

**18th Judicial District Attorney, Sheriffs', and Chiefs' Opposition Letter to
Colorado Senate Bill 21-273
May 24, 2021**



For the citizens, workers, and visitors of the Counties and Municipalities in the 18th Judicial District, the District Attorney's Office, Chiefs of Police, Sheriffs of Arapahoe, Douglas, Elbert, and Lincoln Counties, and the Hugo Town Marshal's Office provide this position statement in opposition to the proposed Colorado Senate Bill 21-273. While Senate Bill 21-273 is titled "Concerning Measures to Increase Public Safety by Minimizing Custodian Responses to Low-Level Offenses," in reality, should the Bill become law, the impact on public safety will be extremely detrimental.

The Colorado 18th Judicial District Attorney's Office, Metro Chiefs of Police, Sheriffs of Arapahoe, Douglas, Elbert, and Lincoln Counties, and the Hugo Town Marshal's Office are extremely concerned about the significant increases in crime that we have seen over the last year. The increase in crime is based, in part, on the impacts of COVID-19 and the short-term limitations that were put in place regarding the jail populations due to the impacts of the virus. For the Legislature to now recommend both long-term and more significant limitations on officers' discretion to arrest a criminal suspect, and a judge's ability to impose conditions of release that protect the public, will only continue the trend of increased crime in the State.

Recently Senate Bill 21-062 was proposed by the Colorado Senate and faced overwhelming opposition from numerous communities and law enforcement agencies across the State. Based on the information that has been provided, it appears that Senate Bill 21-062 will be pulled; however, some legislators have drafted and introduced a similar Bill, Senate Bill 21-273, to replace the highly opposed Senate Bill 21-062. Regardless of the new number and title, the negative impacts on public safety remain the same. If Senate Bill 21-273 is approved, it will limit law enforcement officers' ability to enforce the law and to make arrests that would be reasonable and necessary to protect the public.

Currently, law enforcement officers often have the discretion to determine when it is appropriate to place an individual under arrest or release them from the scene upon issuance of a summons. Senate Bill 21-273 will remove that discretion and generally only allow arrests to be made for felony offenses, regardless of whether an individual is a repeat offender or is likely to continue to commit criminal acts while waiting for the court process to occur. The law will mandate that suspects of serious crimes like misdemeanor aggravated motor vehicle theft, arson, bias-motivated harassment, recruiting a juvenile to a gang, inciting a riot, resisting arrest, and countless others will be given only a summons and be immediately released without even allowing a court to review the matter and determine whether an individual should remain in custody or be allowed to post a bond.

Effectively, Senate Bill 21-273 will limit the ability of all law enforcement agencies to enforce the laws, and inevitability will compromise public safety and the quality-of-life factors that all of our citizens deserve. Law enforcement agencies throughout the Metro area have seen several examples over this past year where suspects' actions were more egregious, as suspects were aware that they would not face arrest for their actions due to the COVID-19 restrictions that were placed on booking people into the jails. Senate Bill 21-273 will further enhance that criminal behavior and create an environment where suspects can evade the justice system without consequences for their crimes.

More specifically, Senate Bill 21-273 removes a Judge's ability to assess each case and make a determination regarding what would be a proper pre-trial bail, if any bail should be imposed, and effectively eliminates the Courts' ability to efficiently get a defendant set up with pre-trial services. In fact, even when a defendant is charged with a serious or violent crime, Judges are generally restricted from imposing any monetary bond to ensure a defendant appears for court. Under the Bill offenders accused of stalking, robbery, sexual assault, sexual assault on a child, serious assaults and many other violent crimes will result in release on a personal recognizance bond, or just a promise to appear. Should this Bill pass as proposed, there will undoubtedly be increased failures to appear ("FTAs") in court cases, which will also lead to further increases in crime, as we have seen in other jurisdictions that have enacted similar legislation, such as Cook County, Illinois; Harris County, Texas; Atlanta, Georgia, and New York City.

Senate Bill 21-273 directly limits Judges' ability to manage their cases and defendants. A Judge, as a neutral third party, is one of the best-situated individuals to evaluate a defendant's likelihood to appear for further Court proceedings, and complete conditions of their probation. Senate Bill 21-273 prohibits the Court from issuing a monetary bond for a defendant, even a defendant that is on probation and has failed to comply with the conditions of their probation, with few exceptions when there are significant additional aggravating factors.

Colorado continues to see an increase in FTAs in municipal courts, under the bond reform legislation that was passed several years ago. One of the long-standing rights protected in the court system is the right to a speedy trial. Not only does this protect a defendant by moving the court process along efficiently and effectively, but it also promotes the ability of both the prosecutors and defense to provide

the most reliable evidence, including witness testimony. In part, this also protects the victims of crimes and assists with the determination of justice. This legislation would generally prohibit a Court from taking any action against a defendant until they had failed to appear for court at least two different times.

Consider this scenario: 100 citizens could receive a summons for jury duty, do their civic duty and appear for jury selection. In fact, if they ignore the jury summons they could face contempt of court or criminal charges. But under SB21-273, a defendant could fail to appear for his or her own jury trial and face no consequences. The trial would be re-set for the defendant without consequence, while every citizen who took time off work, found childcare, or rearranged their busy lives to show up for jury duty would be left wondering how the justice system could be so backwards. This legislation effectively creates a system that will only prolong criminal court cases and will harm judicial efficiency. The longer a case takes to get to trial, results in many witnesses having a more difficult time recalling specific information. Often, there are instances where witnesses cannot be located or are unable to testify for a variety of reasons. Not only does this Bill ultimately harm any victims of criminal actions, but it also damages the judicial process itself and circumvents victims' rights to be made as whole as possible.

It is even more concerning that this Bill was drafted and introduced after Senate Bill 21-062 received overwhelming opposition across the State. It appears that many legislators blatantly ignored the voices of numerous community members and law enforcement agencies throughout Colorado, and attempted to hide what they were trying to do from the Citizens of Colorado, by introducing Senate Bill 21-273, which is substantially similar to Senate Bill 21-062, and falsely titling it as a measure to "increase public safety." The undermining of the significant amount of community members and professional law enforcement who have demonstrated their desire to maintain public safety through their opposition of Senate Bill 21-062 cannot, and should not, be ignored.

Senate Bill 21-273 touts a provision to allow the Sheriffs in Colorado the ability to "manage their jail populations." However reasonable that may sound, it is merely a tactic to make the drafters of the Bill appear to be doing something positive, but is truly entirely superfluous. Currently, the State law already empowers and allows for elected Sheriffs to manage their jail population in a manner that does not compromise public safety. We need to rely on and trust that our Sheriffs will work with other law enforcement officials, and the Court system, to ensure those individuals that are a danger to the public, who have a greater likelihood to re-offend if they are not held in custody while waiting for their criminal process, are appropriately balanced with those that can be served a summons and released to appear on a predetermined court date.

Like Senate Bill 21-062, the risk of passing Senate Bill 21-273 will only serve to embolden and further embed criminals within the communities we proudly serve and protect. If we did not speak out against this pro-criminal legislation, we would be abdicating our oaths to protect and serve our communities. Furthermore, Senate Bill 21-273 is drafted in a manner that continues to devalue and shun the Colorado Victims' Rights Act (VRA). The victims of crimes also are afforded rights that should not be diminished, and the VRA "ensures that crime victims are treated with fairness, respect, dignity and that they are free from intimidation, harassment, and abuse."

Much like Senate Bill 21-062, the language that is proposed in Senate Bill 21-273 significantly undermines victims' rights and instead effectively provides consideration only to those who violate the law. If Senate Bill 21-273 were to pass, the reality of effective crime enforcement would be considerably reduced, and the expectations of our communities and citizens for their own personal and public safety will be weakened.

Laws that are continually created and enacted without listening to the voices of community members and professional law enforcement officials create potential outcomes of lawlessness. Therefore, we as the 18th Judicial District Attorney's Office, Chiefs of Police, Sheriffs of Arapahoe, Douglas, Elbert, and Lincoln Counties, and the Hugo Town Marshal's Office, stand firm in opposing Senate Bill 21-273 in its entirety, as we are focused on the preservation of public safety in the 18th Judicial District of Colorado.

Handwritten signature of Chief Dustin Varney in blue ink, including the number "94-11" written above the signature.

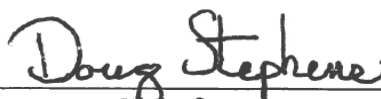
Chief Dustin Varney
Greenwood Village Police Department

Handwritten signature of Chief James Tsurapas in blue ink.

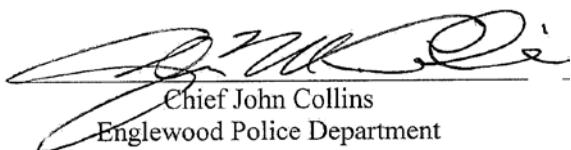
Chief James Tsurapas
Parker Police Department

Handwritten signature of Michelle Tovrea in black ink, with a horizontal line drawn across the signature.

Michelle Tovrea, Chief
Cherry Hills Village Police Department

Handwritten signature of Chief Doug Stephens in black ink, with a horizontal line drawn across the signature.

Chief Doug Stephens
Littleton Police Department

Handwritten signature of Chief John Collins in black ink, with a horizontal line drawn across the signature.

Chief John Collins
Englewood Police Department

Handwritten signature of Chief Jack Cauley in black ink, with a horizontal line drawn across the signature.

Chief Jack Cauley
Castle Rock Police Department




Sheriff Tony Spurlock
Douglas County Sheriff's Office




Chief Kirk Wilson
Lone Tree Police Department




Chief Jeff Martinez
Sheridan Police Department



Chief Tony Schiefelbein
Simla Police Department




Sheriff Tom Nestor
Lincoln County Sheriff's Office



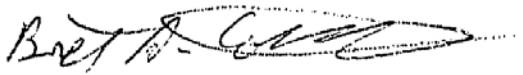
Chief Melvin Berghahn
Elizabeth Police Department



Chief Lynn Yowell
Limon Police Department



Chief Robert Payne
Hugo Marshal's Office



Chief Bret Cottrell
Columbine Valley Police Department



Chief Joseph Morris
Arapahoe Community College Police



Sheriff Tyler Brown
Arapahoe County Sheriff's Office



Chief W.J. Haskins
Glendale Police Department



Sheriff Tim Norton
Elbert County Sheriff's Office



John Kellner
District Attorney