



OFFICE OF THE DISTRICT ATTORNEY MARIN COUNTY, CALIFORNIA

*Prevention * Prosecution * Protection*

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PRESS RELEASE

CORRECTING THE RECORD

The public and the press have an absolute right to express their opinion and comments on what they believe the Marin County District Attorney is doing. As your current District Attorney and one of Marin's public prosecutors for the past 42 years, I simply ask that critics of current policies and practices base their comments and opinions on facts, not with political hyperbole. A California District Attorney is a nonpartisan elective office. I believe the office was purposely crafted as nonpartisan to reduce the party line political practices that surround the traditional party centered elected public positions. My decisions on our practices and policies are purposely designed to protect our residents and see that the victims' rights are at the center of our prosecutorial decisions and operational protocols. Our mandated and ethical responsibilities require us to seek justice for all our residents, which include not only the victims but those accused of law violations which means not everyone arrested or accused of a law violation faces traditional prosecution.

I would like to address the unfounded public criticism that I am seeing regularly on two topics in the public discourse on the operations of my office.

First, I would like to address the unfounded public criticism of the Marin County District Attorney's record of prosecution of environmental cases. There is no basis in fact to support any claims that this office has either not prosecuted or not enforced California's environmental laws. It is regrettable that I even need to defend our record, but it is necessary where such claims are patently unfair and irresponsible.

To the contrary, in the last five years alone, our office has been a party to at least 15 prosecutions of corporate defendants for violations of environmental laws, including, but not limited to, the Hazardous Waste Control Act and the Medical Waste Management Act. Marin has collectively joined with over 40 District Attorneys across the state to bring these cases.

Marin has also jointly prosecuted over 30 cases with the California Attorney General's office under the Safe Drinking Water and Toxic Enforcement Act

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(Prop. 65), including cases involving unsafe levels of lead in children's and women's multivitamins, food products, and infant formula.

To the extent our critics tout that they want to see our office work collaboratively with other District Attorneys and/or the Attorney General in environmental enforcement cases, they are essentially stating they support our current practices. I agree. It should be pointed out that collaboration in the environmental enforcement arena is not a new concept and is more the rule than the exception. We work cooperatively with federal, state and local agencies to enforce the myriad of enforcement and environmental laws on the books and bring persons into compliance, undo any harm, and punish where appropriate.

As our record indicates, this office has been quite present in environmental prosecutions despite the fact there are virtually no industries present in the county which are typically associated with pollution. Any criticism of our environmental record, or lack thereof, is sorely misplaced and any amount of due diligence should disabuse our critics of the notion that our office has not enforced environmental laws. I invite those who have questions or concerns about our environmental record to speak directly to us rather than indiscriminately relying on the vague and ambiguous representations of others.

Secondly, there are repeated negative statements about not using our Marin hospitals and forcing our sexual assault victims to be sent out of the county for implementation of the sexual assault medical protocol, i.e. rape examination. The Marin County Civil Grand Jury, on April 25, 2018, did generate a report titled "Sexual Assault in Marin." This is a public document and is available online on the Marin County website. I urge you to take the time and read it. This report was made public May 2, 2018, and those criticizing us are either ignoring this investigation and its reported findings or simply did not take the time to be honestly informed of why we are currently operating under the current protocol. There are specific reasons we have the current protocols in place which were investigated by this non-political body.

Some have said that our current protocols are cost-driven and the drive to Vallejo is nightmarish. Nothing could be further from the truth. It is grossly inaccurate and unfair to use these characterizations. Talking to the victims themselves and the

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highly trained and dedicated officers involved belie these statements. When these characterizations are posted, e-mailed or stated by anyone, these communications are either a lie or generated from a lack of experience or of a failure to conduct "due diligence" research. The need to travel to Vallejo for an examination and the evolution of how presently we are conducting sexual assault examinations arising from Marin-based cases has always been driven by what is best for the victims of these horrendous crimes and nothing else. No one is forcing a rape victim to travel anywhere for these examinations and none will be conducted without their willingness to have such an examination. It is offensive to all of us who want to help and assist in healing the victim's trauma to state we are forcing a victim to undertake our protocol process.

We originally started our sexual assault protocols years ago in Marin-based hospitals and were faced with both unacceptable wait times and examiners without the best forensic experience, resulting in courtroom challenges as to their expertise. I am extremely disappointed that someone wanting to fight for a victim puts political motivations ahead of what best serves and protects the victim. The overall time demands on a victim who wants to have the examination is no greater and often less than it was when a Marin-based hospital was used.

As I said, please read the complete 2018 Marin County Civil Grand Jury Report and you will see what I am telling you was corroborated by this independent non-political body. They investigated in depth what we are doing in Marin and the reasons for why we are where we are at this time. They dissected each of the investigative and procedural steps in the process. You will see that the Grand Jury found that the process and procedures that we follow are victim-driven, not law enforcement or District Attorney imposed. What is best for the victims and what they want to do drives the process. The Grand Jury stated on page 11 of their report:

Napa Solano SANE SART, in partnership with Kaiser Vallejo, has developed into a 'center of excellence' for Marin, and for all the counties it serves.

The Grand Jury report goes on to recommend that at this time a renewal of the service contract with Napa Solano SANE SART, i.e. see pages 12 and 13 of the 2018

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Grand Jury report. Our current Board of Supervisors, in fact, did renew this service contract on October 16, 2018.

As public prosecutors, we expect to be held accountable; however, we also expect and deserve any critique to be fair and, most importantly, based on fact, not fiction.

Very truly yours,

A handwritten signature in black ink, appearing to read "Edward S. Berberian". The signature is written in a cursive style with a large initial "E".

EDWARD S. BERBERIAN
DISTRICT ATTORNEY