

Colorado Justice Report

Founded in 1999, CCJRC is a network of organizations, faith communities, and individuals working to eliminate the overuse of the criminal justice system and advance community health and safety in Colorado.

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NO on Prop 128 and 130: Public Safety Requires More Investment in Community, Not More Police and Prisons

By: Kyle Giddings

CCJRC is opposing both Prop 128 and Prop 130 that will be on the ballot in Colorado this November.

After the murders of George Floyd, Breonna Taylor, and Elijah McClain, our nation experienced a reckoning on the issue of police abuse that swept across the country. Reforms on topics ranging from sentencing practices to police qualified immunity dominated the national conversation. Fast forward to 2024, and we are now seeing rollbacks to these reforms being proposed—not only nationally but also locally here in Colorado.

This November, Coloradans will have the opportunity to vote on Proposition 128 (Parole Eligibility for Crimes of Violence) and Proposition 130 (Funding for Law Enforcement). Both propositions were placed on the ballot by a tough-on-crime special interest group called Advance Colorado, led by Michael Fields and supported by former Arapahoe County DA George Brauchler. Before we get into why both Propositions 128 and 130 are harmful to Colorado, here are the basics of each;

Proposition 128 would change parole eligibility for individuals convicted of certain violent crimes by requiring them to serve 85% of their sentence before becoming eligible for discretionary parole. People would not be eligible for earned time. If a is convicted of a violent crime for a third time, they would have to serve 100% of their sentence, again without the possibility of receiving earned time.

Proposition 130 would require the state to provide \$350 million in general funds to local governments to increase police recruitment, retention, and training in Colorado. The \$350 million can only be used for police staffing issues and cannot be allocated to support firefighters, EMTs, community organizations, mental health professionals, or drug treatment services. On top of the \$350 million, Prop 130 creates a \$1 million death benefit for the families of police officers, firefighters, and EMTs who die in the line of duty, that would be in addition to other death benefits these families would receive under their loved ones' employment contract.

Prop 128: A Step Backwards in Public Safety

In 1985, Colorado legislators passed a law that doubled the sentence length for all felonies. In 1987, Colorado then passed a “truth in sentencing” law, that is still current law, that requires people convicted of specific violent of-

fenses to serve 75% of their sentence prior to being eligible for possible release on parole. If they have 2 or more prior convictions for a crime of violence, then they would have to serve 100% of their sentence. In either situation, people are eligible to be awarded earned time for good behavior.

Understanding the impact of these news laws is useful context to understanding Prop 128. Between 1985 and 1990, the prison population doubled; it doubled again between 1990 and 2000 and grew unabated for another decade. These “tough on crime” measures ushered Colorado into the era of mass incarceration that resulted in unprecedented growth in the prison population and budget, which is \$1.2 billion this year. Between 2002 and 2022, the number of people in prison over the age of 50 has grown 123%, compared to a 9% decrease in the general population.

It's also important context to understand the two main types of parole in Colorado: discretionary parole and mandatory parole. Discretionary parole can be granted by the Parole Board to people who have served the minimum amount of their sentence to be eligible for parole. Just because someone is eligible for discretionary parole does not mean that they are granted parole. Mandatory parole, on the other hand, is when the Parole Board must release someone because they have served the maximum of their sentence after which they return to the community under conditions set by the Parole Board.

By eliminating any possibility for earned time, Proposition 128 would unfairly penalize those who have worked hard to rehabilitate themselves during incarceration and have demonstrated their readiness to reintegrate into society. Research is clear that people are more likely to change behavior through positive reinforcement and rewards for making the right choices than negative consequences for making the wrong ones. Prop 128 would delay discretionary parole eligibility for individuals convicted of certain crimes, increasing the required time served from 75% to 85% of their sentence before they could become eligible for release. This would further drive up the number of elderly individuals in prison regardless of whether they no longer posed a public safety risk and could be safely released.

The statutory purposes of sentencing are not just about punishment, but also a balance between other considerations like fairness, equal treatment, rehabilitation, and reducing recidivism. By solely focusing on ratcheting up punishment, Proposition 128, undermines the other purposes of sentencing. It is intentionally designed more to scare voters and promote outdated, and ineffective public safety priorities, rather than offering meaningful solutions to public safety concerns.

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Beyond the impact on those in the prison system, Proposition 128 would have significant financial consequences for Colorado, highlighting the state's misplaced spending priorities. The proposition would require a \$152.4 million investment to build additional prisons and an additional \$56.2 million annually to keep people incarcerated longer. Currently, Colorado spends \$56,766 per year, on average, for each person in prison while investing only \$8,496 per year on each K-12 student.

Instead of investing in proven alternatives to incarceration, or community-based reentry service to provide support to those leaving the system, Prop 128 pushes an approach that extends incarceration for those who have demonstrated their readiness to reenter society.

Colorado must prioritize solutions that enhance public safety and not double-down on outdated methods from the 1980s that just extends imprisonment. Proposition 128 represents a step backward, undermining progress made in criminal justice reform and placing an unnecessary burden on taxpayers.

Prop 130: Investing in broken systems, not community.

As part of the national rollback of criminal justice reform, we have seen a resurgence of the "get tough" rhetoric to expand the presence of law enforcement in our communities. Across the nation, there have been cuts to social programs and increases to police budgets, including here in Colorado. Prop 130 seeks to further this trend in a way Colorado has never seen before.

If passed, Prop 130 would force the state to divert \$350 million from the state's general fund to increase local police budgets for hiring more police, training, and retention. Colorado already allocates more funding to law enforcement per capita than 75% of U.S. states, according to data from the U.S. Census Bureau. Yet, this Proposition provides a massive influx of funding to local police and mandates that the state funding cannot be used to "supplant" current funding for police which means City Councils can't shift existing funding for police to pay for other City needs or services. State funds also cannot be used to support firefighters, paramedics, or EMTs, nor can it be used for any other employees or partners of law enforcement agencies, including social workers, behavioral health specialists, mental health treatment providers, or community-based nonprofit organizations. Prop 130 also establishes a \$1 million death benefit for police, firefighters, and EMTs who die in the line of duty, which would be in addition to the death benefits provided under the employment contract.

It's important to understand that funding for police is a local government responsibility and a substantial percentage of both city and county budgets already are dedicated to police and sheriff's departments. Colorado's state budget is already tight, and the forecast for 2025 suggests the state will have to cut almost \$1 Billion from the state budget next year. Forcing the state to allocate \$350 million to law enforcement without creating a new tax to fund this initiative would cause a fiscal disaster. To put this into perspective, \$350 million is equivalent to the salaries of 5,758 teachers in Colorado, all the funding for affordable housing for an entire year, or 68 years of state funding for SNAP! Wherever Colorado decides to cut spending to fund Prop 130, the impact will be massive and will have serious consequences for people across the state.

Prop 130 is not a long-term solution for ensuring lasting community safety. Investing into community-based violence interruption and police alternatives have proven to make community safer, not more police. Prop 130's singular focus on increasing law enforcement funding at the expense of other critical services is short-sighted. By diverting resources from essential areas like education, mental health, and community development, this measure undermines the holistic approach needed to create safer, stronger communities. At a time when Colorado is facing budget constraints,

Prop 130 risks causing long-term harm by stripping support from the very programs that address the root causes of crime and contribute to overall public safety. Thoughtful investment in a balanced range of public services is key to ensuring a healthier and safer Colorado, not counter-productive policies that were developed by special interest groups that are rich enough to run ballot measures.

Investment in Communities is an Investment in Public Safety

In November, Colorado voters face a critical decision about the direction we want to go in to improve public safety. Will we revert to outdated, fear-driven policies that prioritize "tough on crime" approaches that invest more in the Department of Corrections and law enforcement by passing Prop 128 and Prop 130? Or will we continue building on the successful reforms we've achieved and invest more in community-led safety strategies that improve access to housing, employment, behavioral health treatment, and other needed support services both for people who have committed crime and those that have been victims of crime. Propositions 128 and 130 seek to manufacture and manipulate public fear by suggesting that the only solution to crime is longer sentences and more police. However, at CCJRC, we know this is not the answer to true public safety. Both of these propositions pose fiscal threats for Colorado's budget, negatively impact those involved with the criminal justice system, and will disproportionately affect the already overly policed and overly incarcerated BIPOC communities in Colorado.

Colorado should vote "No" on both Proposition 128 and 130, and instead advocate for a genuine public safety strategy that focuses on community investment, not more prisons and police.

CCJRC Ballot Guide

Amendment H: Judicial Discipline Procedures and Confidentiality CCJRC Position: SUPPORT

This past session, the General Assembly passed a bill that referred a constitutional amendment to the ballot that makes changes to the discipline of judges for misconduct. This will be on your ballot this November as Amendment H.

The last time Colorado changed its system for handling judicial discipline was in 1967! Amendment H will create a new 12-member Independent Judicial Discipline Adjudicative Board that would conduct formal disciplinary proceedings of judges and hear appeals from the Commission on Judicial Discipline. The Board would have the authority to dismiss charges, or order the removal, retirement, suspension censure, or other disciplinary measures against a judge. The Colorado Supreme Court would hear appeals from decisions made by the Board.

This new Board would consist of four members that are district court judges appointed by the Colorado Supreme Court, four attorneys who are licensed to practice law in Colorado and four citizens that are not lawyers who would be appointed by the Governor and confirmed by the state Senate. Currently, judicial disciplinary hearings are private until formal disciplinary recommendations are made. There would also be more transparency under Amendment H, as the disciplinary proceedings and records would become public as soon as a formal action was filed.

Amendment I: Remove Right to Bail in First Degree Murder Cases CCJRC Position: OPPOSE

This past session, the General Assembly also passed a bill that referred a constitutional amendment to the ballot that makes changes to bond eligi-

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bility. It will be on your ballot this November as Amendment I.

Amendment I would make anyone charged with first degree murder ineligible for bond when “proof is evident or presumption is great”, which is a much lower standard than proof beyond a reasonable doubt. CCJRC believes Amendment I violates the principle of innocence until proven guilty and removes a judge’s discretion to decide whether someone poses a flight risk or risk to public safety, which are the relevant factors for whether to set bond. It also fails to take into consideration individual circumstances in a case. For example, if a woman who was a victim of domestic violence were to kill her abuser and be charged with first degree murder, Amendment I would require that she stay in jail before her trial, even if she had evidence and a valid defense of self-defense.

**Prop 131: Top- Four Ranked Choice Voting and Jungle Primary 2
CCJRC Position: OPPOSE**

CCJRC has traditionally not taken a position on election reforms that appear on the ballot. However, after over a decade of advocacy at the Capitol and in the community to expand voting rights, and voter education for justice-involved people we wanted to share our deep concerns about Proposition 131, which proposes significant changes that would negatively impact how Colorado conducts its elections, in both primary and general elections.

Proposition 131, backed by centimillionaire Kent Thiry, would change primary elections by requiring all eligible candidates, regardless of political party, to appear on a single primary ballot (also known as a jungle primary) for elections to the US Senate, US House of Representatives, governor, attorney general, secretary of state, treasurer, CU board of regents, state board of education and the Colorado state legislature. Every voter, regardless of party affiliation, receives the same primary ballot and selects one candidate per office. The top four candidates with the most votes for each office advance to the general election.

This “jungle primary”; model tends to favor candidates with more money and, depending on where you live, it will reduce the likelihood that voters will have a candidate that aligns with their political perspectives during the General Election. For example, if you are a registered Republican in Denver, you may likely never have a Republican candidate to vote for in a state legislative race because most voters in Denver vote Democratic. The same would be true for registered Democrats in most state legislative races in Colorado Springs.

If you align with a third-party’s values and political priorities, you’ll likely never see a Green or Libertarian candidate on the General Election ballot because they won’t be able to compete against the major party candidates in a jungle primary. So, jungle primaries make the problem of money in politics and the concentration of political power worse, not better.

Once the top four candidates are determined by the jungle-primary they will then go on to the General Election that would be decided by “ranked-choice voting”, the other major change in Prop 131. “Ranked-choice voting” is where voters would indicate on their ballot whether a candidate was their first choice, second choice, third choice, or fourth choice. If no candidate won 50% or more of the vote, then the candidate receiving the least number of votes would be eliminated and the votes they received would be given to the candidate that the voter indicated was their next highest choice. This process would be completed until a candidate wins a majority of votes.

If voters fail to use all four ranked votes, their vote may be invalidated

and discarded in subsequent runoff rounds. According to the University of Pennsylvania, ballots in ranked-choice voting elections are 10 times more likely to be invalidated due to mistakes, often without voters even realizing it. This confusing system is likely to disenfranchise many voters across the state, who may never know that their vote was excluded by the time a winner is chosen.

Additionally, Prop 131 doesn’t apply ranked-choice voting to every race on the ballot. It would only cover some races, as listed above. Offices like U.S. President, district attorney, county and city positions, school boards, and other local races would still use the current single-choice voting method. Having different voting methods apply to different races risks confusing and even lowering voter turnout. Proposition 131 risks providing even more political advantage to candidates with money, reduces voter choice among candidates with different political priorities, and introduce uncertainty into our democracy. For these reasons, CCJRC joins Common Cause, Colorado Wins, CO AFLCIO, CO SEIU, CO Working Families Party, One Colorado, Soul 2 Soul Sisters, Colorado Democrat Party, Colorado Republican Party, Colorado Green Party and many more in opposing Prop 131.

CCJRC 15th Annual Voices for Justice

On September 11, 2024, CCJRC held our annual fundraiser, Voices for Justice, and this year was also our 25th Anniversary, as well. The event was a beautiful, well-attended sold out event that allowed us to recognize both Mari Newman and the Office of Respondent Parents Counsel for their outstanding achievements. We cannot thank our sponsors and guests enough for their support and attendance. We look forward to seeing you all next year!

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Tell Them You Love Them: A resource guide for incarcerated parents

This 145 page book provides extensive information for parents and family members who are impacted by incarceration and who may be dealing with the family law systems as well. It is intended to help: people who are in any type of supervised situation, families/friends, service providers, or corrections staff. Please contact us if you cannot locate a book in your library, your tablet, or at your casemanager.

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