

SOUTH CAROLINA SHERIFFS' ASSOCIATION

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Jarrod M. Bruder
Executive Director

Sheriff Kevin R. Tolson
President

January 11, 2022

An Open Letter Regarding South Carolina's Criminal Justice System,

The Sheriffs of South Carolina want to extend our best wishes to Lieutenant Aaron Fittery of the North Augusta Department of Public Safety who was injured in the shootout on Georgia Avenue on December 9, 2021. We are extremely thankful Lieutenant Fittery's injuries were not more serious than they were and will continue to pray for a speedy and complete recovery.

If ever there was a case that combined all of law enforcement's frustrations with the current criminal justice system in South Carolina, this case in North Augusta is it.

Thomas M. Airington, of Clarks Hill, has been charged with attempted murder and possession of marijuana after he was involved with a shootout that went through the downtown portion of North Augusta at one of the busiest times of the day. This small, quaint town in South Carolina witnessed an exchange of gunfire that would rival Hollywood's best action movies, but this was no fictional scene. This was real a life scenario where a real law enforcement officer was shot and countless other law enforcement officers were shot at all while innocent civilians stood in the crossfire. How could this happen? Let us take a look at Mr. Airington's criminal history.

According to the Post and Courier, Airington was convicted of forgery in Aiken County in 1997, simple assault in North Augusta in July 1997, simple assault in North Augusta in Dec. 1997, simple assault in North Augusta in Jan. 1998, possession of a controlled substance in North Augusta in May 1998, driving under the influence in North Augusta in May 1998, unlawful carrying of a weapon in North Augusta in June 1998, public disorderly conduct in North Augusta in June 1998, destruction of city property in North Augusta in July 1998, three counts of breaking into a motor vehicle in North Augusta in Jan. 2000, public disorderly conduct in Spartanburg County in 2003, shoplifting in North Augusta in 2004, assault and battery of high and aggravated nature in 2004 and resisting arrest in North Augusta in 2007.

Airington was also charged with lynching in the second degree on July 20, 2004 in North Augusta, but he was not convicted of that charge.

Prior to the events of December 9, 2021, Airington was most recently arrested by the Aiken County Sheriff's Office on Aug. 28, 2021 and charged with possession of a stolen gun, possession of a weapon during a violent crime, trafficking meth/cocaine, possession of narcotics and possession of marijuana. He was subsequently released on \$50,615 surety bond.

For those not familiar with bonding practices in South Carolina, this means Airington was likely released from jail on the August 2021 charges after he posted 10% of the \$50,615 surety bond (a paltry \$5,061.50). That amount was probably financed by a bail bond company. So, for a few dollars a month, an individual, who has been convicted of more than a dozen crimes (many of which involve firearms, illegal drugs, and/or assault) and was subsequently charged with three more serious crimes, was granted his freedom.

"Surely, judges are held accountable for releasing such dangerous individuals back into the public", one may think. Not necessarily. Unfortunately, even though South Carolina operates three

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branches of government that are intended to be “co-equal”, the legislature is ultimately responsible for the screening and appointment of judges. Therefore, determinations on who will be held accountable and who will be a judge are often made by individuals who are not elected by the citizens in a particular county or judicial circuit. Many of those legislators are also attorneys who may or may not appear before the very same judges they elect to the bench.

In recent years, law enforcement leaders and advocates have voiced the need for sentencing reform, bond reform, and even judicial selection reform. Sheriffs and Chiefs across the state will tell you their agencies deal with the same people day in and day out. Often, even if an individual is arrested, he or she is processed through bond court and released on a nominal bond (or a PR Bond) before the arresting officer can even complete his paperwork or his shift for the day.

Criminal dockets across South Carolina are so backlogged (something that was further exacerbated by the pandemic) that many cases will never be tried. Instead, serious, repeat offenders will see their charges dropped or they will plead guilty to a lesser charge and be released on time served.

This perpetual cycle leaves victims wanting justice and frustrates law enforcement to no end. In fact, many believe this type of frustration causes officers to exit the law enforcement profession early.

These frustrations combined with increased danger, heightened scrutiny on law enforcement officers, and low pay and benefits has created an environment in which it is extremely difficult to recruit and retain officers. A recent survey conducted by the SC Sheriffs' Association and other law enforcement organizations shows there are more than 3,600 PORS (Police Officer Retirement System) vacancies at 139 of South Carolina's roughly 315 law enforcement agencies. Realistically speaking, the actual number of PORS vacancies is expected to be in the 4,000-5,000 range statewide. This is directly impacting public safety in our state.

According to the [2020 Annual Crime Report by SLED](#), there was an overall 6% increase in violent crime in South Carolina from 2019 to 2020. Violent crime includes offenses such as murder, sexual battery, robbery, and aggravated assault. According to SLED's report, the murder rate in the state is the highest it's been since 1993. There were 552 cases reported in 2020 in South Carolina, which is a 22.1% increase since 2019. Over the past five years, the murder rate is up nearly 53%.

With all of this going on, one would think the South Carolina General Assembly would be scrambling to figure out what can be done to improve public safety and the state's criminal justice system. Unfortunately, that simply is not the case. Instead, the SC House of Representatives passed “Sentencing Reform” ([H. 3623](#)) earlier this year, which reduces the required time for “no parole” offenders from 85% to 65%, increases drug weights, lowers associated drug penalties, eliminates mandatory minimums, and ignores several issues important to law enforcement and prosecution.

Many have argued, “Drug offenses are non-violent in nature and have no victims.” With all due respect, that simply is not true. Illegal narcotics are inherently dangerous and violent. Yet, many in our legislature want to legalize the consumption of marijuana.

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Furthermore, the legislature has seemingly ignored pleas from law enforcement leaders to enhance our state's felon in possession laws. Current South Carolina law only prohibits individuals who have been convicted of a "violent crime, as defined by Section [16-1-60](#)" from being in possession of a firearm and/or ammunition. In our estimation, Section 16-1-60 does not contain an exhaustive list of offenses that may indicate an individual's propensity towards gun violence in the future based on previous convictions or actions.

If we return to Mr. Airington, for example, you can see the dangers this statute allows. Airington was convicted of forgery, simple assault (three times), possession of a controlled substance, driving under the influence, unlawful carrying of a weapon, public disorderly conduct (twice), destruction of city property, three counts of breaking into a motor vehicle, shoplifting, and assault and battery of high and aggravated nature. Under current South Carolina law, only the convictions for breaking into a motor vehicle and assault and battery of high and aggravated nature would have prevented him from being in possession of a firearm. Obviously, the penalty for unlawful possession of a firearm by a person convicted of violent offense is not much of a deterrent (a fine of not more than two thousand dollars or imprisoned not more than five years, or both) as Mr. Airington was subsequently charged with possession of a stolen gun, possession of a weapon during a violent crime, and trafficking meth/cocaine. Once again, to underscore the point, a convicted felon who was prohibited by law from possessing firearms was found in possession of a firearm while committing other violent crimes and was still released on bond. That same individual has now been charged with attempted murder after opening fire on law enforcement officers in broad daylight in a heavily populated area after an attempted traffic stop.

Following the death of George Floyd, our nation witnessed incredible civil unrest for months. There were constant calls for "police reform". South Carolina's Sheriffs agree; there is room for improvement in the law enforcement profession. We also believe there is tremendous need for criminal justice reform and judicial selection reform. To eliminate the backlog in our criminal docket, our state must invest in additional judges, prosecutors, and public defenders. Additionally, judges must be held accountable for their actions – both in the bonds they set and the sentences they determine. Finally, law enforcement leaders need the assistance of their governing bodies – both state and local – to address the critical shortage of police and those officers must be properly equipped to ensure officer and public safety. Until this happens, the cycle will continue and what happened in North Augusta will continue to happen in cities and counties across our great state.

We need your help. We cannot and will not overcome these challenges on our own.

Sincerely,



Sheriff Kevin R. Tolson, York County
President, SC Sheriffs' Association