

They were elected to enforce laws, not write them

The people elected legislators to write their laws; they elected members of the executive branch to enforce them. They're welcome to advocate, but in the meantime, they should enforce the laws that already exist.



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Eugene is a retired judge of the Santa Clara County Superior Court, where for 20 years he presided over cases in the criminal, civil, probate, family and delinquency divisions of the court. He has presided over an adult domestic violence court and in 1999 presided over the first juvenile domestic violence and family violence court in the United States.

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Our states' liberal leaders pitched us on a reformed criminal justice system, and once elected, reformed it into a national punchline.

California: where looting, assault and robbery are legal so long as you're doing it for a cause. Where "catch-and-release" is the golden rule, and the "catch" is optional. Why would our criminals follow our laws when our elected officials won't?

The death penalty is the law of the land in California, except our governor has decided it isn't. After getting himself elected on promises that he'd uphold the death penalty, Gov. Gavin Newsom has reversed track almost entirely and is now promising that death row will be completely dismantled within two years.

Misdemeanors were established to be enforced, until prosecutors up and down the state decided they weren't. Los Angeles District Attorney George Gascón and San Francisco District Attorney Chesa Boudin, among others, have raked in progressive praise for announcing that they'd no longer prosecute low-level crimes, even as gangs of rioters destroyed and looted businesses and assaulted citizens of their districts amid "protests."

The perception is that the likelihood of criminal prosecution is minor -- because it is. As a result, the escalation of high-profile crimes we've seen in recent months should be no surprise.

I'm personally opposed to the death penalty; it's not an effective deterrent, it's prohibitively expensive, and our country has a long and troubling history of executing people based on faulty (at best) convictions. I also believe in the rule of law, a foundational block of our democracy enshrined in the U.S. Constitution, which supersedes the personal and moral convictions of any individual, be they governor, district attorney, or an opinion-writing retired judge.

"Laws may be unjust, may be unwise, may be dangerous, may be destructive -- and yet not so unconstitutional to justify [...] in refusing to give them effect," said James Wilson, a Founding Father, at the 1787 Philadelphia Convention. Wilson was speaking of the judicial branch, but it applies in equal parts to the executive.

I also support an overall more compassionate criminal justice system. It's fine to let a misdemeanor go if it turns out the guilty party was stealing bread to feed their starving family, and death penalties need not be enforced if there's a single shred of doubt about the conviction. I'm all for doing things on a case-by-case basis.

But these people can't just decide to not do the jobs they were elected to do. If they'd like these laws changed, they should put it to voters and champion the cause. The people elected legislators to write their laws; they elected members of the executive branch to enforce them. They're welcome to advocate, but in the meantime, they should enforce the laws that already exist.

These checks and balances represent a concept that's so simple and easily understood that it's taught to grade schoolers, who have no problem understanding the concept. Why is it that our governor, who has been a political actor for his entire adult life, suddenly has difficulty grasping it?

I have to assume the ignorance is feigned; that he's playing dumb and fully understands the job he's been elected to do and how he's supposed to do it. But he wants to win political favor by attaching his name to "bold" new progressive ideas, so he's ignoring all of that.

If Newsom truly thinks effectively ending the death penalty in California is good politics, if prosecutors like Boudin and Gascón truly think ending cash bail and misdemeanors is such a sure shot, I don't know why they don't have the courage to tie their political futures to these policies.

Election season's right around the corner -- Newsom could push for legislation to end the death penalty, advocate for it, effectively make it his running mate. Similar legislation went before the electorate in 2016, and while it failed, it did so on very narrow margins. Surely with a push from Newsom, it would be enough to get it over the line.

The likely truth is that Newsom believes courting voters opposed to the death penalty is good for his campaign; he doesn't care whether his campaign is good for voters opposed to the death penalty. The rule of law was established as a rejection of the divine right of kings, and Newsom should think long and hard about what it says about himself that he's so keen on defying it. □

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