

# Felony filings see 'unprecedented' increase

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Delta County is on track for what district attorney Dan Hotsenpiller calls an "unprecedented" year-to-year increase in felony criminal filings.

"We're not alone," he said at a meeting that included Delta County Sheriff Fred McKee, Undersheriff Mark Taylor and Delta Police Chief Luke Fedler. "This is a statewide trend."

While Delta County remains a very safe community, there's no denying the fact that case filings are on track for a 55 percent increase over 2016.

The increase is across the board, led by drug use/possession, property crimes (often related to drug use) and bail bond/protection order violations.

The county's law enforcement officials point to legislative changes to bail bond statutes that allow individuals charged with felonies to post low bond amounts. While their court cases slowly wind through delay after delay, the defendants often commit new crimes -- creating yet another delay.

"We like to think we're doing something with recidivism through community corrections and Drug Courts, but the people we're dealing with are the same people," said Delta County Sheriff Fred McKee. "We're arresting them. We're putting them in jail; they're going out and committing more crimes. We're not seeing a lot of new criminals, but we're seeing the old criminals over and over again. We don't seem to be able to place them in prison where they need to be."

Fred Houghton IV is a prime example. While on supervised parole, he was twice charged with vehicular eluding. He was arrested and charged with two felonies in July, but was released on bail. While waiting for his cases to be heard in court, he was allegedly involved in another pursuit by law enforcement officers. He was ultimately arrested in Utah, along with Nicholas Pell, who was on probation. Both men are facing additional charges in both states.

"We narrowly escaped having a really bad incident here in Colorado; they narrowly escaped having a really bad incident involving personal injury to law enforcement officers in Utah as well," Hotsenpiller said. "That happens a lot." Many defendants who have not just one or two felony cases, but five or six or more felony cases pending against them, are getting out on bail, despite strenuous arguments from the district attorney's office.

The state Legislature also significantly lowered penalties for drug felonies, based on what Hotsenpiller said is the false premise that people with drug problems were being sentenced to prison without exhausting drug treatment efforts. That's simply not true, Hotsenpiller said. Judges have the option of Drug Court sentences, but Drug Court loses its effectiveness without the possibility of punitive sanctions for those who fail to comply with court-ordered treatment programs. A charge of simple possession "doesn't have any teeth in it," Hotsenpiller said.

Plus, Drug Court was never intended to work with distributors or dealers "and that's where we're at now," according to McKee.

Methamphetamine remains a "persistent, pervasive problem" in our communities, the law enforcement officials agree. They're also seeing an increase in heroin and opioid abuse.

Chief Fedler noted that when drug searches are conducted, DPD officers are also finding large quantities of marijuana, "without exception."

Law enforcement is still looking for the clarity that was lacking when Amendment 20 and Amendment 24 were

approved by Colorado voters. "The medical marijuana laws are so unclear and so difficult to enforce," Hotsenpiller said. Many of the loopholes have been fixed, and others will be addressed in January 2018. What's clear to him is that Colorado's marijuana laws are drawing out-of-staters who live elsewhere, but establish residency so they can start a grow operation. "They're just here so they can export lots and lots of illegally grown drugs ... and commit other crimes along the way," the law enforcement officials agree.

While it may be difficult to make changes in the Legislature or the state court system, Hotsenpiller says he is taking steps to more aggressively prosecute repeat offenders. To maximize limited resources, his office is using technology to connect deputy DAs across the 7th Judicial District, which encompasses six counties. He's also enlisted help from the state attorney general's office and from other judicial districts for complex cases such as the retrial of Nathan Yager, previously convicted of the murder of his estranged wife. That conviction was overturned by the Colorado Court of Appeals. A new trial will take place in spring 2018.

The upswing in criminal activity comes after 20 years of reductions in violent crimes nationwide. Perhaps it's a matter of the pendulum swinging back in the other direction. Sheriff McKee said he believes it's because local law enforcement has been more aggressive. "On our end we've had some very significant successes with our investigations," he said. "I'm not willing to say there's more crime."

"We are being more proactive," Chief Fedler agreed. Monthly, his department has averaged 50 to 60 reports to the National Incident-Based Reporting System (NIBRS), but in June reports jumped to 118.