THEIR JOURNEY THROUGH THE CRIMINAL JUSTICE SYSTEM, EVEN TODAY WHEN THE D.A.'S OFFICE WHO HIRED THE 1 THEN OBJECTOR TO THEIR BEING OUT. THEY HIRED THE LAWYER FOR THE 1 OBJECTOR. AND LET ME JUST MENTION SOMETHING BECAUSE I WANT TO GET IT OFF MY CHEST.

IF YOU BELIEVE THAT KATHY CADY, WHO'S NOW THE HEAD OF VICTIM SERVICES, AND ANYBODY, ANY VICTIM HERE EVER HEARD FROM KATHY CADY? OF COURSE NOT. HAS ANYBODY, ANY VICTIMS HERE HEARD FROM ANY VICTIMS PERSON IN THE D.A.'S OFFICE? OF COURSE NOT.

MR. BALIAN: SHE'S BEEN WALLED OFF THIS CASE, YOUR HONOR.

MR. GERAGOS: RIGHT. AND THEY DIDN'T REPLACE HER. YEAH. WALLED OFF. THEY WALLED HER OFF RIGHT AFTER HE TALKED TO HER, BEFORE HE TALKED TO ANYBODY ELSE IN THIS ROOM.

HE FIRST TALKED TO KATHY CADY. AND THEN WHAT DID HE DO? HE SAID, KATHY CADY, YOU KNOW WHAT? I MIGHT LIKE TO HIRE YOU.

I'M GOING TO TALK TO YOU FIRST ABOUT MILTON ANDERSON, WHO'S NO LONGER ALIVE. THE 1 VICTIM WHO OBJECTED.

EXHIBIT I

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Menendez brothers' family accuses DA of violating victim protection law after showing graphic photo in court

Story by Stepheny Price, Michael Ruiz • 6d • 6 min read

FOX News

Debate over potential re-sentencing for Menendez brothers is 'political,' trial attorney argues

Family members of Erik and Lyle Menendez have filed a complaint against the Los Angeles District Attorney's office, claiming it violated a victim's protection rights law after showing graphic crime scene images in court.

The Justice for Erik and Lyle Coalition, a family-led initiative advocating for the release of Erik and Lyle Menendez, announced that it has filed a formal complaint, accusing District Attorney Nathan Hochman's office of violating Marsy's Law, which provides rights to crime victims.

The family said the filing follows the DA's "unexpected and graphic display" of crime-scene photographs at an April 11 court hearing that led to the brothers' aunt, Terry Baralt, being hospitalized.

"We never imagined we would have to fight to be treated with respect and dignity. But last Friday, our entire family was once again blindsided," the family wrote in a statement.

The brothers have resentencing hearings scheduled for April 17 and 18 in the killings of their parents, Jose and Kitty Menendez, whom they gunned down in their Beverly Hills home in 1989.

Feedback

MENENDEZ BROTHERS' AUNT HOSPITALIZED AFTER DA SHARES GRAPHIC PHOTOS IN COURT: 'THERE WAS NO WARNING'

READ ON THE FOX NEWS APP

The Menendez brothers, left, and Los Angeles DA Nathan Hochman Getty Images
© Getty Images

The family's motion alleges that the district attorney's actions were "gratuitous and needlessly displayed" and served no legitimate purpose other than to "inflame emotions to achieve maximum 'shock' value."

"Without warning, the District Attorney's Office displayed gruesome, graphic photos of our loved ones' bodies. No heads-up, no compassion, no humanity. Our entire family was re-traumatized first by the graphic display and again, when Terry was hospitalized shortly after."

The motion also accused the district attorney's office of treating family members as "second-class victims" due to a policy disagreement between Hochman and the family.

MENENDEZ BROTHERS RESENTENCING IGNORES BRUTALITY OF KITTY'S EXECUTION, LAWYER SAYS: 'IT LOOKED LIKE A MOB HIT'

Read the complaint:

In a previous statement shared with Fox News Digital, Hochman's office said prosecutors did not intend to "cause distress or pain" to those in attendance at the hearing.

"To the extent that the photographic depiction of this conduct upset any of the Menendez family members present in court, we apologize for not giving prior warning that the conduct would be described in detail not only in words but also through a crime scene photo," Hochman's office wrote.

FOX News

Hearing for Menendez brothers could lead to future full re-sentencing

Hochman's office also explained that the Menendez brothers' decision to file a habeas petition in 2023 and a request for clemency and resentencing in 2024 was "certainly going to trigger emotions for all those concerned in a case after staying dormant for over 18 years."

"We never intend to cause distress or pain to individuals who attend a court hearing," Hochman's office said. "We understand the nature of the evidence of these heinous double murders was deeply emotional. However, by design, these hearings are intended to be a place where the truth, no matter how painful, is brought to light. That truth starts with the abject brutality and premeditation of the murders themselves."

The family added that Baralt remains in intensive care at a local hospital following the shock from Friday's hearing.

MENENDEZ BROTHERS RESENTENCING: WHAT HAPPENS NEXT?

Family and supporters of Erik and Lyle Menendez stand outside the courthouse after a hearing in the brothers' case Friday, April 11, 2025, in Los Angeles. AP Images
© Associated Press

"Marsy's Law is supposed to protect victims, ALL victims. Ironically, the person responsible for ensuring our rights are protected is the DA's victim's services coordinator," the family said. "Kathy Cady is the one responsible, however given her clear conflict of interest, the DA was supposed to appoint a non-biased coordinator for our family, which has yet to happen."

Cady, a longtime victims' rights lawyer and current director of victims' services, sued former LA District Attorney George Gascon multiple times for violating Marsy's Law.

She also previously represented the Menendez brothers' uncle, Milton Andersen, who was the only relative who vocally opposed their release until he died last month.

"It's Milton Andersen's continued belief that the claims of molestation were made up, and they were false, and he believes that the correct verdict was issued by the jury and the correct sentence was also committed," Cady previously told Fox News Digital.

"Kathy Cady, one of the foremost victim advocates in California, formerly represented one of the Menendez family members," Hochman's office said in a statement Tuesday. "In January 2025, Ms. Cady returned to the Los Angeles County District Attorney's Office as the Director of the Bureau of Victim Services.

"Once District Attorney Nathan Hochman assumed office on December 3, 2024, Ms. Cady has been walled off from any participation or contact with the Menendez case – through the present. Accordingly, Ms. Cady played no role at all in any of the Menendez family's allegations."

FOLLOW THE FOX TRUE CRIME TEAM ON X

An undated photo of the Menendez family as it appears on screen during a panel at CrimeCon 2024 in Nashville, Tennessee, on June 2, 2024. Brothers Lyle and Erik were convicted of fatally shooting both of their parents in 1989. Fox News
© Fox News

Andersen, through his attorney, had said he rejected the defense claims about child abuse and agreed with trial prosecutors, who showed the brothers went on a $700,000 spending spree in the wake of their parents' deaths.

The Menendez brothers and their supporters have been pushing for a resentencing hearing, saying the brothers were unfairly convicted to life in prison in 1996 for murdering their two parents, Jose and Kitty Menendez, in their Beverly Hills home in 1989.

SIGN UP TO GET TRUE CRIME NEWSLETTER

Lyle and Erik Menendez wear prison jumpsuits during their murder trial in Los Angeles. Getty Images

© Getty Images

Both Lyle and Erik Menendez have since come forward in documentaries and on social media claiming their father sexually abused them, offering a different narrative of the killings than the story their attorneys told in the 1990s.

Hochman previously told ABC News that he would consider resentencing if both brothers "sincerely and unequivocally admit, for the first time in over 30 years, the full range of their criminal activity and all the lies that they have told about it."

He said in a statement last week that the brothers "have chosen to stubbornly remain hunkered down in their over 30-year-old bunker of lies, deceit, and denials."

WATCH ON FOX NATION: MENENDEZ BROTHERS: VICTIMS OR VILLAINS?

Lyle, left, and Erik Menendez sit with defense attorney Leslie Abramson in Beverly Hills Municipal Court during a hearing, Nov. 26, 1990. AP Images
© AP Images

The district attorney wrote in his motion that he believes the Menendez brothers "have repeatedly lied about the case, their parents, and their interactions with witnesses."

Their first trial ended in a mistrial, when jurors couldn't agree on their fate. After a second trial in the mid-1990s, in which some of their evidence about the alleged sexual abuse was excluded, jurors agreed with prosecutors that their motive was greed.

If the judge decides to resentence the Menendez brothers, it will then be up to the state parole board to consider their release.

Because they were under 26 years old at the time of the murders, under current California law, new sentences of 50 years to life would immediately make them eligible for a parole hearing.

They are already scheduled to appear before the board on June 13 as part of a comprehensive risk assessment report ordered by California Gov. Gavin Newsom, who is considering the brothers' clemency request – a separate potential path out of prison.

'We lost José and Kitty, and we live with that grief every single day. But we also now know the years of suffering and trauma that Erik and Lyle went through that none of us fully understood at the time," the family explained. "That doesn't mean that we condone their behavior, it doesn't mean that Erik and Lyle don't live with regret

every single day, that they haven't apologized to all of us – having spent the last 35 years becoming better men worthy of a second chance at life. It also doesn't mean that we've stopped mourning. It means we've chosen to hold space for both loss and forgiveness.

"Life is not black and white. It is messy and painful and complicated. But believing in redemption doesn't mean we've stopped being victims. It doesn't mean we should be treated with contempt."

Original article source: Menendez brothers' family accuses DA of violating victim protection law after showing graphic photo in court

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Ky. juvenile detention staff let teens brawl in closet 'fight club,' state probe finds

Legal

L.A. County DA rejects bid to reduce Menendez brothers' life sentences

District Attorney Nathan Hochman called Lyle and Erik Menendez's self-defense claims false and insists they do not meet the standards for rehabilitation or resentencing

March 12, 2025 04:34 PM

A 1992 file photo shows double murder defendants Erik, right, and Lyle Menendez, left, during a court appearance in Los Angeles. (Mike Nelson/AFP/Getty Images/TNS)

MIKE NELSON/AFP/TNS

By James Queally, Hannah Fry and Richard Winton
Los Angeles Times

LOS ANGELES — Los Angeles County District Attorney Nathan Hochman announced Monday that he opposes resentencing **Lyle and Erik Menendez**, the brothers who have served three decades behind bars for the 1989 murders of their parents.

Former District Attorney George Gascón last year recommended to a Los Angeles County Superior Court judge that the court reconsider the brothers' prior sentences of life without the possibility of parole, instead giving them 50 years to life. The move could have made them eligible for parole as youthful offenders because they committed the crime when they were younger than 26.

Hochman filed a motion in Los Angeles Superior Court to rescind Gascón's request, presenting an analysis of the facts of the case that is far less favorable to the brothers and raises questions about the validity of their self-defense claims. The motion also lays out evidence of premeditation and the brothers' attempts to cover their tracks.

Hochman said during a news conference that the brothers lied to police immediately after the killings and crafted an alibi, even going as far as to say the slayings were Mafia hits.

"The Menendez brothers have continued to lie for over 30 years about their self-defense — that is, their purported actual fear that their mother and their father were going to kill them the night of the murders," Hochman wrote in the motion. "Also, over those 30 years, they have failed to accept responsibility for the vast number of lies they told in connection with that defense."

In the motion filed Monday, prosecutors argued that the brothers' taking ownership of their crimes would be "key to a resentencing analysis since it significantly helps determine whether an inmate poses an unreasonable risk of a danger to the community."

In 1989, the Menendez brothers bought a pair of shotguns with cash, walked into their Beverly Hills mansion and shot their parents, Jose and Kitty Menendez, while they watched a movie in the family living room. Prosecutors said Jose Menendez was struck five times, including in the kneecaps and the back of the head, and Kitty Menendez crawled on the floor wounded before the brothers reloaded and fired a fatal blast.

Trending

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Investigations
Ore. lawmakers urge FBI probe into 1989 prison chief killing
April 18, 2025 02:21 PM

The brothers were charged with murder after Erik, who was then 18, confessed to the killings to his therapist. During the trial, prosecutors argued the brothers killed their parents to gain access to their multimillion-dollar inheritance. But defense attorneys countered that years of violent sexual abuse by their father preceded the shootings, justifying the slayings as a form of self-defense.

After decades in prison, the brothers are pursuing several possible paths to freedom: clemency, resentencing and a **habeas corpus petition based on new evidence**.

The petition filed in Los Angeles County Superior Court in 2023 pointed to a 1988 letter sent from Erik Menendez to his cousin Andy Cano, saying he had been abused late into his teen years. It also mentioned allegations made by Roy Rosselló, a former member of the boy band Menudo, who said he had also been raped by Jose Menendez.

Hochman announced last month he **opposed granting the brothers a new trial**, saying the act of murder was the issue in the conviction -- not the sexual abuse allegations. The brothers would have had to have an imminent fear that their parents would kill them over the sexual abuse being reportad in order for the murders to be considered self-defense, he said.

During the Monday news conference, Hochman said if the brothers accept complete responsibility for their criminal actions, acknowledge that their parents weren't going to kill them the night of Aug. 20 and fess up to lies they told after the killings, his office would reconsider whether they should be released.

Until that happens, "they do not meet the standards for resentencing," Hochman said. "They do not meet the standards for rehabilitation."

A judge is expected to consider the brothers' resentencing request, but without support from Hochman the process may be challenging, legal experts say.

"Without the D.A.'s blessing, the Menendez brothers have an uphill battle," Louis Shapiro, a criminal defense attorney who has not represented the brothers, told the Los Angeles Times.

Still, the brothers have continued to pursue other avenues that could result in their release.

Last month, Gov. Gavin Newsom directed the state parole board to launch a risk assessment into whether the Menendez brothers would pose an unreasonable risk to the public if they were released, a first step in their bid for clemency.

If the brothers were to receive clemency and eventually have a parole hearing, Hochman said he would oppose their release.

The governor said he would make his decision on their clemency request after the board's investigation, which is expected within 90 days.

Those campaigning for Erik and Lyle's release said they were frustrated by Hochman's comments Monday, but remain optimistic about alternative ways to win their freedom.

"I am feeling a little bit deflated but also clear in the knowledge that this is not our only path," said Anamaria Baralt, a cousin of the siblings. "There is still a habeas and this is still within the hands of the governor. I don't know how much this truly impacts resentencing at all."

The killings and the brothers' highly publicized murder trials sparked documentaries, films and a recent Netflix series that has maintained public interest in the case even decades later. Conversations about how the sexual abuse claims were handled during the trials has prompted public pleas and enhanced legal efforts for the brothers' freedom.

The first trial ended with hung juries for each brother. In the second, allegations of abuse and supporting testimonies were restricted, and **Lyle and Erik Menendez were convicted of first-degree murder.**

The Justice for Erik and Lyle Coalition, a family-led initiative advocating for the brothers' release, said in a statement Monday that Erik and Lyle heve apologized for their actions, which were the result of sexual abuse by their father and their mother enabling the abuse.

Family members pointed to the brothers' work in rehabilitation programs in prison as proof of their atonement.

"District Attorney Hochman made it clear today he is holding Erik, Lyle, and our family hostage. He appears fixated on their trauma-driven response to the killings in 1989 with blinders on to the fact they were repeatedly abused, feared for their lives, and have atoned for their actions," the family said in a statement. "How many times do we have to hear the same attempts to bury who they are today and rip us back to that painful time?"

Hochman's relationship with the nearly two dozen Menendez family relatives who want the brothers freed from prison has seemingly cratered since he took office last year.

Last month, the family expressed concern when they learned Hochman had demoted and transferred the two attorneys who argued for the brothers to be resentenced under former Dist. Atty. Gascón. The lawyers, Nancy Theberge and Brock Lunsford, have filed a notice of claim, a precursor to a lawsuit, **alleging Hochman punished them because he disagrees with their position on the case.** While Hochman has declined to comment on the suit, he made clear Monday that he found their prior work on the case lacking.

"As you see by requesting to withdraw, we believe that (Lunsford) and Ms. Theberge did not focus on the key aspects of the determination of resentencing, so I brought in additional people to focus on that and do a full review on the Menendez case," he said.

Tamara Goodell, a cousin of the brothers who supports their release, last week lodged a complaint with the California Department of Corrections and Rehabilitation and the United States Attorney's Office, alleging that Hochman violated her rights as a victim under Marsy's Law. She accused Hochman of being biased against the brothers.

Goodell wrote that when 20 members of the brothers' family met with Hochman in January, the district attorney had a "hostile, dismissive and patronizing tone" that "created an intimidating and bullying atmosphere, leaving us, the victims, more distressed and feeling humiliated."

"Rather than focusing on the trauma and concerns expressed by the family, D.A. Hochman shifted the meeting's focus onto himself, making it a lecture on how he was being personally treated rather than an opportunity to hear and respect the voices of the victims. The lack of compassion was palpable, and the family left feeling not only ignored but further intimidated and revictimized," she wrote.

Baralt, who was present for the meeting, said Hochman's behavior was "so intense" that the brothers' defense attorney, Mark Geragos, had to intercede.

"His response to me was unbelievably aggressive. He was condescending, he accused me of obviously not listening to his interviews ... of course I've read every single word he's ever said about our family," she said. "It was unreal. I felt absolutely attacked in that room."

Attorneys representing the Menendez brothers did not respond to a request for comment Monday.

The letter emphasized concerns the family has with the involvement of Kathy Cady, the director of the Bureau of Victims' Services within the district attorney's office. Cady previously represented Milton Anderson, Kitty Menendez's brother, who opposed the brothers' possible release from prison. Anderson died this month, according to his new attorney, R.J. Drieling.

In the letter, Goodell requests Cady be barred from any participation in the case, Hochman be reprimanded and for the attorney general to take over the case to "ensure fairness and impartiality." Hochman has said Cady has been "walled off" from any involvement in a decision on the brothers' fate, and the section of the office she oversees has no hand in resentencing or postconviction matters.

It is not clear what, if any, effect Goodell's complaint could have on the case. Neither CDCR nor the U.S. Attorney's Office would have the authority to remove Hochman from the case. The family would have to file a disqualification motion with a judge, according to former federal prosecutor Laurie Levenson.

By meeting with the family, she said, Hochman complied with Marsy's Law, which effectively functions as California's bill of rights for crime victims. There is no part of the law that requires Hochman to be "enthusiastic" toward the family's wishes, Levenson said.

Hochman said Monday he was not biased against the brothers and had not violated Marsy's Law, echoing Levenson's point that he was under no obligation to meet with them.

"If they've characterized that meeting in whatever way they're going to say it, so be it," he said of the allegations he was aggressive.

Neama Rahmani, a former federal prosecutor, said while the letter provides fascinating insight into the meetings between the Menendez family and Hochman, the complaint is unlikely to spur any action by federal prosecutors.

"The feds aren't going to get involved in a state case to enforce a state law. And generally speaking, Marsy's Law allows victims to be heard, but there is no real enforcement mechanism," Rahmani said.

(Times staff writer Salvador Hernandez contributed to this report.)

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EXHIBIT K

Menendez brothers' cousin calls DA 'hostile,' 'patronizing,' asks for his removal from case

She said Hochman's conduct "eroded any remaining trust" in the DA's office.

By **Emily Shapiro**
March 10, 2025, 6:57 AM

Family of Menendez brothers take on new Los Angeles DA in new plea Some Menedez family members are accusing the Los Angeles District Attorney Nathan Hochman of being "hostile, dismissive and patronizing," in a new court letter amid the brothers' fight for freedom.

A cousin of Lyle and Erik Menendez is slamming Los Angeles County District Attorney Nathan Hochman, accusing him of being "hostile, dismissive and patronizing" to the family and asking for him to be removed from the case.

The cousin, Tamara Goodell, said Hochman's conduct "eroded any remaining trust" in the DA's office and she wants the case turned over to the attorney general's office.

During Hochman's Jan. 2 meeting with over 20 Menendez family members who want the brothers released, the relatives emotionally shared their "ongoing trauma and suffering," Goodell said in a letter last week to the U.S. Attorney's Office Civil Rights Division. But she said Hochman "proceeded to verbally and emotionally re-traumatize the family by shaming us for allegedly not listening to his public press briefings."

This combination of two booking photos provided by the California Department of Corrections shows Erik Menendez, left, and Lyle Menendez.

California Dept. of Corrections via AP

MORE: Menendez brothers' cousin 'gasped in relief' to learn Newsom is addressing clemency request →

Hochman's "hostile, dismissive, and patronizing tone created an intimidating and bullying atmosphere, leaving us, the victims, more distressed and feeling humiliated," she said.

Goodell alleged Hochman focused on how he was treated rather than the victims.

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"The lack of compassion was palpable, and the family left feeling not only ignored but further intimidated and revictimized," she said.

MORE: Menendez brothers: Newsom orders parole board to investigate whether they'd pose 'unreasonable risk' to public if released →

Goodell cited her rights as a victim under Marsy's Law -- California's bill of rights for victims -- specifically noting it states that a victim is entitled "to be treated with fairness and respect" and be "free from intimidation, harassment, and abuse."

One day after that initial meeting with Hochman, Goodell said she and her son met with Hochman, other prosecutors in the DA's office, the brothers' attorney and the family's attorney -- and she said she left that meeting feeling "disregarded and disrespected."

Goodell said when she raised concerns about the DA's office's impartiality, Hochman "became visibility agitated, dismissive and aggressive."

Los Angeles District Attorney Nathan Hochman speaks outside of the Hall of Justice in Los Angeles on December 3, 2024.

Frederic J. Brown/AFP via Getty Images

Goodell said her son witnessed the DA's "abusive, belittling, and unprofessional conduct, further compounding the emotional toll on our family."

Goodell also alleged that Hochman said the brothers' attorney "has represented 'horrible people." "This inappropriate remark reinforced his bias," Goodell said.

Besides asking for Hochman to be removed and the case turned over to the attorney general's office, Goodell said she wants Hochman "held accountable" for his behavior.

She said she also wants Kathleen Cady -- who was appointed by Hochman as director of the DA's Bureau of Victim Service -- removed from the case and "a new, unbiased" representative assigned to victim services.

MORE: Menendez brothers timeline: From the 1989 murders to their new fight for freedom →

Cady was formerly the attorney for Milton Anderson, the one Menendez relative pushing to keep the brothers in prison. Anderson died last week.

Goodell said that when she brought up her concerns about Cady in the second January meeting, "Hochman coldly dismissed me," and "interrupted me, speaking in a condescending and hostile manner."

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Hochman said in January that Cady is "walled off from the Menendez case."

The DA declined to comment on Goodell's letter.

The Menendez brothers are serving life in prison without the possibility of parole for the 1989 murders of their parents Jose and Kitty Menendez. Lyle and Erik Menendez, who were 21 and 18, respectively, at the time, admitted to the murders but claimed they acted in self-defense after enduring years of sexual abuse by their father.

Lyle, left, and Erik Menendez sit in Beverly Hills Municipal Court where their attorneys delayed making pleas on behalf of the brothers who are suspected in the murders of their parents on March 12, 1990.

Nick Ut/AP

The brothers are pursuing three possible paths to freedom.

One is a request for clemency to California Gov. Gavin Newsom. The governor announced in February that he's ordering the parole board to conduct a 90-day risk assessment investigation into whether the brothers pose "an unreasonable risk to the public" if they're granted clemency and released.

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Another path is a habeas corpus petition the brothers filed in 2023 for a review of two new pieces of evidence not presented at trial. Hochman in February asked the court to deny the habeas corpus petition, arguing the new evidence wasn't credible or admissible, and saying their claims of sexual assault do not justify killing their parents in self-defense.

The third is resentencing.

In October, then-LA County District Attorney George Gascón announced that he was recommending the brothers' sentence of life without the possibility of parole be removed, and they should instead be sentenced for murder, which would be a sentence of 50 years to life. Because both brothers were under 26 at the time of the crimes, they would be eligible for parole immediately with the new sentence.

The DA's office said its resentencing recommendations take into account many factors, including rehabilitation in prison and abuse or trauma that contributed to the crime. Gascón praised the work Lyle and Erik Menendez did behind bars to rehabilitate themselves and help other inmates.

Hochman, who became DA in December, is expected to release his position on resentencing imminently. He is holding a press conference at 10 a.m. local time Monday.

Tamara Goodell letter to DA Hochman by ABC News Editorial on Scribd

EXHIBIT L

SPECIAL DIRECTIVE 24-05

TO: ALL DEPUTY DISTRICT ATTORNEYS

FROM: NATHAN J. HOCHMAN
District Attorney

SUBJECT: RESTORATION AND UPDATE OF LEGAL POLICIES MANUAL

DATE: DECEMBER 3, 2024

The Los Angeles County District Attorney's Office Legal Policies Manual (LPM) in effect on December 6, 2020, is hereby restored, replacing and abrogating the LPM in effect through this date. An electronic version of the restored LPM is available on LADANet.

The restored LPM has been revised to reflect developments in the law between December 2020 and December 2024. The LPM will continue to be updated periodically as new policies are implemented, modifications are made to the organizational structure of the Office, and to reflect evolving changes in the law. Significant revisions to the LPM will be announced in forthcoming Special Directives.

Continuing familiarity with the policies set forth in the LPM, and close adherence to these policies, is critical to the mission of our Office: dedication to the fair and ethical pursuit of justice. Consistent with that overriding concern, if a deputy believes that application of a policy or directive included in the LPM would result in an injustice, the deputy is to inform a supervisor so the matter at issue can be reviewed.

njh

EXHIBIT M

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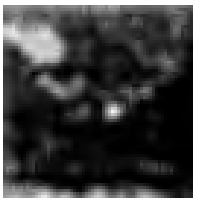
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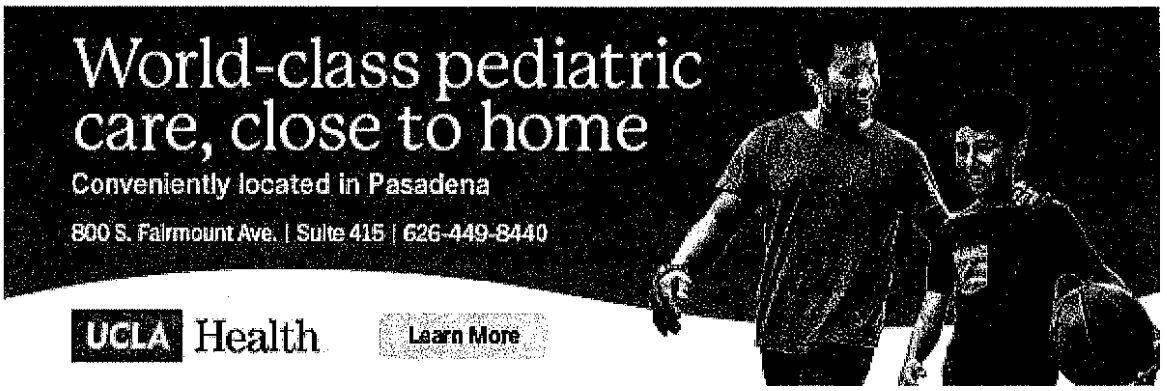


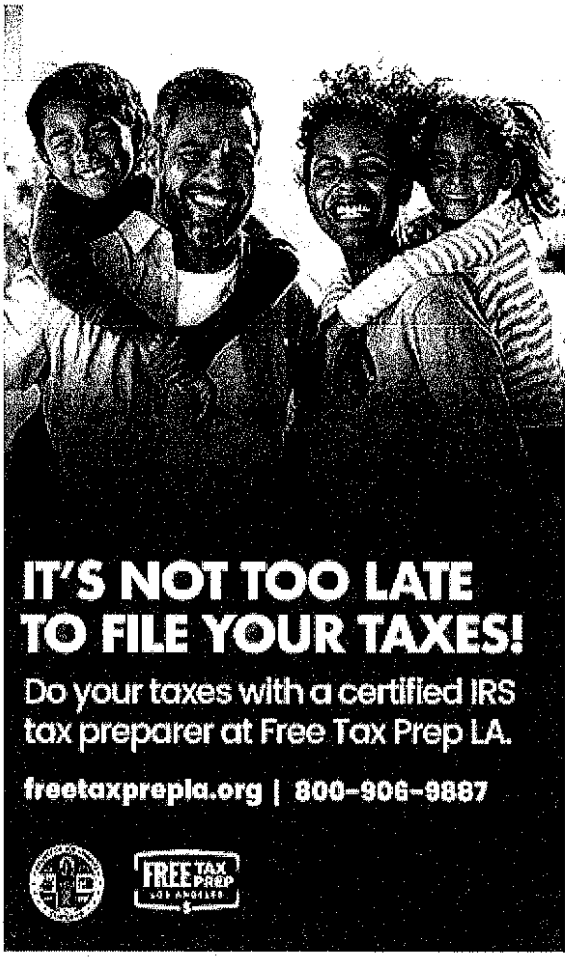
Guest Opinion | Kathleen Cady: George Gascon Must Be Fired for His Incompetence, Mismanagement, and Betrayal of Justice

Published on Monday, October 7, 2024 | 4:00 am

By Kathleen Cady

When violent crime strikes, victims need swift justice and meaningful support to begin their path to healing. Yet, for the past four years, George Gascon has done nothing but undermine the very foundation of justice in Los Angeles County. His policies have not only devastated victims but have shattered entire communities, leaving behind a wreckage that is both heartbreaking and inexcusable. Gascon has failed every day on the job, and the victims are paying the price.

While Gascon boasts that victim service representatives (advocates) in his Bureau of Victim Services (BVS) are ready to help, this couldn't be further from the truth. For more than 40 years, these advocates have been essential in guiding victims through the criminal justice system, offering them support and helping them heal. But no amount of resources or dedication from these tireless advocates can undo the damage inflicted by Gascon's reckless policies. Gascon's incompetence has only worsened the situation, leading to a tragic decline in available services for those who need it most.



[https://www.freetaxprepla.com/]

In the last year alone, due to Gascon's gross mismanagement, his office lost three vital grants, leading to the elimination of seven advocate positions. These advocates were responsible for assisting victims of human trafficking, gang violence, and elder abuse—those who are among the most vulnerable in our society. Gascon's policies prevent prosecutors from filing gang-related charges or seeking bail for human traffickers or elder abusers, and his incompetence has now gutted the very resources that could support these victims. Because of Gascon's failures, these victims face an uphill battle for justice and must do so with fewer resources and support than ever before.

And it gets worse.

The District Attorney's Office, under Gascon's leadership, controls an "Unclaimed Restitution Fund," intended to provide financial support to victims in desperate need. These funds could be used to pay for necessities like food and shelter for victims of violent crime or medical equipment for elder abuse victims. But instead of safeguarding these precious resources for those who truly need them, Gascon wanted to change the very definition of "victim" to include anyone he personally deems deserving—without any oversight or approval from the Board of Supervisors. Thankfully, this reckless plan was halted when the DA's office realized it could trigger yet another audit, but the fact that Gascon even considered it shows his utter disregard for the victims he's supposed to serve.

[https://www.goodenschool.org/admissions/apply.cfm]

It's no surprise that under Gascon's watch, the resources meant for victims are dwindling. There are fewer than 50 advocates in all of Los Angeles County to serve victims of violent crime—from murder and rape to human trafficking and elder abuse. Yet, despite this critical shortage, Gascon tried to implement a policy that would have diverted these advocates to assist families of individuals who died in confrontations with law enforcement or while in custody, people who are not victims in the traditional sense. One such case involved a man who was shot by police after refusing to drop his gun while threatening four innocent people. Another involved a person who died of cirrhosis while in custody. These are not the victims that the BVS was established to help. Gascon's insistence on treating them as such only further undermines the advocates' ability to support actual victims of crime.

The bottom line is clear: George Gascon abandoned the people he swore to protect. His mismanagement and incompetence have stripped away crucial resources, leaving victims with little support in their darkest hours. Gascon must be fired. The people of Los Angeles deserve a District Attorney who values justice, stands up for victims, and will restore safety and sanity to our communities. Nathan Hochman is the leader we need to bring that justice back. It's time for Gascon to go.

EXHIBIT N

Tamara E. Lucero Goodell
10186 Lynx Lane
Littleton, Colorado 80125
Telucero@aol.com
303.995.0834

March 6, 2025

United States Attorney's Office
Attn: Civil Rights Section, Civil Division 300
North Los Angeles Street, Suite 7516
Los Angeles, California 90012
USACAC.CV-CivilRights@usdoj.gov

Subject: Formal Complaint Regarding Violation of Victim's Rights in the Menendez Case Proceedings

Dear United States Attorney's Office, Civil Division,

Out of fear of retaliatory consequences, I have been refraining on filing any sort of communication regarding the disappointing and traumatizing treatment my family and I have received from the newest administration in the Los Angeles District Attorney's (LADA) office. However, after Nathan Hochman's most recent press conference, I am writing to formally lodge a complaint regarding violations of my rights as a victim under Marsy's Law, as codified in the California Constitution, Article I, Section 28, during the hearings related to the Menendez case. My family and I have been victimized twice—first by the horrific events involving Joseph Lyle Menendez and Erik Galen Menendez on August 20, 1989, and now by the treatment we have received throughout these proceedings. For the past 35 years, we have endured profound stress, anxiety, and depression while seeking justice, all while learning of the horrific emotional, physical, and sexual abuse—including childhood rape—that Lyle and Erik suffered at the hands of their parents.

LADA's Violation of Marsy's Law During the Larger Family Meeting on January 2, 2025.

During the joint session attended by 20+ family members and District Attorney (DA) Nathan Hochman, our rights as victims were blatantly violated. In a tear-filled meeting, numerous family members shared the ongoing trauma and suffering we have endured for more than 30 years. Instead of responding with compassion, acknowledgment, or support, DA Hochman proceeded to verbally and emotionally re-traumatize the family by shaming us for allegedly not listening to his public press briefings. His hostile, dismissive, and patronizing tone created an intimidating and bullying atmosphere, leaving us, the victims, more distressed and feeling humiliated.

Rather than focusing on the trauma and concerns expressed by the family, DA Hochman shifted the meeting's focus onto himself, making it a lecture on how he was being personally treated rather than an opportunity to hear and respect the voices of the victims. The lack of compassion was palpable, and the family left feeling not only ignored but further intimidated and revictimized.

As the LADA is aware, the California Constitution, Article I, Section 28(b) states:

In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights:
(1) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.

DA Hochman's dismissive, aggressive, and shaming behavior was a direct violation of these fundamental rights, further deepening the trauma my family has endured for decades.

LADA's Violation of Marsy's Law During a Small Group Conference on January 3, 2024

Immediately following the large family meeting with the LADA and team on January 3, 2024, I, along with my son Lucien Goodell, attended a private meeting with Mark Geragos, Bryan Freedman, Nathan Hochman, Steven Katz, Seth Carmack, and Ethan Millius. I left this meeting feeling completely disregarded and disrespected as a victim. My rights under Victim's Rights 1, 4, and 9 of Marsy's Law were once again blatantly violated, as outlined below:

1) Right to Justice and Due Process (Right 1): My right to be treated with fairness, dignity, and respect for my privacy and well-being was not upheld during this meeting.

- While I was attempting to raise concerns about the Los Angeles District Attorney's Office's ability to remain impartial, Mr. Hochman became visibly agitated, dismissive, and aggressive. When I brought up the potential conflict of interest regarding the appointment of Kathy Cady as Director of the Bureau of Victim's Services, he interrupted me, speaking in a condescending and hostile manner. Instead of addressing my legitimate concerns, Mr. Hochman aggressively pressed me, questioning what I knew about Kathy Cady's prior work.
- Mr. Hochman then accused me and my family of "lambasting" Kathy Cady in the media. When I clarified that I had not done so, he responded, "I may be looking at you, but my comments are directed at others in the room." His accusatory and hostile demeanor further reinforced his bias against my family and our legal representatives.
- At one point, Mr. Hochman even made an unprofessional and prejudicial statement, commenting that Mark Geragos has represented 'horrible people'. This inappropriate remark reinforced his bias and made it clear that he cannot act objectively in this case.
- Perhaps most disturbingly, my son was present during this entire exchange. He witnessed firsthand Mr. Hochman's abusive, belittling, and unprofessional conduct, further compounding the emotional toll on our family.
- When I expressed my deep discomfort with Kathy Cady's involvement, given her previous representation of Milton Andersen—the *only* family member opposed to resentencing for Erik and Lyle, Mr. Hochman coldly dismissed me, stating I was "welcome to refuse" the assistance provided by her office. He offered no alternative support, effectively denying my right to unbiased victim services.

2) Right to Prevent Disclosure of Confidential Records (Right 4): My right to prevent the disclosure of confidential records, communications, or privileged information was violated.

- Kathy Cady, the Director of the Bureau of Victim's Services, previously represented Milton Andersen, gaining access to confidential family information. Despite this clear conflict of interest, she was not removed from this case.

- On or around December 15, 2023, Mr. Hochman met privately with Kathy Cady and Milton Andersen—weeks before meeting with the 20+ family members who support resentencing. This compromised victim confidentiality and raises serious concerns regarding violations of privacy under Marsy's Law.

3) Right to a Speedy Trial and Prompt Conclusion of Proceedings (Right 9): My right to a speedy trial and prompt conclusion of proceedings has not been respected.

- Since October 2024, there have been three delays in judgment and proceedings. The original writ of Habeas Corpus was filed on May 3, 2023, yet my family continues to experience delay after delay. These continuous delays have inflicted severe emotional and psychological distress, prolonging the pain we have endured for 35 years.

Request for Action

Given the clear violations outlined above, I formally request the following actions:

1. Kathy Cady be permanently removed from any involvement in this case due to her conflict of interest.
2. A new, unbiased representative be assigned to handle victim services for my family.
3. Nathan Hochman be held accountable for his outrageous and abusive behavior, particularly his aggressive and dismissive conduct in front of my son.
4. Mr. Hochman be removed from this case, and the case be transferred to the Attorney General's Office to ensure fairness and impartiality.

Mr. Hochman's behavior during the January 3rd meeting and the larger family meeting was not only inappropriate but outright abusive. His conduct has caused significant emotional distress and eroded any remaining trust in the Los Angeles District Attorney's Office.

I expect this matter to be taken seriously and for immediate action to be taken to address these violations. Thank you for your time and attention to this urgent issue. Please feel free to contact me at **303.995.0834** or **Telucero@aol.com** should you require any additional information.

Respectfully,

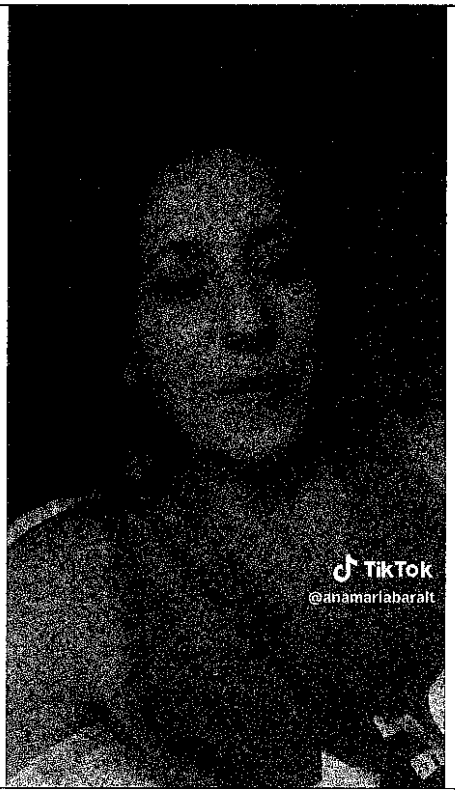
Tamara Lucero Goodell

EXHIBIT O

Post

Menendez Legacy | Fighting for Justice
@menendez50 ...

Anamaria shared an update on TikTok (@/anamariabaralt). While grateful for today's victory, she criticized the prosecution for repeatedly showing graphic crime scene photos, retraumatizing family members like Aunt Terry, who had never seen them. 💔#JusticeForErikAndLyle



8:53 PM · Apr 11, 2025 · **10.2K** Views

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EXHIBIT P

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Los Angeles MAGAZINE

Menendez Family Blasts LA DA After Brothers' Elderly Aunt Found Unresponsive & Hospitalized

Los Angeles County District Attorney Nathan Hochman was in the courtroom as his deputy repeatedly flashed a grisly crime scene photo of José and Kitty Menendez without warning, which was the first time cancer survivor Teresita Baralt, 85, had seen the carnage

MICHELE MCPHEE • APR 13, 2025

Teresita "Terry" Baralt, 85, leaves Los Angeles Superior Courthouse in Van Nuys Friday afternoon with her daughter Anamaria. The elder Baralt was found unresponsive Sunday and rushed to a hospital in Encino, which attorney Bryan Freedman, who represents the relatives fighting for the release of Lyle and Erik after they have served more than 35 years in prison, says was caused in part by her trauma at seeing grisly crime scene photos of her slain brother José and her best friend Kitty taken after the 1989 murders for the first time

Courtesy of Baralt family

A lawyer for the family of Lyle and Erik Menendez, who are scheduled for a resentencing hearing this week, plans to go after Los Angeles County District Attorney Nathan Hochman for violating victims' rights law after the brothers' elderly aunt was found unresponsive 30 hours after a deputy prosecutor flashed crime scene photos of her dead brother and best friend, which she had never seen.

Teresita "Terry" Baralt, an 85-year-old cancer survivor who has been pleading with the court to "show leniency" and release her nephews who have spent more than 35 years in prison for the sensational 1989 murders of their parents, was found unresponsive on Sunday. José Menendez was Teresita Baralt's older brother and his wife Kitty was her best friend. She has now been hospitalized in Los Angeles.

Her daughter Anamaria Baralt said it was the first time her mother had seen a photo of the bloody carnage, which she called an unnecessary move by the DA's office that only served to traumatize her family. "They kept putting it up. Putting it up. There was no reason for it," she said, adding that: "without warning they kept putting it up."

The photos were not shown during the Menendez brothers' prosecutions, two separate trials for Lyle and Erik in 1995 that ended with a hung jury, and then a retrial in 1996 that led to their conviction on first degree murder and the life sentences they continue to serve in a San Diego state prison.

Bryan Freedman, who represents the extended Menendez family, said he plans to pursue Hochman's office for violating Marsy's Law, which was created to support crime victims. His roughly two dozen clients in the Menendez family have been unyielding in their united argument that the killings of the music executive and his wife in Beverly Hills by the brothers were a trauma response to years of sexual and physical abuse by their parents and that they

have served their time.

"As counsel for the victim's family members, I was appalled that without so much as a warning to allow them the option to avoid further distress, the DA callously decided to re-traumatize the family by needlessly showing insensitive photos on screen in their court presentation," Freedman said in a statement to *Los Angeles*. "His despicable action was a clear violation of Marsy's law, which requires absolute empathy toward victims. The DA flashing of the crime scene photos is directly responsible for Aunt Terry being rushed to the ICU."

After Friday's hearing, during which Los Angeles County Superior Court Judge Michael Jesic rejected Hochman's request to withdraw a resentencing motion filed by the prior administration on behalf of Lyle and Erik Menendez, the family blasted his deputy district attorney Habib Balian for using the crime scene photo repeatedly in his argument that the brothers have no remorse.

At one point Balian also described the shooting in graphic detail, which brought Lyle Menendez - whose presence alongside Erik was broadcast via Webex from prison - to tears.

The brothers' attorney Mark Geragos called Balian's argument a "dog and pony show" that did not take into consideration the extensive rehabilitative work they have done in prison, which is what was argued in Hochman's predecessor George Gascón's argument filed before losing his seat in last year's election. In it he argued that they should be "eligible for immediate parole." [Geragos is the co-owner of Engine Vision Media, the parent company for *Los Angeles*.]

Teresita "Terry" Baralt, whose nephew Lyle lived with her in New Jersey while attending Princeton, is fighting for her life. She has steadfastly fought for her nephews' freedom telling the court the Menendez brothers were abused

Courtesy of Baralt family

Gascón held a press conference at his DTLA office in late October - days after meeting dozens of members of the Menendez family who have spent 35 years fighting for their release - to say that he believes they were sexually brutalized by their father, music mogul José Menendez. Their mother Kitty, the brothers' and family members testified, knew about the abuse and did nothing. "People get desperate," Gascón said of the brothers. "I came to a place where I believe that under the law, resentencing is appropriate...I believe they have paid their debt to society."

The Court will proceed with a resentencing hearing on April 17 and 18 at the Van Nuys Courthouse as Baralt's family and their attorney continue to pray for her recovery at an ICU in Encino. "She did not deserve this," Freedman said. "Shame on those who knowingly engaged in this egregious conduct."

Hochman's office addressed the family's allegation in a statement released Sunday evening. "To the extent that the photographic depiction of [the murder] upset any of the Menendez family members present in court, we apologize for not giving prior warning that the conduct would be described in detail not only in words but also through a crime scene photo," the statement sent to *Los Angeles* read.

Hochman's office also pointed to public documents that say describe in graphic detail "vicious, premeditated conduct of the Menendez brothers." The same crime scene photo was used in a recent Netflix documentary about the case, Hochman's office said.

After the hearing Friday, Hochman issued a statement saying the Menendez brothers should remain in prison. "These murders were calculated, premeditated, cold-blooded killings. Our position remains clear: Until the Menendez brothers finally come clean with all their lies of self-defense and suborning and attempting to suborn perjury, they are not rehabilitated and pose an unreasonable risk of danger to public safety."

Geragos called that statement an outrageous mischaracterization of the men the brothers have become in prison, where corrections officials maintain they have been stellar examples of what it means to change in arduous circumstances. In his office's statement released Sunday night, Hochman repeated a brutal description of how Jose and Kitty Menendez died, and warned that this week's resentencing hearing will likely "trigger emotions for all those concerned" in the case.

EXHIBIT Q

Our Story

Justice for Murdered Children (JFMC) was established in 1996 by LaWanda Hawkins. LaWanda's profound motivation came from the tragic loss of her own son, Reginald, who was murdered in December 1995. The pain of her personal experience led her to create JFMC with the assistance of attorney Frank, a colleague from Century City, California. LaWanda, along with fellow parents in South Central Los Angeles who had also lost children to murder, recognized the unsettling reality that their cases were often going unresolved and their voices were marginalized within the criminal justice system. United by a shared desire for change, they founded JFMC to fill this void and bring support, justice, and a sense of community to families facing the aftermath of such profound loss.

Through collaborative efforts and dedication, JFMC has evolved into a beacon of hope, advocacy, and empowerment for families impacted by murder. Our mission is to assist, empower, and educate families, bridge the gaps in the criminal justice system, advocate for victims' rights, and work towards a future with reduced violence and enhanced support for affected communities.

This founding story exemplifies the resilience and determination that drive JFMC's commitment to making a positive impact in the lives of those who have suffered unimaginable losses due to murder.

Justice For Murdered Children

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LaWanda Hawkins's Post

Justice For Murdered Children
LaWanda Hawkins · Admin · January 13 ·

This is one of my Best Friends Kathy Cady she has helped and supported so many murdered victim's family and now she needs our support. Let's get out and show our support to one of the Biggest Advocates for Crime victims. Kathy's home was destroyed in the fire

"Thank you for your concern for the Cady-Pomroy family, John, Kathy, Brandon and Mary. Our family home in Altadena, like so many others, was destroyed in the Eaton Canyon Fire on January 8, 2025. The loss of our home, family heirlooms, and pictures is devastating. We have a long road ahead to rebuild our home and our lives. We welcome prayers during this difficult time. If you would like to donate to help us in this journey, you can Zelle cash to John Pomroy at 909 268 0875 or Kathy Cady at 626 644 8696 or Venmo @Kathy-Cady-6. Thank you, John, Kathy, Brandon and Mary."

19 2 shares

Like Comment Send Share

EXHIBIT R

DECLARATION OF ANAMARIA BARALT

I, Anamaria Baralt, declare:

1) Jose and Kitty Menendez were my aunt and uncle. My mother is Teresita Baralt who was Uncle Jose's older sister. I have become a defacto spokesperson, and organizer, of our family in connection with the potential resentencing of my cousins Erik and Lyle.

2) On October 16, 2024, I was with a group of family members that met with representatives of the District Attorney's office. There were number of members from the District Attorney's Department of Victim services. Celia Zamora was one; she introduced herself to us and urged any of us to reach out with any questions. She made clear that Victim Services was there to support us in a wide-ranging capacity, from answering questions to facilitating resources for travel. We were told that Victim Services would be available to us during any proceedings.

3) On October 24, 2024, the District Attorney held a press conference to announce he would be seeking resentencing in the case. I was once again with a number of family members who attended the press conference. Once again we were assisted by victim services representatives, including Ms. Zamora, both before and after the actual press conference. They answered our questions and made sure we were comfortable, in some cases as simple as bringing us water as we were very

nervous.

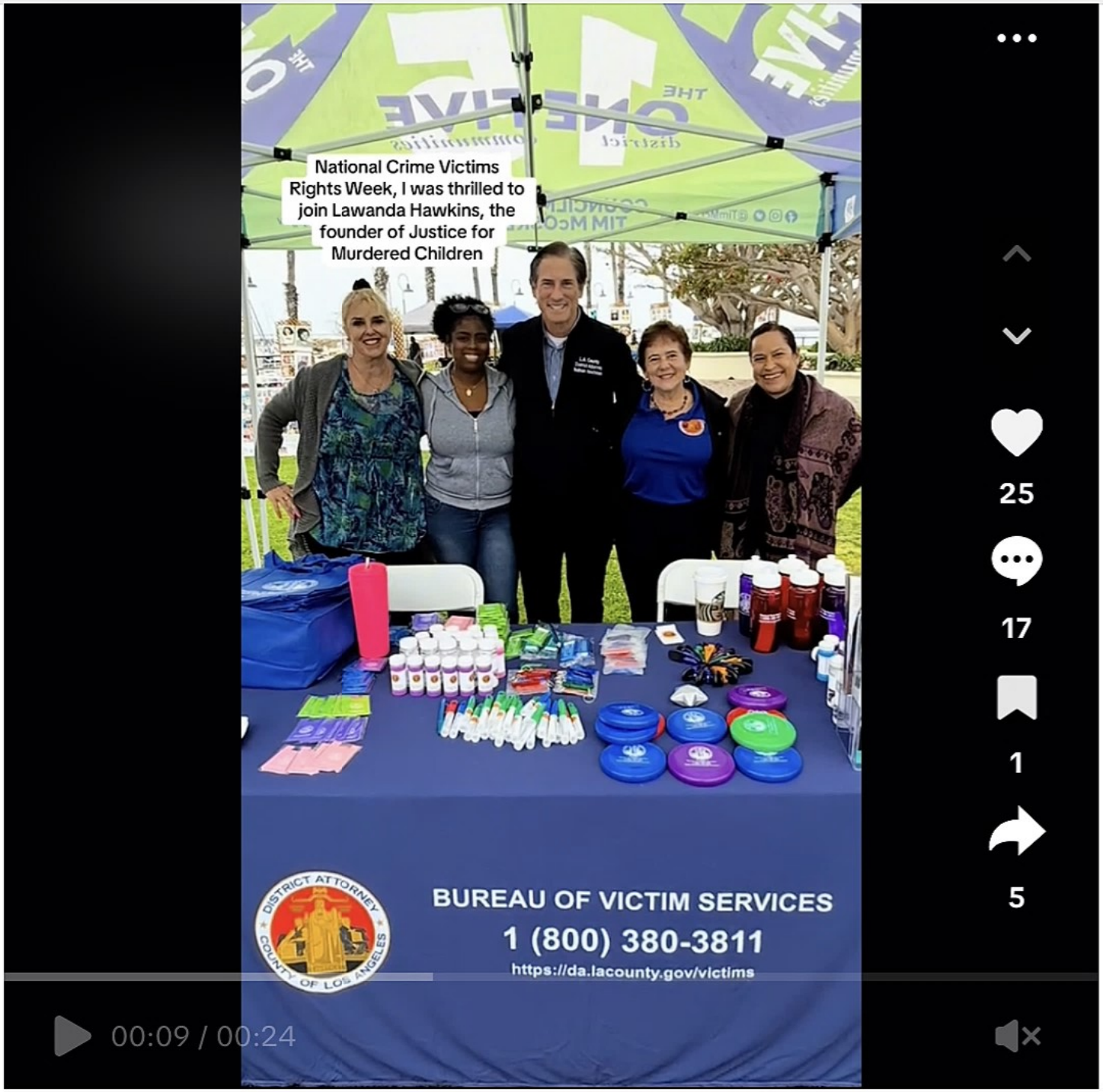
4) On January 3, 2025, after the November election I was with a group of family members that met with the newly elected District Attorney, along with several other lawyers from his office. No victim services representative met us and no-one from victim services offered us any assistance or support.

5) There were court hearings in the case on April 11 and April 17. I was with a number of family members that attended these hearings. Once again, no one from victim services was there to support or assist us, and no-one from victim services ever alerted us to the hearings, or to the fact that the prosecution had moved for a continuance on April 16.

I declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief. Executed this 24th day of April, 2025 in Lake Tapps, Washington.

Anamaria Baralt

EXHIBIT S



nathanhochmanfoda

nathanhochmanda · 4-13

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EXHIBIT T

LaWanda Hawkins

Photos

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LaWanda Hawkins is with **Bobbie Ramirez** and **36 others**.

April 10 at 12:20 AM ·

🎤💙 JUSTICE FOR MURDERED CHILDREN - GUEST SPEAKER LINEUP 💙🎤

Join us this Sunday, April 13th from 11:00 AM–5 PM at the Plaza Cabrillo Marina, 2965 Via Cabrillo Marina, San Pedro, CA 90731 for our Love Hug Music Festival, as we stand united during National Crime Victims' Rights Week 2025!

This year's theme is:
"Kinship, Connection, and Healing" — and that's exactly what this day is all about. 🫶

We are honored to welcome a powerful lineup of guest speakers who are standing with victims and their families, and fighting for justice:

- State Senator Laura Richardson
- State Assemblymember Mike Gipson
- LA County District Attorney Nathan Hochman
- LA City Attorney Hydee Feldstein Soto
- LA City Councilmember Tim McOsker
- LAPD Deputy Chief Emada Tingirides
- LAPD Deputy Chief Ruby Flores
- Ana Estevez – Advocate and Mother, Founder of Piqui's Law

✨ Whether you've had a loved one murdered, support a survivor, or

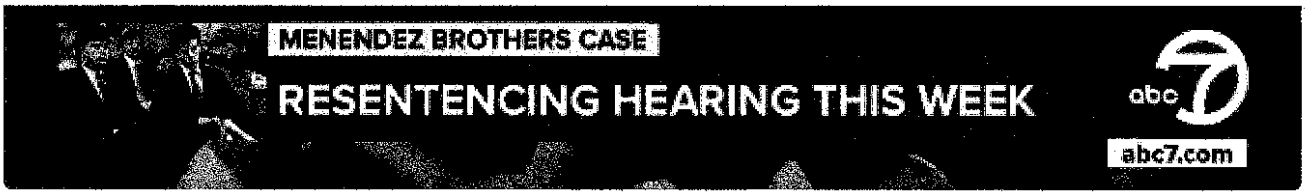
EXHIBIT U

SOCIETY

Crime victim advocacy groups gather in San Pedro to condemn Menendez brothers' resentencing

By Elena Gomez
Sunday, April 13, 2025

24/7 Live 57°



It's a crucial week for the Menendez brothers in their bid to be released from prison after decades behind bars. Their resentencing hearing is just days away, but some say they shouldn't even get this opportunity.

SAN PEDRO, LOS ANGELES (KABC) -- It's a crucial week for the Menendez brothers in their bid to be released from prison after decades behind bars. Their resentencing hearing is just days away, but some say they shouldn't even get this opportunity.

Erik and Lyle Menendez are currently serving life in prison for the 1989 murders of their parents inside their Beverly Hills mansion. Their resentencing hearing is moving forward despite a strong objection from the Los Angeles County District Attorney and is set for Thursday and Friday.

The Menendez brothers have a lot of support, including from many of their family members. However, not everyone believes their bid for freedom serves justice. Crime victim advocacy groups and families of murdered victims gathered Sunday to honor their loved ones and continue their fight for them at the "Love Hug Music Festival" at the Plaza Cabrillo Marina in San Pedro.

Some of the participants used the time to share how the resentencing of the Menendez brothers would undermine justice for crime victims.

"It is the worst thing that could happen to crime victims. We thought we were OK. In some of these cases, people have 25 years to life. And then to find out that doesn't stand for anything now under the new law, that you could be brought back in within 5 to 10 years. Then what's the sense of being a juror, you know, you're wasting your time, because we're making these decisions

based on these cases and then you get legislation to come in and say 'hey I'm throwing it out. I don't care what y'all said," explained Lawanda Hawkins, from Justice For Murdered Children and co-signer of Marsy's Law.

Hawkins said Marsy's Law was created to protect crime victims, not murderers, and shared her frustration that the law is being used in the Menendez brothers' case.

L.A. County District Attorney Nathan Hochman spoke at Sunday's event, but he didn't mention the Menendez case. Instead, he shared how he views one of the roles of the criminal justice system as being a champion for victims and fighting for justice.

The group Justice for Murdered Children is asking the district attorney to stand firm against the resentencing of the Menendez brothers.

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EXHIBIT V

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Attorney for victims Felicia Andrews, Daniel Souvinette and Kevin Brown, Parents of Uniek Atkins and Sierra Brown

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

People of the State of California vs. DONATO CRUIKSHANK, A Minor.	Case No.: YJ39858 **VICTIM'S REQUEST TO DISQUALIFY THE DISTRICT ATTORNEY'S OFFICE** **DATE: 2/24/2021** **TIME: 8:30 am** **DEPT: Inglewood Juvenile**

To the Honorable Judge Christopher Smith:

"The primary duty of the prosecutor is to seek justice within the bounds of the law . . . The prosecutor should avoid an appearance of impropriety in performing the prosecution function."

American Bar Association
Standard 3-1.2 Functions and Duties of the Prosecutor

POINTS, AUTHORITIES AND ARGUMENT

The victims respectfully submit the following points and authorities in support of a Court Order to disqualify the District Attorney.

APPLICABLE LEGAL STANDARD

Crime victims in the State of California are supposed to be protected by specific enumerated rights contained within the California Constitution. These rights encompass the expectation that people who commit felonious acts causing injury to innocent victims will be appropriately and thoroughly investigated, brought before the courts, and tried in a timely manner. Victims also have the specific right to expect elected officials to act in good faith, and they are dependent on officials to properly and ethically perform their duties. "California's victims of crime are largely dependent upon the proper functioning of government, upon the criminal justice system and upon the expeditious enforcement of the rights of victims of crime described herein, in order to protect the public safety and to secure justice when the public safety has been compromised by criminal activity." California Constitution Article I, Section (a)(2).

Victims have a right to justice and due process. California Constitution Article I, Section 28(b). They also have a right to be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process. California Constitution Article I, Section 28(b)(1).

Felicia Andrews, Daniel Souvinette and Kevin Brown are victims in this case. "[A] 'victim' is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or **delinquent act**. The term 'victim' also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful

representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated." California Constitution Article I, Section 28(e).

Importantly, the California Constitution recognizes that these are personally held and enforceable rights. Article 1 Secion 28(c)(1) additionally states: "A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the rights enumerated in subdivision (b) in any trial or appellate court. Article 1, Section 28 (a)(4) states:

> "The rights of victims also include broader shared collective rights that are held in common with all of the People of the State of California and that are enforceable through the enactment of laws and through good-faith efforts and actions of California's elected, appointed, and publicly employed officials. These rights encompass the expectation shared with all of the people of California that persons who commit felonious acts causing injury to innocent victims will be appropriately and thoroughly investigated, appropriately detained in custody, brought before the courts of California even if arrested outside the State, tried by the courts in a timely manner, sentenced, and sufficiently punished so that the public safety is protected and encouraged as a goal of highest importance."

We respectfully submit that a crime victim's Constitutional capacity to enforce his or her enumerated rights should, in extreme cases, include a mechanism to move the Court to remove a prosecuting agency which has flagrantly violated those rights. We do not advocate this in every case, and fully agree with the reasoning contained in the authorities below that this should be an exceedingly rare exercise. From the Victims' perspective, however, Mr. Gascon's sustained efforts, both surreptitiously and overtly, have undermined his prosecutorial responsibilities to seek justice and to avoid the appearance of impropriety.

As the Court is well aware, the traditional method for challenging a District Attorney's continued participation in a criminal prosecution is through invocation by the defendant of Penal Code section 1424. This section, and the cases which interpret it, set an appropriately high bar for recusal. It is only in rare cases, involving actual unfairness that manifests in an ongoing and grave conflict, that recusal is merited. We submit that we meet and surpass that standard here. The

interesting aspect of the present case is the shocking level of unfairness on the part of the prosecutor is not directed towards the charged defendants as contemplated by 1424, but rather towards the victims and towards the law-abiding community that has an interest in its laws being evenhandedly enforced.

"Historically, courts have recognized their power to recuse in order both to assure fairness to the accused and to sustain public confidence in the integrity and impartiality of the criminal justice system." People v. Conner (1983) 34 Cal.3d 141 at 146 citing People v. Rhodes (1974) 12 Cal.3d 180, 185. A conflict of interest disqualifies a District Attorney from prosecuting a case if the conflict either affects or appears to affect his ability to faithfully perform the discretionary function of his office. Conner, supra, at p. 147. A "conflict" exists whenever the circumstances of a case evidence a reasonable possibility that the District Attorney's Office may not exercise its discretionary function in an evenhanded manner. Id. at p. 148.

"The first, best, and most effective shield against injustice for . . . society in general, must be found not in the persons of defense counsel, trial judge, or appellate jurist, *but in the integrity of the prosecutor.*" People v. Dekraai (2016) 5 Cal. App. 5th 1110 at 1116 citing Corrigan, *On Prosecutorial Ethics* (1986) 13 Hastings Const. L.Q. 537 (italics added.) No one factor will compel disqualification of a prosecutor in all cases; rather, the entire complex of facts must be reviewed to determine whether the conflict of interest exists. Hambarian v. Superior Court (2002) 27 Cal.4th 826.

As discussed above, recusal of a District Attorney's Office is generally governed by Penal Code section 1424, which contemplates conflicts of interest affecting fairness to a criminal defendant. Interestingly, both section 1424, and the *Connor* decision predate the enactment of the Victims Rights and Protection Act of 2008 otherwise known as Marsy's Law as set forth in the

California Constitution Article I, Section 28. We respectfully submit that the goals and reasoning of these authorities should logically extend to the victims of violent crime. If a District Attorney suffers from a conflict, so extreme that they manifest a fundamental inability to be fair to a defendant, or a victim, the District Attorney should be disqualified.

In People v. Dekraai (supra), the Court discussed removal of the District Attorney's Office under Penal Code section 1424.

> [R]ecusal of an entire prosecutorial office is a serious step, imposing a substantial burden on the People, and the Legislature and courts may reasonably insist upon a showing that such a step is necessary to assure a fair trial. . . If a defendant seeks to recuse an entire office, the record must demonstrate 'that the conduct of any deputy district attorney assigned to the case, or of the office as a whole, would likely be influenced by the personal interest of the district attorney or an employee. (citations omitted)
>
> People v. Dekraai at p. 1139.

In this case, DA Gascon has ordered that all Deputy District Attorneys must follow his blanket policy. The Youth Justice Policy does not allow any exceptions and further does not provide for any discretion in how juveniles are treated based on an independent evaluation of each individual case. Because of his mandatory policies which govern each Deputy District Attorney, and order them to withdraw each and every Motion to Transfer without exception, we submit that this is such an extreme case as to merit disqualification, and are hereby moving, under the rights enumerated in the California Constitution, to disqualify and remove the entire District Attorney Office from prosecuting this case.[1]

---

[1] We do not in any way mean to suggest that the Deputy District Attorneys who have handled this case so far, specifically Courtney Dyer and R.J. Dreiling, have been anything but dedicated and professional. Their conduct has been beyond reproach and, but for, the mandates of DA Gascon which they are obligated to follow, we would never ask the court to disqualify them from prosecuting this case.

THE VICTIMS AND THE PEOPLE CAN HAVE NO CONFIDENCE IN THE INTEGRITY AND IMPARTIALITY OF THE DISTRICT ATTORNEY

On December 7, 2020 Los Angeles County District Attorney Gascon was sworn into office as the Los Angeles County District Attorney. On the date, and literally the time, of his swearing in, he issued 61 pages of unintelligible sweeping policy directives http://da.lacounty.gov/policies some of which have now been determined to be unlawful.[2]

Although DA Gascon had access to experts in gang crime, sex crime, major narcotic crime, cyber crime, asset forfeiture, juvenile, mental health, victims of crime, Brady compliance, ethics, conviction review, re-sentencing of violent offenders, and Habeas practice, he did not consult any of them in developing sweeping policies that literally gut the criminal justice system in Los Angeles County and decimate victims' rights. Instead, he enlisted criminal defense attorneys, even those with pending cases whose criminal clients directly benefitted from directives they wrote for him. One of those policies was the "Youth Justice" policy which states:

> **The office will immediately END the practice of sending youth to the adult court system. All pending motions to transfer youth to adult court jurisdiction shall be withdrawn at the soonest available court date, including agreeing to defense counsel's request to advance.**
>
> . . .
>
> **Filings will consist of the lowest potential code section that corresponds to the alleged conduct and mandate one count per incident.**

---

[2] On February 8, 2021, the Honorable Judge James Chalfant granted a preliminary injunction enjoining DA Gascon from requiring deputy district attorneys to ask for courts to take action in criminal cases without a lawful basis. Judge Chalfant wrote, "The District Attorney's disregard of the Three Strikes "plead and prove" requirement is unlawful, as is requiring deputy district attorneys to seek dismissal of pending sentencing enhancements without a lawful basis." https://www.laadda.com/wp-content/uploads/2021/02/20STCP04250-Gascon-prelim-inj.pdf One of the main concerns that Judge Chalfant raised was the blanket nature of any policy which does not allow for prosecutorial discretion which considers an individualized review and analysis of each case.

There are no listed exceptions to this blanket policy. This policy violates victims' rights because it mandates that prosecutors make motions at the next court appearance with no regard for notifying victims, allowing them an opportunity to confer, or safeguarding their right to attend and be heard at the court proceeding.[3]

One of the defense attorneys that the District Attorney enlisted was and is Alisa Blair. **Ms. Blair's last official day with the Los Angeles County Public Defender's Office was January 29, 2021.** Her last assignment in the Public Defender's Office was Inglewood Adult which is housed in the same office as Inglewood Juvenile, the same office that is currently representing Minor Cruikshank.

On January 15, 2021, the Los Angeles County District Attorney's Office issued a General Office Memorandum (GOM) 21-05 announcing Executive Staff Assignments "Alisa Blair is serving as a Special Advisor to the District Attorney. In this role, Ms. Blair will advise the District Attorney on juvenile, diversion, collaborative courts, and all related matters. Ms. Blair comes to the District Attorney's Office from the Office of the Public Defender. She brings 18 years of criminal justice experience in capacities including adult and juvenile trial work, new lawyer training, law clerk recruitment, and juvenile unit supervisor. Ms. Blair is published on issues of race, juvenile interrogations, and cash bail and frequently speaks on adolescent brain development and the impact of trauma on youth development."

Ms. Blair is not a sworn Deputy District Attorney who is familiar with the ethical obligations of prosecutors.

---

[3] The differences between the juvenile court and sentence in adult court are monumental. Whether the minor is prosecuted in juvenile or adult court has a direct correlation to the sentence that the minor will receive. If the disposition is in juvenile court, he can only remain in custody until he is 25 years old. Whether the minor is prosecuted in juvenile or adult court also affects the victims' right to restitution. Because of this, any court hearing on whether there will be a fitness hearing is a hearing at which the right of a victim is at issue.

Ms. Blair has a history which raises serious concerns about not just the appearance of, but actual impropriety.

Ms. Blair herself has recognized the importance of the appearance of impropriety in public service. In fact, Ms. Blair criticized the Board of Supervisors for their decision to appoint Nicole Davis Tinkham as the 2018 interim Public Defender because of Ms. Tinkham's prior work as a County Counsel defending members of the Sheriff's Department. The 2/12/2018 San Diego Union Valley Tribune reported, "Alisa Blair, the deputy in charge of the public defender's unit at Los Padrinos Juvenile Courthouse, said she was concerned Tinkham's history with the Sheriff's Department would damage her ability to build trust with her clients. 'They're going to say, you're representing the body that mistreats us in the jails, that polices our neighborhoods unnecessarily,'" said Blair, a 15-year veteran of the office.
https://www.sandiegouniontribune.com/news/california/la-me-ln-public-defenders-rally-20180212-story.html

On January 17, 2020, during his campaign, Gascon announced a public policy committee which included "Alisa Blair is a native Angelino and has been an attorney with the Los Angeles County Public Defender's Office since 2003. During that time Ms. Blair has been lead trial counsel in over 50 jury trials for charges ranging from resisting arrest to first degree murder, as well as a supervisor in the office's juvenile division. Until December of 2019, Alisa Blair most recently handled juvenile "transfer" cases, where the District Attorney is seeking to transfer minors to adult court. In 2018, Alisa was successful in keeping two juvenile clients under juvenile court jurisdiction after contested hearings. Both minors were charged with violent murders. These successes were instrumental in Ms. Blair being the 2018 recipient of the Judi Schecter Juvenile Lawyer of the Year award." https://georgegascon.org/campaign-news/team-gascon-announces-public-policy-committee/

On July 20, 2020, Voyage LA reported Ms. Blair's comments: "Society has become far too comfortable seeing Black folks in chains." "I represent the accused and defend the constitution. I am a check in a racist system. I am most proud of advocating fiercely for my clients and being able to restore their sense of dignity and make clear their humanity."

http://voyagela.com/interview/meet-alisa-blair-los-angeles-county-public-defender-work-inglewood-courthouse/

On August 10, 2020, During LA County Public Defender's first Open House Deputy Public Defender Alisa Blair gave the community a "reality check." When she has cases in which the only alleged crime is resisting arrest, she knows that often her client was simply trying assert his or her rights. "The assumption is that you should have done something where an arrest was warranted and then you resisted it," she said. "But a lot of times it's just because you're asserting your rights. So it does break my heart to say these are your rights but don't say anything. Be quiet don't assert them. But the reality is you want to come home." https://pubdef.lacounty.gov/know-your-rights-more-complicated-than-it-appears/

George Floyd was killed on May 25, 2020 in Minneapolis, Minnesota, while in police custody. There were protests in Los Angeles County in response to Mr. Floyd's murder. Some of those protests turned violent and included arson. On August 25, 2020, Alisa Blair tweeted #GeorgeFloydProtest "Burn that Shit down." https://www.foxla.com/news/la-district-attorney-lacey-slams-controversial-tweets-allegedly-from-gascons-public-policy-committee

Ms. Blair has met with a number of murder victims' families in juvenile cases with the families pro bono attorneys providing Marsy's Law representation to victims in response to Gascon's policies. Some of the Zoom calls and emails regarding these meetings took place while she was still employed with the Public Defender's Office. In these zoom calls, Ms. Blair has

asserted that she wrote most of the Youth Policy. **This is the same Youth Justice policy which was issued on December 8, 2020 when she was still a Deputy Public Defender.** The import of this lack of impartiality cannot be overstated. Ms. Blair wrote the policy which governs the entire District Attorney's Office handling of juvenile cases while still employed by the Office that represented this minor. **She was employed by the Public Defender's Office who is ethically bound to zealously represent every client, working in the same office that was and currently is representing this Minor.**

She has also confirmed that she, in her role as Special Advisor to the District Attorney, not a sworn Deputy District Attorney representing the People of the State of California, is the person who decides whether a juvenile case qualifies for exception to the Youth Justice Policy. She, who is not a Deputy District Attorney and would not be permitted to represent the People of the State of California in court, is the person who decides whether a case warrants an exception to the policy she penned while a Deputy Public Defender.

How can the victims and the public have confidence that the policy authored by Ms. Blair is being implemented fairly; with the respect and concern for victims' rights; and with the public safety of the People of the State of California, and not just to benefit juveniles charged with committing crimes, in this case Minor Cruikshank.

The victims and their attorney met with DA Gascon and his acting Chief Deputy on January 4, 2021. During the call, they were asked about the policy which mandated only one count per incident and which daughter's murder they would pursue, and which daughter's murder they would dismiss. Both Gascon and his acting Chief Deputy looked perplexed and said that the policy didn't say only one count per incident, indicating that both of them were unfamiliar with what is actually included in the policy issued on December 7.

Neither Gascon nor his Chief Deputy would discuss his policy or whether he would make an exception to the blanket policy precluding transfer to adult court in this case. Iniguez told Ms. Cady that the meeting was not the appropriate format for such questions and said that he would contact Ms. Cady "off line" to answer those questions. On January 5, 2021, Victims' Rights Attorney Kathy Cady sent the following email:

> Mr. Gascon:
>
> I am following up after our meeting yesterday with Felicia Andrews, Daniel Souvinette and Kevin Brown.
>
> The family was somewhat taken aback that you would not answer questions about the case, your policy, and their request that you make an exception given the calculated premeditation, planning, and cover up by the man who murdered their daughters. The victims have Constitutional right to "confer" with you. The plain meaning, and indeed definition, of "confer" is "to consult or discuss something together; compare ideas or opinions." Yesterday was the appropriate format to discuss the case with you, not to hear that you are "sorry for their loss." Your agreement to listen to them but refuse to answer questions does not begin to honor their right to confer with you about the case and charges against the man who murdered their daughters.
>
> Please advise when the family can expect to ***actually confer*** with you and learn personally from you how you have considered their remarks and wishes and your final decision on justice for their daughters.

Neither the victims nor the victim' attorney have received any communication from DA Gascon answering the victims' questions or offering to confer as promised. Instead, last week the victims were informed that an exception would not be made to the policy. We were also informed that Ms. Blair was involved in that decision.

Alisa Blair is a former colleague with actual Deputy Public Defender who is now representing defendant Cruikshank.

All of the above illustrates a shocking departure from a prosecutor's sacrosanct obligation to ethically defend victims of violent crime. The impropriety of Mr. Gascon's actions, therefore,

cannot be overstated. We have a sitting District Attorney who actively colluded with an employee of the Public Defender's Office to write and now implement policy which undermines the efficacy of prosecutions a serious and violent felonies committed by juveniles.

CONCLUSION

We respectfully submit that the duty of a prosecutor to protect the rights of victims in juvenile cases is one of the utmost importance. The opportunity to fairly and ethically champion these rights, under challenging circumstances, is at the very essence of being a true prosecutor. This solemn obligation, we submit, is simply not an option to be disregarded at the whim of political convenience. Victims have a right to have a sworn prosecutor exercise discretion in their cases. They have right to know that the person who is making decisions about their case be dedicated to justice and safeguarding their Constitutional Rights. For all of the above stated reasons, we ask this Court to disqualify the District Attorney's Office and allow for a competent and professional review by another prosecutorial agency.

Respectfully submitted this 24th day of February, 2021.

Kathleen Cady, Attorney for Felicia Andrews,
Daniel Souvinette and Kevin Brown

EXHIBIT W

I am pleased to introduce the revised County of Los Angeles District Attorney's Legal Policies Manual. Revisions to this manual were necessary to ensure that the latest policies were available to guide you on the successful prosecution of cases.

As this manual is both important and informative, please take time to review and understand how its contents impacts your daily caseload and how crucial decisions for handling cases should be made in this office.

Because the law is not static and policies are updated regularly, this manual is a "living" document that will be periodically modified. In addition, it is being maintained in a digital format to ensure that when you consult it, the most updated version is available.

As the office's mission statement reminds us, we are "dedicated to the fair and ethical pursuit of justice." A commitment to being familiar with the policies contained within this manual is essential to fulfilling that mission.

Special thanks to the Legal Policies Manual Working Group and, in particular, to Director Kellyjean Chun, who led the arduous effort to update the LPM, and to Deputy District Attorney Alva Lin, who assisted her.

Jackie Lacey
District Attorney

CHAPTER 24

VICTIM-WITNESS RELATIONS

24.01 COMMUNICATION WITH VICTIMS AND WITNESSES

All witnesses are entitled to be treated with dignity, respect, courtesy and sensitivity. Navigating through the complicated maze of the criminal justice system and the courthouse environment may be confusing for civilian witnesses. Deputies shall be sensitive to the concerns of victims and their families in all cases. Deputies shall be especially sensitive to the emotional needs and problems of families of homicide victims, as well as sex crimes and domestic violence victims. Keeping victims or their next of kin informed of case developments and addressing their concerns is paramount. The experience of being a witness and all that it entails is a challenging one under the best of circumstances. Victim's rights shall be honored and protected by prosecutors in a manner no less vigorous than the protections afforded to criminal defendants. (PC § 679.)

Deputies should refer victims to the Bureau of Victim Services (BVS) for available services. BVS offices are located at the Foltz Criminal Justice Center and various locations throughout the county. A victim services representative (VSR) should be notified immediately upon the filing of all murder cases and other sensitive cases such as those involving sexual assaults, domestic violence, gang violence, hate crimes, and crimes involving elderly or very young victims.

Proposition 9, otherwise known as "Marsy's Law," amended Article I, § 28, of the California Constitution, enumerating crime victims' rights. The safety and security of all Californians, including victims, is a top priority for the Office.

24.02 COMMUNICATING RIGHTS AND OBLIGATIONS

Clear and consistent lines of communication must be established with victims.

24.02.01 MARSY'S LAW VICTIM NOTIFICATIONS

It is the policy of this Office that **all** victims who have suffered direct or threatened physical or financial harm shall be notified of their Marsy's Law rights in **all felony, misdemeanor and juvenile filings.** (See LPM § 2.13)

24.02.02 OFFICE PERSONNEL RESPONSIBILITIES

For responsibilities of employees at time of filing see Legal Policies Manual § 2.13.

Victim Services Representatives (VSR): In offices that have a full-time VSR, the VSR is responsible for forwarding all Victims' Rights Request forms received via FAX and U.S. mail to the assigned deputy.

Restitution Enhancement Program Paralegals: Restitution Enhancement Program Paralegals are placed in offices throughout the County. Program paralegals will assist deputies with any type of restitution problem regardless of whether the case is a felony or a misdemeanor. Program paralegals will assist by contacting victims to obtain loss documents; by obtaining statements of loss through the use of the Victim Restitution Request Form (already in use) in the instance where the victim has not provided that form; and, by providing general assistance with regard to any restitution issue. Program Paralegals will also assist deputies when monetary assistance has been provided to the victim through the Victims Compensation Board and the Board is seeking to recover monies from the defendant following conviction.

Assigned Deputy: The assigned deputy is responsible to advise the court when a victim has requested (1) to have "my safety" and the safety of "my family" considered in setting bail for the defendant; (2) to be present at the proceedings; (3) to be heard at the proceedings; (4) to make a statement to be considered at the time of sentencing; or (5) restitution. In cases in which the victim is requesting restitution, the assigned deputy shall determine whether assistance is needed by the Restitution Enhancement Program (REP) and may refer the case to a Restitution Paralegal for the purpose of determining the amount of restitution; gathering proof of loss documents; and, contacting the victim regarding restitution related issues.

All employees: In the event a victim or next of kin contacts the local District Attorney's Office, the employee who spoke with the victim shall:

(1) ensure that the pertinent parts of the conversation are recorded in the District Attorney (DA) file. This can be accomplished by either writing directly in the Notes section in the DA file, or by electing to use the Marsy's Law Victim Intake Form and providing the completed form to the assigned deputy to place in Section A6 of the DA file;

(2) update PIMS to enter the victim in PIMS when the victim is requesting notification of upcoming court dates or disposition; and

(3) prominently mark the outside of the DA file with a "Marsy's Law" stamp.

Each step is critical to ensure that successively assigned prosecutors are knowledgeable about any specific requests with respect to victims' exercise of their rights.

Probation/Mandatory Supervision Violations, Parole Hearings, Certificates of Rehabilitation/Pardon and other Post Conviction Hearings (Prop 47 resentencing, Prop 36 resentencing, GOM 15-107 Early Parole, Writs, etc.)

Victims, *upon request*, have a right to reasonable notice, and to be present and heard at all public proceedings involving a post-arrest release decision, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue. (Cal. Const. Art. I, §§ 28(b)(7), (8) and (12).)

When a victim has requested his or her Marsy's Law rights, and the defendant subsequently violates probation, mandatory supervision or there is a public proceeding in which a right of the

victim is at issue, every reasonable effort must be made to notify the victim of the hearing to allow the victim an opportunity to be present and be heard. It is the responsibility of the assigned deputy to check the DA file and/or PIMS to determine whether a victim has requested this notification and then provide notification of the hearing or proceeding.

24.02.03 VICTIM'S RIGHT TO BE REASONABLY PROTECTED

Victims have a Constitutional Right to be reasonably protected from the defendant and persons acting on the defendant's behalf, and to have their safety and the safety of their family considered in setting bail and release conditions. (Cal. Const. Art. I §§ 28(b)(2) and (3).) All employees are reminded that "[t]horough and timely communication between all members of the prosecution team is essential in the pursuit of justice in all cases. It is vital that open and active lines of communication exist between law enforcement, Victim Services Representatives (VSRs), support staff and attorney staff. While this is particularly true in VIP category cases, it is an important aspect in every case we prosecute." (LPM § 11.20) It is essential that any employee who learns that a victim or witness is expressing fear or has personal safety concerns immediately notify the assigned deputy in writing with a summary of the conversation and copy the prosecutor's supervisor, Head Deputy, and/or Deputy-in-Charge. In the event the victim's safety concern is communicated to a filing or handling deputy, appropriate notations shall be made to the file along with any protective measures taken or suggested. The employee may elect to use the Victim's Exercise of Marsy's Law Rights Intake Form and give the completed form to the assigned deputy to be placed in the file in lieu of making notations directly in the file.

24.02.04 VICTIMS' RIGHT TO RESPECT FOR PRIVACY AND DIGNITY

Victims have a right "to be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process." (Cal. Const. Art. I § 28(b)(1).)

District Attorney personnel should be mindful of a victim's right to respect for their privacy and dignity at all stages of the criminal justice process. This includes the decision to maintain the anonymity of the victim's name in court proceedings and on any document submitted to the court.

The deputy upon request of the victim, may enforce a victim's constitutional rights when they are not inconsistent with our mission or the law. (Cal. Const. Art. I § 28(c).)

District Attorney personnel should take protective measures to prevent the insensitive handling, dissemination, and retention of victims' private documents, photos, and personal mementos. It is our responsibility that when victims and witnesses participate in the criminal justice system they are not caused undue emotional trauma, harassment or embarrassment. Examples include the disclosure of confidential information or the unnecessary dissemination of distressing photos or physical evidence. With the advent of the internet, posted information can never truly be recalled or retracted. When disclosure of confidential information is necessary, it is our responsibility to ensure that the information is sufficiently protected with appropriate Protective Orders.

Protection of Sensitive Documentary Records

Prosecution of criminal cases may involve documentary records that are sensitive in nature that victims may want protected. Examples of sensitive information are medical records, photos of victims' injuries (including sexual assault photos), psychological records, financial information, and other sensitive records. When these types of records are entered into evidence they are *presumed* to be open unless confidentiality is required by law. California Rules of Court § 2.550(c).

When feasible, the victim should be contacted and advised before sensitive documents are made public in court; and before such documents subpoenaed to the court by the defense, are reviewed *in camera* or opened in court. As prosecutors, we can only act on the request of a victim in this regard to the extent that we can maintain our ethical obligations and prosecutorial independence and discretion. If the prosecution's interests are different from or are otherwise in conflict with the victim's privacy interests, the victim may wish to retain a private attorney to represent their interests in the matter to prevent the disclosure of his/her otherwise confidential or personal information. Ultimately, when the victim's right to privacy conflicts with the People's or defendant's right to due process and fair administration of justice, best practice is to request an *in camera* hearing for the court to decide whether disclosure is required; and if so, the protective measures to be ordered to minimize the damage to the victim's right to privacy.

There are specific methods a prosecutor can use to protect sensitive documentary information such as photos which depict injuries, photos of genital or other private areas, medical records, financial records, employment or school records, psychological records, or cell phone records from public disclosure. Images of child pornography may only be disclosed pursuant to the provisions set forth in Penal Code § 1054.10. The following is a description of methods that can be employed to protect a victim's right to respect for their privacy both during and after the prosecution of a criminal matter:

- Protective Orders. When considering whether medical records (including genital photos) should be disclosed, the court must "weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services". If the court allows disclosure of the medical information, disclosure and dissemination shall be limited by a court order to "assure that no information will be unnecessarily disclosed and that dissemination will be no wider than necessary." (PC § 1543.) A Protective Order can be used during the pendency of the case and following its close to ensure that defense attorneys do not disclose medical records.

- Sealing records pursuant to California Rules of Court §§ 2.550 and 2.551. California Rules of Court § 2.550 (d-e) states that: "The court may order that a record be filed under seal only if it expressly finds facts that establish: (1) There exists an overriding interest that overcomes the right of public access to the record; (2) The overriding interest supports sealing the record; (3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; (4) The proposed sealing is narrowly tailored; and (5) No less restrictive means exist to achieve the overriding interest. The rule further requires that: An order sealing the record must (i) specifically set forth the

facts that support the findings and (ii) direct the sealing of only those documents and pages, or if reasonably practicable, portions of those documents and pages, that contain the material that needs to be placed under seal. All other portions of each document or page must be included in the public file." (*NBC Subsidiary Inc. v. Superior Court* (1999) 20 Cal.4th 1178 [Rules related to the sealing of records apply to both civil and criminal courts.] Courts must find an "overriding interest" that supports the sealing of records in order to overcome the 1st Amendment right of access to court files and evidence. California Rules of Court § 2.551 sets forth the procedure for sealing records. These rules do not apply to discovery motions and records filed or lodged in connection with discovery motions or proceedings. Prosecutors should remember that unless confidentiality is otherwise required, the records are presumed open.

Victim's Right to Privacy and Dignity: Anonymity

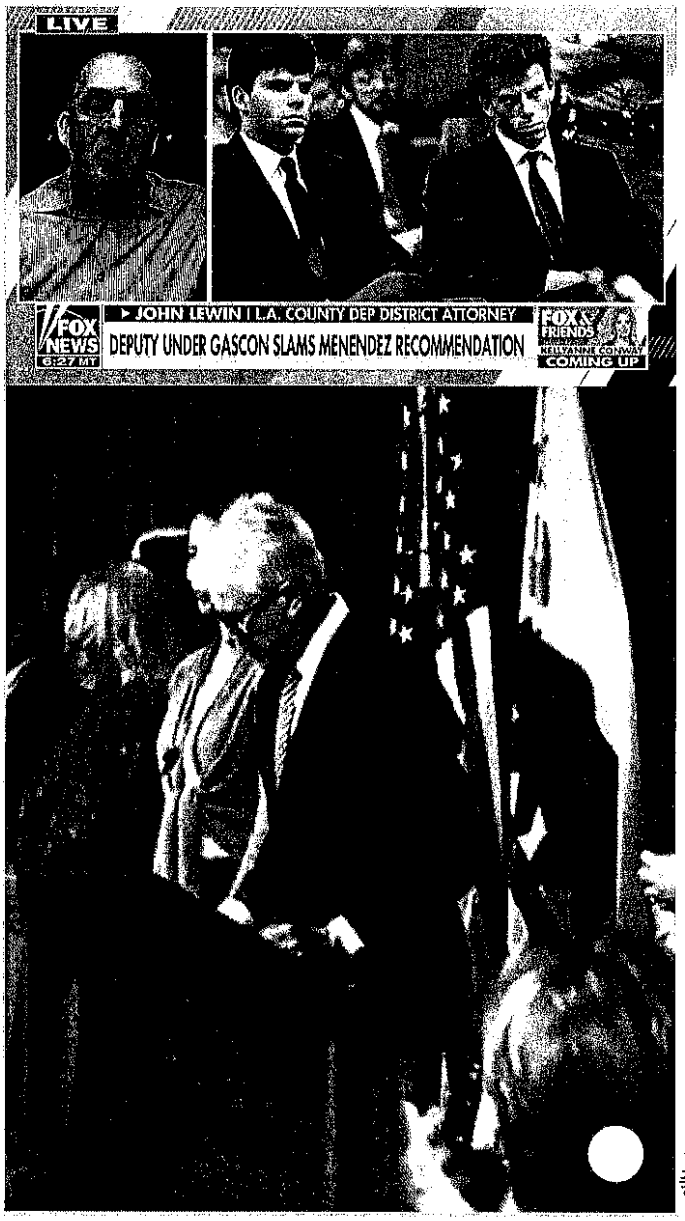
Several statutes protect victims of domestic violence, sexual assault, trafficking, stalking, child abuse and hate crimes and provide that they may request that their names be withheld or de-identified through redaction of the last name under certain circumstances as provided for by statute. (PC §§ 293, 293.5, and Gov. Code § 6254(f)(2).) However, these laws do not change criminal discovery obligations imposed under Penal Code § 1054.1. Penal Code § 1054.1(a) requires the provision of "...names and addresses of all persons the prosecution intends to call as witnesses at trial." Law enforcement must affirmatively inform victims of sexual assault or trafficking that their name will become public record unless they request that it not become public record and that this notification be included in the police report. (PC § 293.)

Victims in cases other than those listed above may also wish to remain anonymous. As an example, the Crime Victims' Rights Act, 18 U.S.C. 3771(a)(8), provides Federal crime victims with the right "to be treated with fairness and with respect for the victims' dignity and privacy." In United States v Belfort, 2014 US. Dist. Lexis 80117, 2014 WL 2612508, (E.D.N.Y. June 11, 2014), the court found that victims can suffer embarrassment at being identified as a victim of fraud and that victims may receive unwelcome media contacts or be targeted for victimization by scam artists. As a result, the court withheld victims' identifying information to protect their privacy rights.

Victim's Right to Respect and Dignity: General

Victims, witnesses, experts and law enforcement personnel are often brought into District Attorney Offices for interviews, while waiting to go to court or in preparation for testimony. The environment that victims see when coming to a District Attorney Office must also reflect respect for their privacy and dignity as human beings. Evidence from cases, especially gruesome crime scene photos or photos of victims should not be displayed on walls or left openly displayed for anyone to view. Such pictures or other "evidence" out in the public view may cause the victim or witness discomfort or give the impression that our office does not safeguard all victim's right to privacy.

EXHIBIT X



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Original audio

foxnews 'NO SENSE': LA Deputy District Attorney John Lewin slams District Attorney George Gascon's recommendation to have the Menendez brothers re-sentenced three decades after their initial trial in a move that could pave the path to their freedom. His full remarks are the at the link in bio.
25주

krystal4758 Life with NO parole
25주 답글 달기

deinawaggonersenik premeditated murder is life without parole in my opinion

좋아요 3598개
2024년 10월 25일

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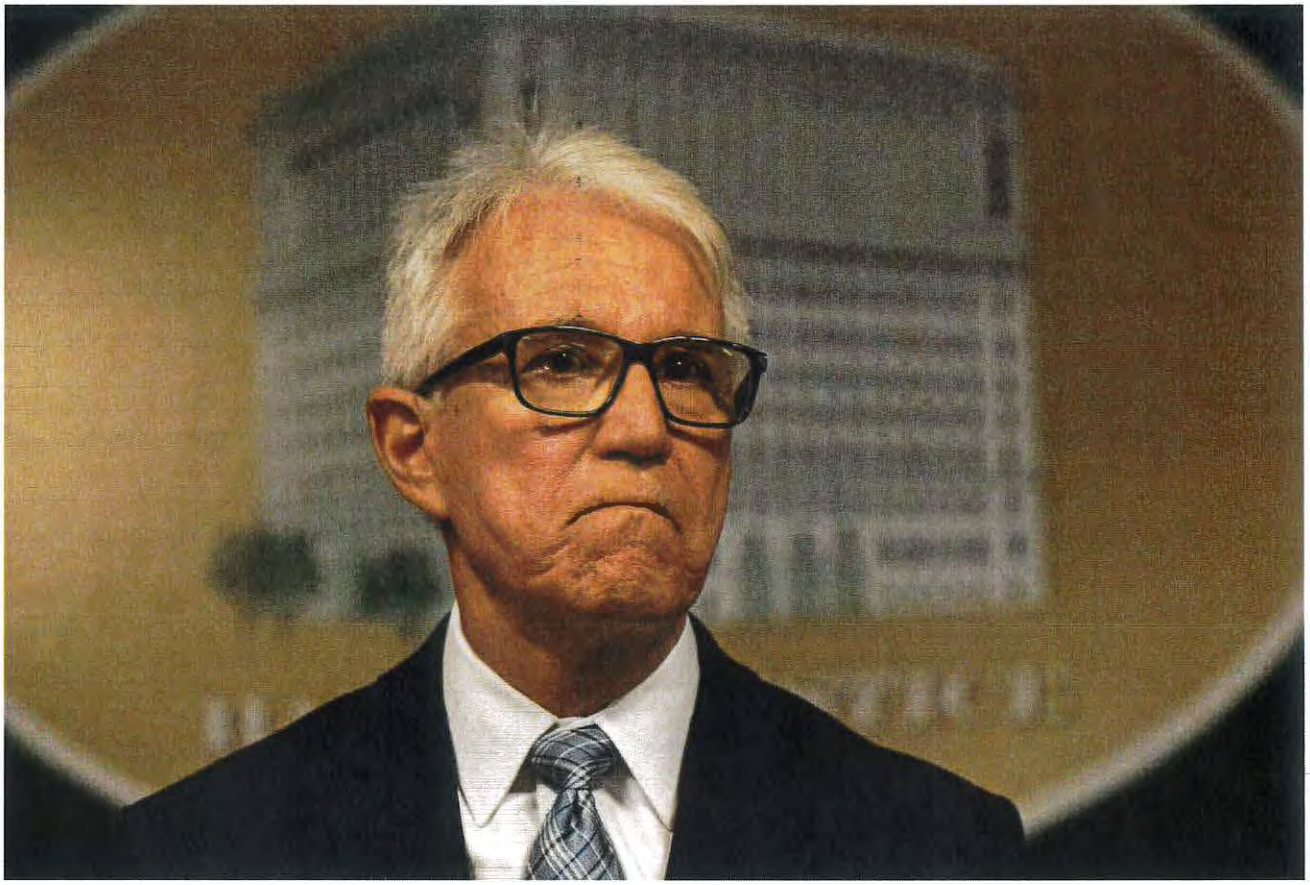
foxnews님의 게시물 더 보기

Deputy DA Says George Gascón's Menendez Resentencing Decision Is Just A Political Ploy

DW dailywire.com/news/deputy-da-says-george-gascons-menendez-resentencing-decision-is-just-a-political-ploy



THE DAILY WIRE

— News —

Deputy DA John Lewin called the recommendation a "publicity stunt."

By Amanda Harding

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Oct 25, 2024 DailyWire.com

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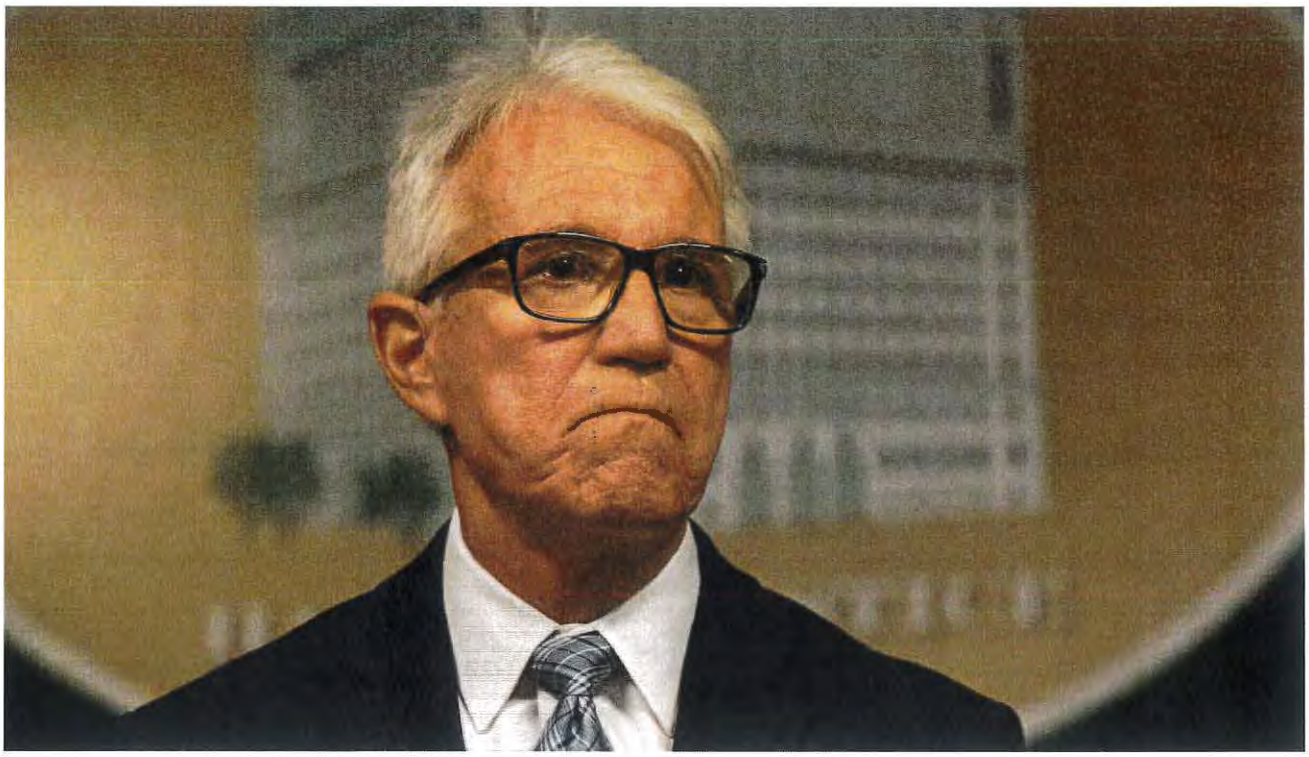

Sarah Reingewirtz, Los Angeles Daily News/SCNG

Los Angeles District Attorney George Gascón is recommending that Erik and Lyle Menendez be resentenced for the first-degree murders of their parents in 1989. One of his colleagues says this is nothing but a political stunt.

Gascón made his recommendation on Thursday after weeks of speculation that it was coming. While the final decision on the Menendez brothers' fate will come from a judge, the DA's recommendation will be considered in the ruling.

Erik and Lyle were originally sentenced to life without parole. But the case has been in the news again following the release of popular documentaries, including a season of Netflix's "Monsters" in September. Supporters of the Menendez brothers argue that the murders of their parents were justified because they claimed their father sexually abused them.

"I believe they have paid their debt to society," Gascón said of the Menendez brothers during a news conference on Thursday.

However, Los Angeles County Deputy District Attorney John Lewin says Gascón is only focused on this case to draw attention away from the negative publicity he's gotten recently.

"George Gascón is in the process of suffering the worst and most humiliating defeat by an elected district attorney in probably the history of the United States," Lewin told Fox & Friends host Ainsley Earhardt. "He is down 30 points. He has no money. And because of that, what he's had to do is to try and generate as much publicity as he can."

Lewin goes on to explain how the day before Gascón announced he was going to have another look at the Menendez case, there was a story in the LA Times discussing how he had refused to prosecute a juvenile double murder suspect, who subsequently went on to murder again.

The deputy DA also mentioned that even if the Menendez brothers were sexually abused by their father as they claimed, it wouldn't be justification for murder.

MATT WALSH'S 'AM I RACIST?' COMING TO DAILYWIRE+ OCT. 28

"They executed their parents. Basically blew them apart with shotguns … they ended up spending a bunch of money, and they opened the safe the next morning because they were very worried that there was a will."

Lewin called the resentencing recommendation a "publicity stunt."

"George Gascón has 15,000 unfiled cases, including a bunch of sex cases, that he's not paying attention to at all because they don't generate publicity. This is a publicity stunt designed to basically bait and switch the electorate."

The next court date for the Menendez brothers is slated for November 26.

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Intro

Lives in **Rancho Palos Verdes, California**

Photos

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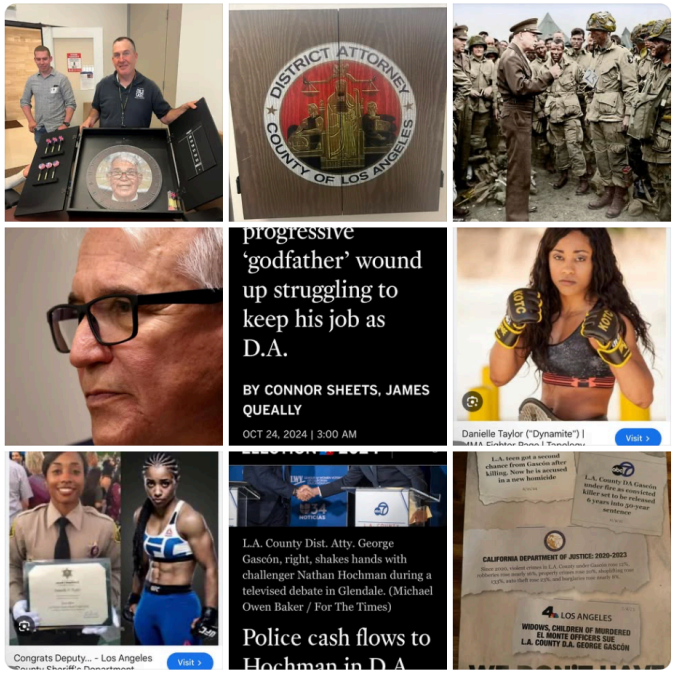

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John Lewin
December 19, 2024 ·

I am thrilled to announce that as of December 9th I am back in my old assignment doing "cold" cases out of our office's Major Crimes Division.

It is so nice to be back and to see almost all traces of disgraced, incompetent, corrupt and now ex-LA County DA George Gascon and his ex-public defender filled administration, erased from the premises! From his grinning photo which the egomaniac plastered everywhere, to his derelict and illegal policies, it's almost as if he was never here in the first place. Unfortunately, the condition of our office, including the loss of approximately 25% of our lawyers, as well as the horrendous damage he has done to the criminal justice system will take years to fix.

That all being said, I'm reminded of the TV show Dallas where years ago Patrick Duffy, the actor who played "Bobby Ewing," got in a contract dispute with the producers, and as a result, they killed him off. The season that followed was a disaster and they eventually came to terms with Duffy, but what could they do, his character had been killed off?

in the last scene of that terrible law season, Bobby was seen getting out of the shower and walking back toward his wife. That's how they ended it.

The beginning of the next season, they explained that everything that it happened in the prior season had basically been a dream of Bobby's wife, Victoria Principal, who had imagined the whole thing. The entire last season had been a figment of her imagination.

Such are the parallels for us in the LA County DAs office, although the nightmare lasted four years, and the death and destruction, the dozen of murders that resolved from GasGone!'s incompetent and legal policies, are tragically all too real. The families of murdered El Monte Police Officers Paredes and Santana, will never awake from their nightmare!!

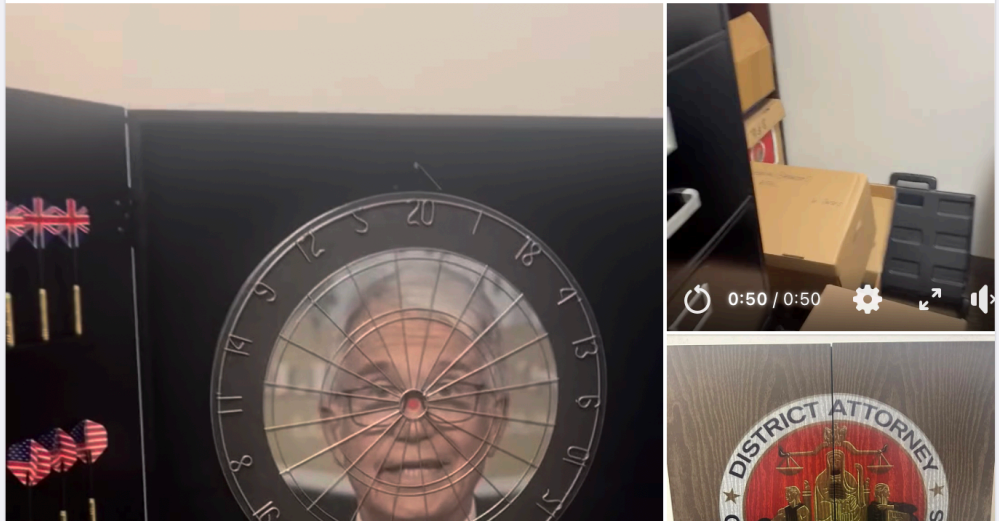
Fortunately, our new DA, Nathan Hochman, is doing everything he can do to right the ship with limited resources and an inordinate amount of damage to fix. It will not be a short or easy battle, but eventually we will get our office back and the county will become safer to live in again.

For myself, I'm extremely appreciative of my fellow coworkers, at least the ones who stood up and fought or worked behind the scenes to battle Gascon and his corrupt administration.

For the collaborators and quislings who assisted GasGone and company and now think that they can crawl back into our good graces, trust me, we know who you all are and we will NEVER forget!!

Karma is a bitch!!

Below is a video of my office, which includes the wonderful going away present I was given by my incredible coworkers in Inglewood.



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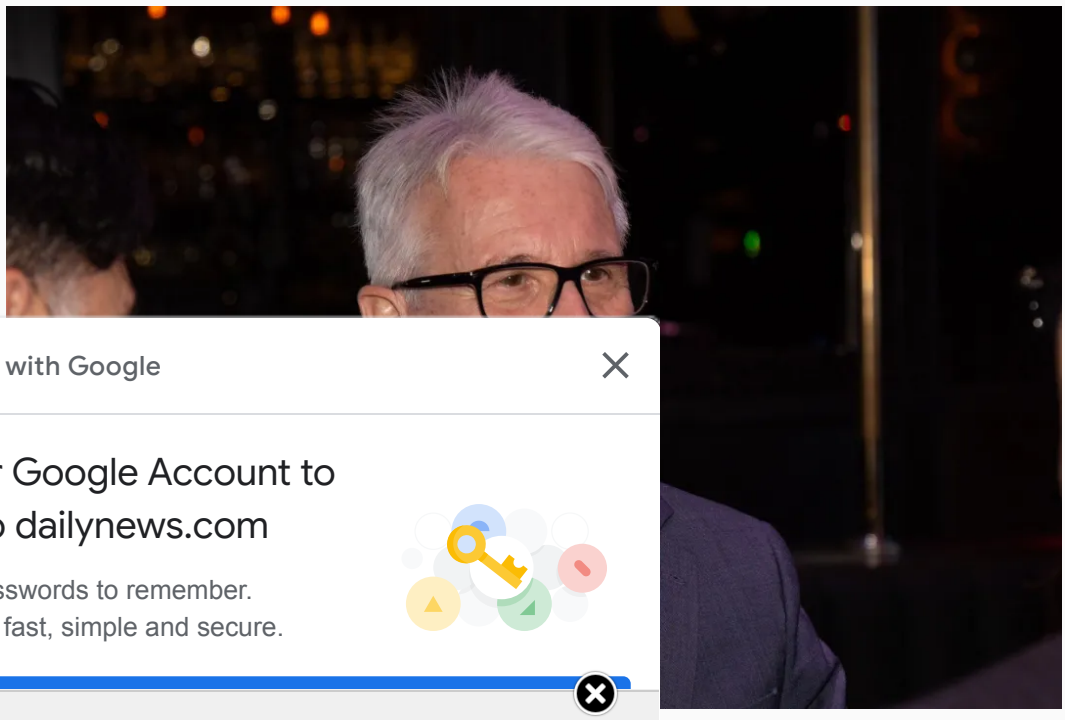
LA prosecutor suing over alleged demotion during Gascón era tentatively settles



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ov. 4, 2024. (Photo by Jarret Liotta).

By CITY NEWS SERVICE | news@socalnews.com
UPDATED: December 4, 2024 at 11:48 AM PST

A prosecutor who alleged he was demoted from a prestigious position for speaking out against former District Attorney George Gascón's sentencing directives has tentatively settled his lawsuit against Los Angeles County.

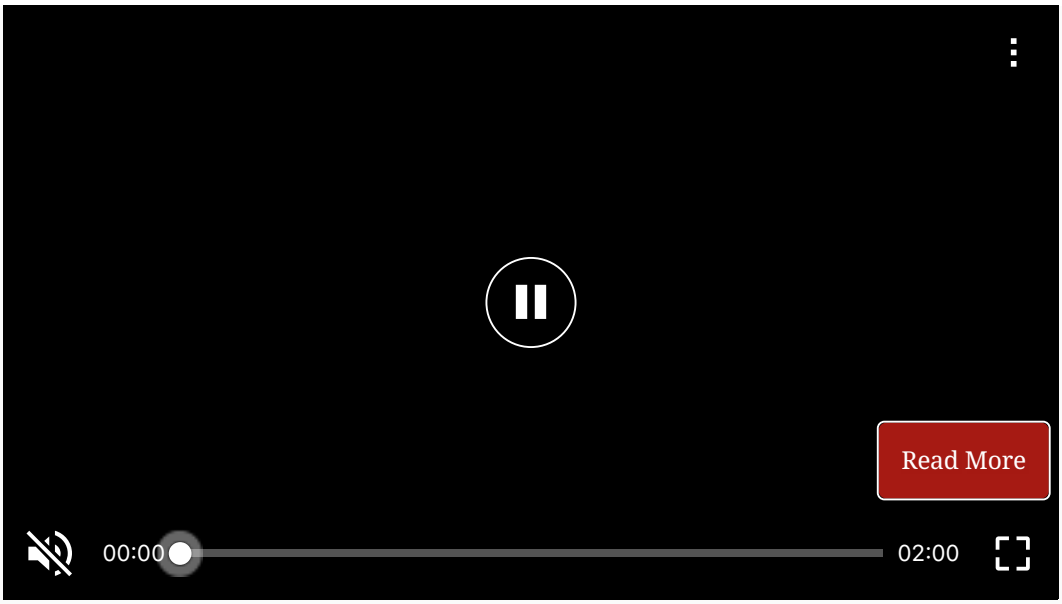
Deputy District Attorney John Lewin's attorneys filed court papers with Los Angeles Superior Court Judge Steve Cochran on Tuesday notifying him of the "conditional" accord with the expectation that a request for dismissal will be filed by March 4, 2025. No terms were revealed.

RELATED: Ousted DA George Gascón's legacy includes costly lawsuits from prosecutors alleging mistreatment

In his suit brought in February 2023, Lewin alleged he suffered retaliation when he was wrongfully transferred from his high-profile position in the Cold Case Unit of the Major Crimes Division to a job handling daily cases before a judge at the Inglewood courthouse, all because of his criticisms of Gascón's sentencing directives implemented after taking office in December 2020.

RELATED: Newly elected LA County DA to focus on overturning Gascon's blanket progressive policies

Lewin was awarded the Ken Lamb Distinguished Achievement Award in 2021 for his 27 years of service in the District Attorney's Office, but he refused the office's request to appear in a photo with Gascón because he worried doing so would be "construed as an endorsement of Gascón's illegal policies," Lewin's attorneys stated in their court papers.



Lewin was the lead prosecutor in the trial of Robert Durst, a New York real estate heir who was serving life in prison without parole, who died in January 2022 at age 78 of natural causes. Durst was convicted in September 2021 of first-degree murder for the December 2000 shooting death of Susan Berman.

Former federal prosecutor Nathan Hochman unseated Gascón in the Nov. 5 elections.

Originally Published: December 4, 2024 at 11:46 AM PST

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2024 › December › 4

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 644 South Figueroa Street Los Angeles, California 90017-3411.

On April 25, 2025, I served the foregoing document(s) described as **NOTICE OF MOTION AND MOTION TO DISQUALIFY DISTRICT ATTORNEY** on the interested parties in this action addressed as follows:

NATHAN J. HOCHMAN DISTRICT ATTORNEY Habib A. Balian Major Crimes Division 211 West Temple Street, llth Floor Los Angeles, California 90404 (213) 257-2250 hbalian@da.lacounty.gov Ethan J. Milius Deputy District Attorney Emilius@da.lacounty.gov Seth Carmack Deputy District Attorney SCarmack@da.lacounty.gov	ROB BONTA Attorney General of California 300 South Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 269-6332

Attorneys for Plaintiffs People of the State of California

Said service was made by placing true copies thereof enclosed in a sealed envelope(s) addressed as stated above AND,

☐ (U.S. MAIL) Placing the envelope for collection and mailing on the date and at our business address following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

☑ (BY ELECTRONIC TRANSMISSION) I caused the above-described document to be transmitted by electronic transmission.

Executed on April 25,2025 at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

TONY BENITEZ