



**Office of the District Attorney
Fifth Judicial District**

Serving Clear Creek, Eagle, Lake, and Summit Counties
Bruce I. Brown, District Attorney

February 13, 2018

Committee Members
State, Veterans and Military Affairs
Colorado State Legislature

sent via E-mail

**Re: HB 18-1128, "Protections for Consumer Data Privacy"
Opposition to Attorney General Jurisdiction**

Dear Representatives:

I am the elected District Attorney in Colorado's Fifth Judicial District, comprised of the Counties of Clear Creek, Summit, Eagle and Lake. The Fifth is a rural District traversing the central mountains of Colorado, staffed by fifteen prosecutors and working daily with fifteen law enforcement agencies.

I have reviewed the content of HB 18-1128 and want you to know that I believe it is counterproductive to enable the State Attorney General to have jurisdiction over our local cases, involving computer crimes. Over the past five-years as the District's elected prosecutor, I have overseen twenty-three computer crime prosecutions, varying in severity and scope. Overall, we have never had any issue arise where our resources were challenged to the point where any prosecution was jeopardized or compromised, because of the complexity of these cases.

In fact, demonstrating the capabilities of a small jurisdiction like ours, we have initiated an active working group directed at cutting edge cellular phone technology investigations and prosecutions. This collaboration spearheaded by this Office is indicative of efforts harnessing disperse resources, serving our communities well in complex areas.

One value of communities electing a local District Attorney, as opposed to a system such as those that exist in some other states where the chief prosecutor is appointed at the capitol, is assuring that local communities are heard and resources are utilized within the community on matters of criminal enforcement. While admittedly we do face resource challenges in many areas there is no need to involve the Attorney General's office in our local prosecutions of computer crimes.

Colorado is fortunate to have a strong group of twenty-two local District Attorneys who work well together, not just despite our diversity, but because of it. Daily we are in communication

helping each other endeavoring to protect citizens across the State. In the words of Yogi Berra, 'if it ain't broke don't fix it'. Our local prosecutors are more than capable of prosecuting computer crimes, please don't complicate our jobs by enabling original jurisdiction in a State office.

I apologize for not being able to meet with you as you debate this legislation, however I am happy to discuss these issues with each of you at any time. I am most easily reached by cellular phone (303) 810-5557 or e-mail to bbrown@da5.us.

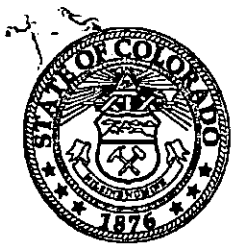
Thank you for your service to our State.

Very truly yours,

A handwritten signature in black ink, appearing to read "Bruce Brown", with a long horizontal flourish extending to the right.

Bruce I. Brown

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OFFICE OF THE DISTRICT ATTORNEY

CHRISTIAN CHAMPAGNE, DISTRICT ATTORNEY

6TH JUDICIAL DISTRICT

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February 14, 2018

TO: Members of the State Veterans and Military Affairs Committee

RE: HB 1128

Dear Honorable Members,

It has come to my attention that you are considering legislation that would divest local District Attorney Offices of jurisdiction to prosecute "computer crime," and transfer said jurisdiction to the Attorney's General's Office. I write to register my objection to such a plan.

As I understand it, one of the arguments put forth in support of this plan is that small and rural jurisdictions lack the resources necessary to effectively prosecute these cases. While I can only speak for my jurisdiction, this assumption is wholly inaccurate as it relates to the Sixth Judicial District. In my 13 years practicing in the Sixth Judicial District, I have seen effective and creative investigation and prosecution of all manner of computer crime in this jurisdiction.

These cases begin with an effective investigation. Here in Southwest Colorado, we are lucky to have a nationally recognized computer forensics expert on staff with the La Plata County Sheriff's office, Corporal Patrick Beyer. Cprl. Beyer is not only able to conduct forensic extractions on all manner of cell phones, computers, and electronic devices, he is trained in "chip-off" and "J-tagging" techniques wherein he actually disassembles the micro-processors contained within these devices and "hot-wires" them to be able to extract information on locked and encrypted devices. When he is not conducting forensic examinations of electronic devices for our local Sheriff and other local agencies (he and the local Sheriff graciously donate his time to assist any and all local agencies), he is employed as a trainer for the United States Secret Service, training federal agents to conduct high-level, sophisticated computer forensic examinations.

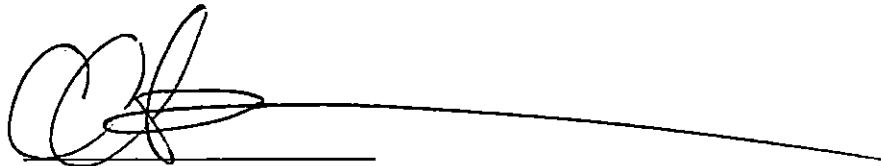
Cprl. Beyer has also been able to secure training for Deputy District Attorneys in my office. Two of the eleven Deputy District Attorneys in this office have attended federally sponsored week-long trainings on prosecuting computer crimes, covering such topics as working with computer forensics experts, understanding the science behind computer forensics, and effective presentation of these complex topics to juries. Through this and other trainings, we have greatly increased our attorneys' knowledge and understanding of computer crime cases, and greatly increased our effectiveness in prosecuting these types of cases.

Additionally, when the rare case arises in which we need assistance, we have a variety of options that allow us to ramp up our capacity to meet the needs of any case. The Colorado Bureau of Investigation is willing and able to assist us with computer forensic needs. The Department of Homeland Security and the Federal Bureau of Investigation have offered us their assistance in the past and agreed to assist us with future needs. The Rocky Mountain Information Network has amazing resources that are readily available. The National Center for Missing and Exploited Children assists law enforcement officers and prosecutors

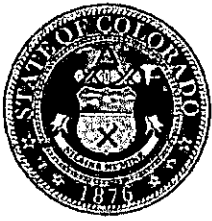
upon request. Other District Attorney's offices throughout the state have graciously "lent" us their prosecutors for assistance, and the Colorado Attorney General's Office offers resources and personnel to assist in especially complex or noteworthy cases. Finally, even the individual law enforcement agencies have begun the process of building capacity within their ranks; at least two other investigators in our jurisdiction are receiving regular training on computer forensics and are capable of assisting in these types of cases. As a result of the resources available in our community and statewide, we have never had to turn down a computer based criminal case. In short, we have the capacity to handle any and all computer crimes that arise in our jurisdiction.

While this proposal no doubt arises from a sincere desire to assist in the effective prosecution of computer crime, a sentiment that is appreciated, the current proposal is unnecessary and misses the mark. The various District Attorneys throughout the state have the knowledge, capacity, and resources to effectively prosecute computer crime, and it would be the wrong move to divest them of jurisdiction over these important local issues. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a horizontal line that extends to the right.

Christian Champagne
District Attorney
6th Judicial District



Office of the District Attorney, 11th Judicial District

Molly Chilson, District Attorney

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February 13, 2018

TO: Members of State Veterans and Military Affairs

RE: HB 1128

Dear Honorable Members.

I wish to briefly present you with some information that may be of value to you as you consider this bill addressing jurisdiction over "computer crime".

It is my understanding there may be misinformation in the air concerning the capacity of rural District Attorneys to prosecute computer crime. I have prosecuted in the 11th Judicial District for 14 years and this has not been my experience. To the contrary, our district has a distinguished prosecution record with regard to internet crimes against children, sexual exploitation of children and other computer crime cases dating back decades.

Our Chief Investigator provides technical assistance to the law enforcement agencies in the 11th JD regularly in the areas of social media preservation and search warrants concerning all types of electronic media and devices. Over the years, our office has been aggressive in finding the resources we need to obtain the best analysis possible to solve and prosecute cases where the evidence is stored electronically. When the turn-around for computers and other electronic devices at our State lab was taking too long for us to feel we were properly serving victims and potential victims, we found Commander Dave Pettinari, formerly of the Pueblo County Sheriff's Office, who is a nationally recognized expert in computer forensic analysis. When he retired, we dedicated the resources to pay him to ensure we had timely and competent analysis of our evidence.


When the Rocky Mountain Regional Computer Forensic Laboratory became available to us as a resource, we began working in close partnership with them. The Rocky Mountain Lab is an FBI sponsored lab here in Colorado which is capable of performing the most thorough, prompt and professional forensic analysis of computers, phones and other devices available.

In partnership with them, we recently prosecuted the two largest sexual exploitation cases the Rocky Mountain Lab has yet processed. Keep in mind, this federal laboratory processes federal and state investigations for the FBI and local law enforcement both in Colorado and Wyoming. Investigator Dan Dunnebecke who performed the analysis on the most recent of the two prosecutions stated "it was the largest single collection of sexually exploitative material I have seen in my 10 year career as a forensic examiner." One of these offenders was recently sentenced to 182 years to life in prison. Please compare that result with other sentences within the State as you evaluate this important bill.

To suggest that our office lacks the capacity to prosecute these cases would be inaccurate, though we struggle with a lack of resources as many rural and metro District Attorneys do. The Rocky Mountain Lab has been unable to fill 5 vacant examiner positions. This has forced the lab to be less accommodating to our requests to search all the media collected in a case and it has slowed their turn around in analyzing evidence. To assist rural prosecutors, I would urge you to consider funding forensic examiners, rather than divest rural District Attorneys of jurisdiction over these important cases.

When local DAs work these cases, as representatives of our local communities, it is more likely we will discover the identities of the "real" victims of internet luring and sexual exploitation in our cases. Our prosecutors, investigators and detectives are more likely to recognize the child in a photograph or a name on an email address discovered in an investigation because we live and work where the offenders perpetrate and where our victims live. This is a priority for us, not only for prosecution, but to assist victims with support, resources and healing.

Sincerely,


Molly Chilson, District Attorney, 11th JD

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Office of the District Attorney
12th Judicial District

Crista Newmyer-Olsen ••• District Attorney

February 14, 2018

Re: Computer Crimes

To Members of State Veterans and Military Affairs:

The Office of the District Attorney for the 12th Judicial District opposes the expansion of the Attorney General's criminal jurisdiction related to computer crimes. While the resources of the 12th Judicial District are limited and case-loads are high, this office is able to effectively assess and prosecute computer crime. This office has successfully prosecuted computer crimes involving the exploitation of children many times in the recent past. We have also pursued various financial computer crimes. While these cases are rather complex and time consuming, the 12th Judicial District has never refused to prosecute a computer crime merely due to lack of resources or the complexity of the case.

Additionally, this office has requested assistance from the Office of the Attorney General's Violent Crime Assistance Unit relating to prosecution of some homicide cases. If a similar resource were available relating to prosecution of computer crimes, this office would likely take advantage of it. Our office is also able to request assistance from larger district attorney's offices, and the Colorado Bureau of Investigation should the need arise. The Office of the District Attorney for the 12th Judicial District is able to prosecute computer crimes, and is willing to request assistance as needed. Expansion of Attorney General jurisdiction in this area is unnecessary and inappropriate in light of the many jurisdictions across the State that are aggressively and effectively prosecuting computer crimes.

Kind regards,

Crista Newmyer-Olsen
District Attorney
Office of the District Attorney
12th Judicial District



WILLIAM FURSE

DISTRICT ATTORNEY

22nd Judicial District

Montezuma and Dolores Counties - State of Colorado

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To: Members of State Veterans and Military Affairs

February 14th, 2018

RE: Computer Crimes

As District Attorney of the 22nd Judicial District, I am quite familiar with what it takes to make the most of limited resources. The Counties that make up our District (Montezuma and Dolores) are some of the poorest in the State and I have seen how this has potential to work to law enforcement's detriment. However, even in the face of these economic constraints, my rural agency is able to effectively prosecute computer crimes including fraud, theft, and harassment. Additionally, our District has been successful in both its investigative and prosecutorial efforts toward the most egregious of computer crimes -- sexual exploitation of children and internet luring.

While prosecuting computer-related crimes can be a complex endeavor, there has *never* been an instance where a lack of resources and/or lack of ability has resulted in a failure to prosecute crimes of this sort. These types of cases do generally require the assistance of outside agencies including the retention of experts and use of forensic laboratories. However, we routinely utilize resources local to our jurisdiction resulting in quicker turnaround time for evidence analysis as well as more readily available expert testimony and case discussion. Should a case prove to be uniquely challenging or complex, we are free to request the assistance of the Colorado Bureau of Investigation, other District Attorney offices, and when necessary, I am able to deputize an Assistant Attorney General for a specific criminal case. Based on these currently available resources along with the successes we have seen with computer crime cases, I stand opposed to the expansion of the Attorney General's criminal jurisdiction related to computer crimes. Such expansion is unnecessary and would be counter-productive to the local resolution of these criminal matters consistent with the elected District Attorney's philosophies and discretion.

Kind Regards,

William Furse

District Attorney - 22nd Judicial District