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Elected Prosecutors Use their Discretion and Refuse to Criminalize Abortion Decisions

More Than 40 Prosecutors Raise Concerns About the Constitutionality of Abortion Bans Passing in Growing Number of States, Highlight How They Erode Trust in the Justice System

Today, a group of 42 elected prosecutors joined in a statement issued by [Fair and Just Prosecution](#) making clear their collective view that prosecutors should not participate in efforts to criminalize abortions. These elected prosecutors – from 24 states around the nation as well as the District of Columbia and including 12 Attorneys General – argue that laws like the ones recently passed in Georgia, Alabama, Missouri and Ohio violate constitutional rights that have been the law of the land for nearly 50 years. They also warn that many of the laws are so vaguely written that they will produce undue fear and confusion, leaving open the possibility of criminal prosecution and lengthy sentences for anyone involved in an abortion – from the patient receiving the abortion, to the physician performing the procedure, to the person who drove the patient to the facility.

“Public safety requires trust that the justice system and its actors are legitimate and fair; elected prosecutors are charged with maintaining the integrity of the justice system and preserving the rule of law upon which public trust is predicated,” said **Miriam Krinsky**, Executive Director of [Fair and Just Prosecution](#), a national nonprofit that works with reform-minded prosecutors around the nation and the organizer of the sign-on statement. “When laws are enacted that threaten confidence in the justice system and put members of the community at risk, prosecutors have an affirmative duty to take action. These laws threaten fundamental and well-established rights to privacy and healthcare access, and prosecutors have an obligation as ministers of justice to speak out and offer reassurance to members of their community.”

Since the beginning of 2019, at least 11 states have enacted abortion bans, including multiple bans in some states. Alabama’s recently passed law carries a sentence of anywhere from 10 to 99 years for doctors performing abortions. Georgia’s recent enactment allows prosecutors to bring charges against anyone and everyone involved in performing and assisting with an abortion and fails to expressly prohibit criminal prosecution of women and patients who make these medical choices.

“I question the constitutionality of these laws, which fail to consider the needs and suffering of victims of child molestation, rape and incest,” said **Sherry Boston**, DeKalb County District Attorney, in explaining

her decision to sign on to the statement. “As an elected DA, I have a responsibility to use my limited resources to enforce laws that are legally sound and promote the safety, health and well-being of all members of my community – including vulnerable victims.”

A total of 42 local elected prosecutors and State Attorneys General signed on to the statement and underscored the importance of the sound exercise of prosecutorial discretion:

[A]s elected prosecutors with charging discretion, we choose not to prosecute individuals pursuant to these deeply concerning laws. Legal precedent... has held for nearly 50 years that women have a right to make decisions about their own medical care including, but not limited to, seeking an abortion. Enforcement of laws that criminalize healthcare decisions would shatter that precedent, impose untenable choices on victims and healthcare providers, and erode trust in the integrity of our justice system.

The signatories include elected prosecutors from states with recently passed or contemplated abortion restrictions such as **Sherry Boston** (DeKalb County, Georgia), **Danny Carr** (Jefferson County, Alabama), **David Cooke** (Macon Judicial Circuit, Georgia), **John Creuzot** (Dallas County, Texas), **Sim Gill** (Salt Lake County, Utah), **Joe Gonzales** (Bexar County, Texas), **Mark Gonzalez** (Nueces County, Texas), **Paul Howard** (Fulton County, Georgia), **Zach Klein** (Columbus, Ohio), **Brian Middleton** (Fort Bend County, Texas), **Dana Nessel** (State of Michigan) and **Carol Siemon** (Ingham County, Michigan). (A full list of signatories is below.)

Carol Siemon, the Prosecuting Attorney in Lansing, Ingham County, Michigan and another signatory to the statement, underscored that elected prosecutors routinely are called upon to determine the types of conduct to prioritize for prosecution: “Elected prosecutors exercise their weighty discretion every day when choosing which charges, cases, and societal challenges to focus on. At the heart of these decisions is the question: How do I use my resources to bring about justice and make our communities safer? Criminalizing personal health decisions would fail to bring about justice and would harm rather than protect the community.”

While the signatories of the statement noted that they approach the issue of abortion from many different personal perspectives and the laws in their own states vary, they made clear that: “What brings us together is our view that *as prosecutors* we should not and will not criminalize healthcare decisions such as these – and we believe it is our obligation as elected prosecutors charged with protecting the health and safety of *all* members of our community to make our views clear.”

The full statement is available [here](#).

FJP welcomes any other elected prosecutors interested in joining this ongoing effort and adding their names to the statement to contact FJP Executive Director Miriam Krinsky at mkrinsky@fairandjustprosecution.org.

List of Signatories

Xavier Becerra

Attorney General, California

Diana Becton

District Attorney, Contra Costa County, California

Sherry Boston

District Attorney, DeKalb County, Georgia

Danny Carr

District Attorney, Jefferson County, Alabama

John T. Chisholm

District Attorney, Milwaukee, Wisconsin

David Cooke

District Attorney, Macon Judicial Circuit, Georgia

John Creuzot

District Attorney, Dallas County, Texas

Satana Deberry

District Attorney, Durham County, North Carolina

Thomas J. Donovan, Jr.

Attorney General, Vermont

Michael Dougherty

District Attorney, 20th Judicial District, Colorado

Mark Dupree

District Attorney, Wyandotte County, Kansas

Keith Ellison

Attorney General, Minnesota

Aaron Ford

Attorney General, Nevada

Brian E. Frosh

Attorney General, Maryland

George Gascón

District Attorney, City and County of San Francisco, California

Sarah George

State's Attorney, Chittenden County, Vermont

Sim Gill

District Attorney, Salt Lake County, Utah

Joe Gonzales

District Attorney, Bexar County, Texas

Eric Gonzalez

District Attorney, Kings County, New York

Mark Gonzalez
District Attorney, Nueces County, Texas

Andrea Harrington
District Attorney, Berkshire County, Massachusetts

Maura Healey
Attorney General, Massachusetts

Paul Howard
District Attorney, Fulton County, Georgia

Kathleen Jennings
Attorney General, Delaware

Zachary Klein
City Attorney, Columbus, Ohio

Lawrence S. Krasner
District Attorney, Philadelphia, Pennsylvania

Beth McCann
District Attorney, Second Judicial District, Colorado

Brian Middleton
District Attorney, Fort Bend County, Texas

Stephanie Morales
Commonwealth's Attorney, Portsmouth, Virginia

Marilyn J. Mosby
State's Attorney, Baltimore City, Maryland

Dana Nessel
Attorney General, Michigan

Karl A. Racine
Attorney General, District of Columbia

Kwame Raoul
Attorney General, Illinois

Rachael Rollins
District Attorney, Suffolk County, Massachusetts

Jeff Rosen
District Attorney, Santa Clara County, California

Ellen Rosenblum
Attorney General, Oregon

Marian T. Ryan

District Attorney, Middlesex County, Massachusetts

Dan Satterberg

Prosecuting Attorney, King County, Washington

Josh Shapiro

Attorney General, Pennsylvania

Carol A. Siemon

Prosecuting Attorney, Ingham County, Michigan

Raúl Torrez

District Attorney, Bernalillo County, New Mexico

Cyrus R. Vance, Jr.

District Attorney, New York County, New York

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Fair and Just Prosecution is a national network of elected prosecutors working towards common-sense, compassionate criminal justice reforms. To learn more about FJP's work, visit

<http://www.fairandjustprosecution.org/> or follow us on Facebook [@FairAndJustProsecution](#).