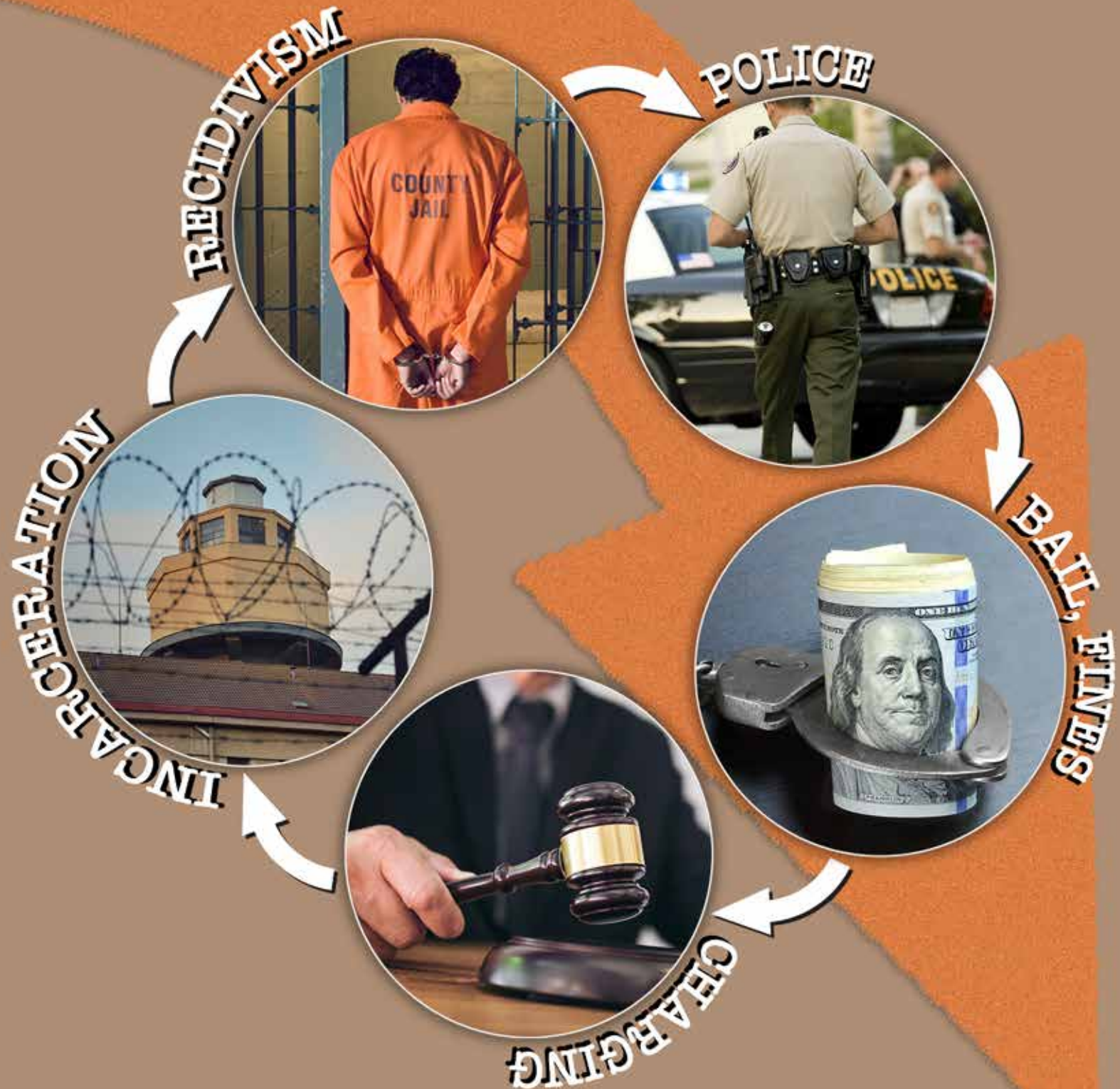


# CRIMINAL JUSTICE IN ARIZONA

FINAL REPORT



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**Madeline Loughlin**, Volunteer — Office and Town Hall Operations

# CRIMINAL JUSTICE IN ARIZONA

## FINAL REPORT

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# CRIMINAL JUSTICE IN ARIZONA

## FINAL REPORT

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The 111th statewide Arizona Town Hall, which convened at the Sheraton Crescent Hotel in Phoenix on November 8-10, 2018, developed consensus on the topic of “Criminal Justice in Arizona.” The full text of these recommendations is contained in this Final Report. Prior to the statewide gathering in Phoenix, a number of precursor Community Town Halls provided valuable insights and ideas to the participants of the 111th statewide Town Hall as well as to the communities where they took place. Reports of these sessions are also included in this Final Report.

An essential element to the success of these consensus-driven discussions is the Background Report that is provided to all participants before Town Hall sessions take place. The Morrison Institute for Public Policy coordinated this informative background material in partnership with Arizona’s three public universities, as well as other industry professionals who have lent their time and talent to this effort. Together they have created a unique resource for a full understanding of the topic.

For sharing their wealth of knowledge and professional talents, our thanks go to the report’s authors.

Our deepest gratitude goes to Dan Hunting, Senior Policy Analyst at the Morrison Institute for Public Policy, who marshalled authors, created content and served as editor of the report.

The 111th Arizona Town Hall sessions could not occur without the financial assistance of our generous Professional Partners, which include the sponsors of the statewide effort: Arizona Public Service (APS), Salt River Project (SRP), FWD.us and numerous sponsors of the various Community Town Halls around the state.

The consensus recommendations that were developed by participants during the course of the 111th Town Hall have been combined with the Community Town Halls Final Reports and the Background Report into this single Final Report that will be shared with public officials, community and business leaders, Arizona Town Hall members and many others. This report is already being used as a resource, a discussion guide and an action plan on how best to improve the criminal justice system in Arizona.

Sincerely,

Board Chair, Arizona Town Hall  
[www.aztownhall.org](http://www.aztownhall.org)





# **CRIMINAL JUSTICE IN ARIZONA**

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**STATEWIDE TOWN HALL  
RECOMMENDATIONS REPORT**



# Participants of the 111th Statewide Town Hall: “Criminal Justice in Arizona”

## REPORT COMMITTEE

**Jessica Fotinos**, Attorney, Maricopa County Clerk of Courts - *Report Chair*

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**John Kitagawa**, Ret. Rector, St. Phillip’s in the Hills, Tucson

**Patricia Norris**, Ret. Judge; Supervisor, Lawyer Development, ASU Law Group, Phoenix

## PLENARY SESSION PRESIDING CHAIRMAN

**Hank Peck**, Board Chair, Arizona Town Hall, Tucson

## TOWN HALL SPEAKERS

Friday breakfast program:

**Felicity Rose**, Director, Research and Policy for Criminal Justice Reform, FWD.us

Friday lunch panel presentation: *Reducing Recidivism*

**Frantz Beasley**, President & Co-Founder, AZ Common Ground

**Sarah Douthit**, Chief Probation Officer, Coconino County Adult Probation

**Karen Hellman**, Division Director, Inmate Programs and Reentry, Arizona Department of Corrections

**Sheila Polk**, Yavapai County Attorney, Yavapai County

Monday’s dinner panel presentation: *Community Town Halls: Sharing Ideas and Leveraging Efforts*

**John Burton**, Owner, JP Burton Group

**John Kitagawa**, Retired Rector, St. Phillip’s in the Hills

**Ray Newton**, Professor Emeritus, Northern Arizona University

**Charles Ryan**, Director, Arizona Department of Corrections

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# REPORT OF THE 111TH ARIZONA TOWN HALL “CRIMINAL JUSTICE IN ARIZONA” SHERATON CRESCENT HOTEL, ARIZONA NOVEMBER 8-10, 2018

## INTRODUCTION

*“The glory of justice and the majesty of law are created not just by the Constitution—nor by the courts—nor by the officers of the law—nor by the lawyers—but by the men and women who constitute our society—who are the protectors of the law as they are themselves protected by the law.”*

Robert Kennedy, former U.S. Attorney General and U.S. Senator

The criminal justice system touches everyone in Arizona. Everyone pays taxes to maintain our system of law enforcement, courts, jails and prisons that span the state, even those who have never been arrested or seen the inside of a jail or courtroom. Every Arizonan also benefits from the protections offered by the criminal justice system yet, there is a significant cost. With billions of dollars spent annually in the state to maintain the current criminal justice system, it is worth asking whether this money is being spent wisely. To answer that question, we must determine the purpose of the criminal justice system. Is the purpose of Arizona’s criminal justice system to punish those who engage in criminal activity? Is it to rehabilitate them so they do not offend again? Is it to provide the public with a sense of security and enhanced public safety? As part of this assessment, we also must consider what conduct constitutes unlawful activity. And, we must acknowledge that the criminal justice system is a significant industry employing thousands of Arizonans, including law enforcement, attorneys, judges, correctional officers, and probation officers. While the number of reported crimes in Arizona has been declining, incarceration rates remain high. Arizona is among the top five states in the country with the highest incarceration rates.

Participants traveled from throughout Arizona to meet in Phoenix for three days to comprehensively consider the topic of Arizona’s entire criminal justice system. This was only the second time in the 56-year history of Arizona Town Hall that the topic of criminal justice was addressed. Participants were provided with an extensive background report as well as recommendations reports from community town halls held around the state on the same topic.

Participants addressed the principal goals for Arizona’s criminal justice system, including prevention, rehabilitation, punishment, pre- and post-trial and conviction services, prosecutorial discretion, victim’s rights, and justice. They considered the impacts of substance abuse and mental health upon the criminal justice system, and how most effectively to address these issues. And, they addressed Arizona’s sentencing laws and non-incarceration options.

The 111th Arizona Town Hall invited a robust, respectful policy discussion about criminal justice reform in Arizona, and participants expect their recommendations will inspire and motivate Arizona’s leadership to respond to the unique challenges presented by the current criminal justice system. The results of the discussion at the 111th Arizona Town Hall are included in this report. Though not all Town Hall participants agree with each of the conclusions and recommendations, this report reflects the overall consensus reached at the 111th Arizona Town Hall.



## **PRINCIPAL GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

Criminal justice in Arizona is a complex system which must balance public safety, the rights of the accused, community needs and victims' rights. The system must be consistent, fair, equitable, humane, transparent and impartial to the victim and the accused from the first encounter with law enforcement to arrest, charging, pretrial proceedings, plea bargaining, trial, conviction, sentencing and release. These principles should be applied without regard to race, religion, ethnicity, economic status, geography, sex, gender, sexual orientation or disability.

When examining the criminal justice system, we must re-assess conduct that constitutes a crime and whether the sentence and ramifications are justified because many offenders are stigmatized for a lifetime by a single bad decision that has unintended collateral consequences. The intersection of crimes in society is not static and we must be able to examine the impact on society of incarcerating low-risk offenders. At the same time, we must ensure that those who engage in criminal activity are held accountable for their actions and that victims of these offenses are respected, heard, obtain justice, and are offered services to make themselves whole. When appropriate, the system should provide an opportunity for reconciliation among the victim, the perpetrator, and the community.

Arizona must address deterrence through early intervention, education, evidence-based practices and data-driven decision making during all interactions throughout the criminal justice process. Treatment and services for mental health and substance abuse issues should be incorporated into broader issues of economic disparities and criminal justice reform. Economically disadvantaged communities should be provided the resources necessary to access treatment services.

Arizona should also address, at an early age, through education and youth-based prevention programs, familiarity with laws, unacceptable and illegal behavior and the consequences for engaging in such. Arizona should deploy proactive interventions that commence long before someone enters the criminal justice system as an offender.

For those who are incarcerated, Arizona should provide programs and services, including, but not limited to, drug and addiction rehabilitation services, mental health treatment that meets community standards, family support, workforce training, and all levels of education, with the goal of reducing the costs associated with prolonged incarceration and recidivism. When releasing inmates back into society, Arizona and its communities must be responsible for ensuring a focus on quantifiably successful rehabilitation and reintegration.

## **THE IMPACTS OF SUBSTANCE ABUSE AND MENTAL ILLNESS**

Substance abuse and mental illness significantly impact Arizona's criminal justice system. Substance abuse and mental illness are often co-occurring conditions—and each needs to be addressed with evidence-based and data-driven early intervention and treatment options. Arizona has failed to adequately address substance abuse and mental health issues in the public health arena. Often, these issues fall by default to the criminal justice system. Arizona needs to make a clear delineation between public health issues and the criminal justice system and provide for medical and behavioral health intervention separate from the criminal justice system.

Substance abuse and mental health issues need to be treated as public health issues and require appropriate intervention. Both are societal problems that impact the community and Arizona should aggressively address these issues proactively and should take steps to keep individuals from ending up in the criminal justice system. Arizona needs to increase funding for public health programs that address early intervention and treatment options.

We should conduct a comprehensive review of the appropriate level of criminalization of drug and alcohol-related offenses. We also should identify and provide treatment options to discourage recidivism among this population. Substance abuse impacts the criminal justice system in many ways. Significant resources are used to prosecute drug-related offenses. Twenty-one percent of people incarcerated with the Arizona Department of Corrections are incarcerated as a result of drug possession or drug sale offenses. Seventy-eight percent of those incarcerated in Arizona's Department of Corrections have substance abuse issues, even though they may be incarcerated for other offenses.

Mental health issues significantly impact Arizona's criminal justice system, with a major portion of Arizona's incarcerated community members suffering from an untreated mental health condition.

For those with substance abuse and mental health issues who do end up in the criminal justice system, we need to expand the use of specialty courts, such as drug, mental health, veterans, and homeless courts, diversion programs, and comprehensive treatment programs.

Arizona should re-evaluate the goals and standards for competency to stand trial proceedings<sup>1</sup> and utilize appropriate services so that the proper treatment is administered, not only to restore competency, but to ensure that defendants are given the best treatment options for the best health outcomes. Intervention or diversion pre-arrest into treatment or mental health programs would result in fewer arrests and less charging. Mental health facilities must be available to individuals to receive appropriate, long-term treatment. This includes providing adequate funding to ensure that there are inpatient programs available to defendants, regardless of socioeconomic status or geography.

For those deemed seriously mentally ill, Arizona must make certain that there are mental health facilities available to ensure these individuals receive appropriate, long-term treatment. This includes providing adequate funding to ensure that there are inpatient programs available to defendants, regardless of socioeconomic status. This also could include giving judges discretion to impose new options to pre- and post-trial incarceration, such as a variety of community-based treatment facilities with various levels of security. Electronic monitoring is a possible alternative under appropriate circumstances.

We should also engage our community partners, such as non-profits, faith-based programs, and social service organizations, to provide wraparound services and treatment for mental health and substance abuse issues once a person leaves the criminal justice system and re-enters society.

This is not to say that those who suffer from mental illness and/or substance abuse issues should not be held accountable for offenses committed, but the focus should be on treatment and rehabilitation and not solely on punishment.

## **CRIMINAL CHARGING PROCESS**

Improving the operation of Arizona's criminal justice system before charging must utilize a holistic approach which includes funding for education, prevention, and intervention services. This should include access to modern technological advancements; education about technology-based crimes; increasing

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<sup>1</sup> Rule 11.1 of the Arizona Rules of Criminal Procedure provides that "a defendant may not be tried, convicted, or sentenced while that defendant is incompetent. A defendant is not incompetent to stand trial merely because the defendant has a mental illness, defect or disability." "Incompetence" means "a defendant is unable to understand the nature and objective of the proceedings or to assist in his or her defense because of a mental illness, defect, or disability." Rule 11 details the processes by which a defendant is examined to determine competency, restored to competency (if possible), and returned to trial.

community participation through non-profits, community partners and outreach programs; and education of youth, families, law enforcement, prosecutors and defense attorneys about community social services.

Prevention and intervention programs include Teen Court, Citizen's Academies and law-enforcement ride-alongs. Funding to provide police officers with body cameras and other technological advancements should be considered while keeping in mind their limitations. Police officers, other law enforcement, and social service agencies should receive training and funding for crisis response teams and crisis intervention trainings. Arizona should allocate more funding for pre-incarceration services. Diversion programs would result in fewer arrests.

Fully funding Arizona's public education system will have a major impact on reducing youth interaction with the criminal justice system. Teaching life skills and offering programs that help youth transition to adulthood will increase success.

Everyone involved in the criminal justice system, including defendants, victims and their families, need to be aware of how to access community resources such as, but not limited to, crisis services, advocacy, housing, food, transportation, healthcare, and justice involved navigators. Expanded funding of these services would decrease criminal justice system involvement. Everyone working in the criminal justice system including, but not limited to, 911 operators, attorneys, and police officers, should be trained on how to work with people with mental health and substance abuse issues and refer them to appropriate response teams.

The public, and those involved in the criminal justice system—especially judges, attorneys, and legislators—should be aware of the consequences of harsh sentencing and money bonds. Diversion programs should be offered so individuals charged with crimes do not become repeat offenders. We need to ensure that the criminal justice system is consistently applied without regard to income, geography, race, ethnicity, sex, gender, sexual orientation and disability status.

We need to focus on root causes including adverse childhood experiences, homelessness, poverty, substance abuse and mental health, and invest in programs that address these underlying causes outside of the criminal justice system. Trauma-informed, evidence-based approaches need to be expanded. For example, sequential intercept mapping is needed in all counties—identifying intercept points (e.g., initial contact with police, public health, etc.) and looking for areas to improve diversion from the criminal justice system.

## **DEFENDANTS WAITING FOR TRIAL**

Arizona should improve its criminal justice system for defendants who are waiting for trial. In deciding whether to require a defendant to post bail and the amount of bail, Arizona courts should consider whether the defendant is a danger to the community or a flight risk. These considerations would result in either the reduction or elimination of bail. Reviewing the success of other jurisdictions who have eliminated bail should guide an evaluation of bail reform to avoid the criminalization of poverty.

Viewing this time period holistically, we should address the obstacles faced by defendants in getting to pre-trial court hearings. These obstacles include transportation, homelessness, employment and childcare. A statewide uniform best practices approach should be developed, taking into consideration the unique needs of urban, rural, Native American communities, and communities of color. Pretrial services should be thoroughly reviewed and fully funded. Pretrial risk-assessments should be evaluated, validated and continue to be standardized in accordance with best practices, so that more offenders can enter diversion programs. More robust settlement conferences should be utilized, and prosecutors and defense attorneys should communicate more effectively before proceeding to trial to explore alternatives to incarceration. Defendants waiting for trial should be allowed to remain as members of the Arizona Health Care Cost Containment System (AHCCCS).

Mental health and drug treatment services and prescription drugs, as needed, to treat other health conditions should be provided to those defendants who need treatment. Early intervention should be available so that electronic monitoring, specialty courts, social services assessments, and case management can provide successful interventions and reduce the pipeline to prison.

Innovative programs from across the state should be considered for replication. The Arizona Supreme Court's Fair Justice for All Task Force recommendations should be considered for statewide implementation. Transparency during the pretrial process should allow affected community members access to information and education during the entire pretrial process. The process could use low-cost technology innovations such as court date text reminders, which have been proven effective in deterring failures to appear. New and existing programs should be funded. Some participants want to revisit prosecutorial discretion and whether we should consider an approach for selecting County Attorneys that is similar to how we select judges in the larger counties.

## **ARIZONA'S SENTENCING LAWS**

Arizona's sentencing laws may not help us accomplish all of the previously discussed goals. We need to incentivize people who are incarcerated to engage in treatment, education, and other programs. Arizona's "truth-in-sentencing" statute, which requires offenders to serve 85% of the prison sentence before being eligible for discretionary release, leaves only 15% of the prison sentence for community reintegration and behavior change and may not allow the offender enough of an opportunity for behavior change.

Research from other states should inform best practices when reviewing sentencing laws. Outdated laws should be rewritten to fit the needs of our society. Race, ethnic, sex and gender disparities, as well as socio-economic differences should be examined. Further, the criminal justice system should promote the public good and not exist for private profit.

Sentencing policy should differentiate public health issues such as substance abuse from public safety issues. Alternatives to incarceration which focus on individual treatment while ensuring public safety should be promoted. Expanding the use of mitigating and aggravating factors could enable judges to make a more individually tailored sentencing decision. Establishing a citizen's review commission would allow oversight with regards to how sentencing can have a disproportional effect on marginalized communities.

Further, as discussed below, we should not load people with excessive fees and mandatory fines.

## **AFTER CONVICTION, BEFORE COMPLETION OF SENTENCE**

Arizona's criminal justice system should expand re-entry focused services that encourage behavioral health treatment and interventions, education, workforce training, fiscal responsibility, and familial and community obligations throughout the criminal justice process. This would include the preparation of pre-sentence and post-sentence reports that help tailor individualized re-entry programs for the offender.

For those individuals who are going to be released from prison, transition services need to be implemented statewide. Social and community-based services should be provided to the families and support systems of those being released back into society so they are better equipped to assist in the re-entry process.

While most agree that specialty courts, such as drug, mental health and veterans' courts, are beneficial in ensuring appropriate treatment of offenders, some advocate for the expansion of the specialty court model into the area of sex-related offenses. This expansion would allow for greater expertise in the treatment of sex offenders, which some contend is a special category of offender with different pre- and post-incarceration needs.

Arizona should re-evaluate its criminal fines and fees structure to ensure that they are fair assessments and are applied consistently statewide. The entire fines and fees structure should include alternatives to fines and fees based on socioeconomic status and ability to pay. The evaluation needs to also consider the amount and fairness of mandatory and discretionary fees and fines, while ensuring that victim restitution and unpaid child support obligations take priority.

Arizona needs to ensure that social services, housing options, transportation, and vocational opportunities are afforded to those newly released into the community. The system needs to evaluate the length of probationary terms, whether these are fair and equitable, and the types of services and requirements associated with probation. We need to address the treatment of probation violations and associated penalties, and how best to treat high risk re-offenders.

As alternatives to incarceration, the system should re-assess which crimes should be probation or service-sentence eligible, consider the use of house arrest and expand work furlough programs.

## **COMPLETION OF SENTENCE**

Arizona should focus on re-entry programs and resources to successfully integrate formerly incarcerated community members. Reintegration programs should involve all aspects of the community including community coalitions and legislative support. Programs and resources should include access to stable housing, transition centers, support programs, facilitation of family support, transportation, healthcare, workforce training and ways to obtain a driver's license and other forms of identification. Additionally, there should be an easier process for expungement and restoration of voting and civil rights (excluding gun rights).

Non-profits, community partners, faith-based organizations, and government agencies can work together to provide wraparound services to ensure stability and success. Yuma, Pima, Yavapai, and Maricopa Counties each have had success with collaborative programs. When issuing professional licenses, regulatory boards should consider whether the crime is directly related to the job to be licensed. Business opportunities should be made available to former offenders to facilitate the payment of fines, fees, and restitution.

Innovative programs which encourage offender/victim dialogues should be expanded. The public behavioral health system should be accountable for housing AHCCCS-eligible individuals who are diagnosed as seriously mentally ill.

Arizona needs to stop condemning people to a lifetime of collateral consequences that extend beyond completion of sentence. Arizona should create an expungement statute. Voting rights should be added automatically upon completion of sentence. Arizona should also evaluate the efficacy of sex offender registries.

## **ACTIONS TO BE TAKEN**

We recommend that the following actions be taken to ensure that Arizona's criminal justice system meets the needs of its citizens. Arizona should:

- Aggressively address the root causes of crime, including substance abuse, mental health issues, homelessness, poverty, disparate educational opportunities, generational family dynamics, and bias based on race, ethnicity, sex, gender, and historical conditions that result in disproportionate impacts on the criminal justice system on tribal communities and racial/ethnic groups.
- Focus on evidence-based, data-driven decision making and utilize tools such as sequential intercept mapping to focus on diverting individuals at risk from engaging in criminal activity to obtain appropriate early interventions prior to entering the criminal justice system.



- Assess and fund both public and private inpatient and outpatient treatment programs and facilities for individuals suffering from mental illness and/or substance abuse/addiction.
- Engage with various private-sector employers to de-stigmatize the hiring of ex-offenders.
- Work to de-stigmatize the status of persons affected by contact with the criminal justice system, whether by arrest, conviction, incarceration, probation, as a victim, or as a family member of such persons, by treating all persons with respect and dignity including in the terminology used to refer to such persons.
- Create and fund:(1) an adequate number of quality inpatient treatment facilities;and (2) new community-based outpatient treatment facilities with varying levels of security to give judges alternatives to pre- and post-trial incarceration. Electronic monitoring could be one security option considered.
- Call on the Legislature to establish a committee to coordinate with the Arizona Criminal Justice Commission, Arizona Attorneys for Criminal Justice, and the Arizona Supreme Court's Fair Justice for All Task Force to produce annual reports on the strengths and weaknesses of Arizona's criminal justice system.
- Require the Legislature to reform bail, sentencing laws, civil commitment options and Arizona's laws to ensure the appropriate level of criminalization of some drug offenses.
- Encourage the Legislature to reinstate laws requiring cost comparisons between private prisons and Arizona Department of Corrections' prisons. The comparison should also include infractions, i.e., positive drug tests.
- Give judges greater discretion to terminate sex offender registration.
- Expand community partnerships with federal, state, and local government agencies, non-profits and community-based health care, housing, workforce development, and social service organizations to provide services to inmates, victims, and their families to ensure they are able to be productive members of our communities.
- Increase mental health and substance abuse disorder training for first responders, with programs such as Mental Health First Aid.
- Increase availability to, and effectiveness of, crisis response options.
- Increase innovative solutions for dispatching appropriate emergency services, to include crisis services, for people experiencing a behavioral health crisis.
- Ensure probation, parole and community supervision is fully-funded and held accountable for the successful re-entry of offenders into society through proactive case management.
- Encourage the Legislature to consider the enactment of expungement laws and sentencing reform, as well as simplifying the process for the restoration of civil rights (excluding gun rights) and the automatic restoration of voting rights after the successful completion of sentence.
- Acknowledge victims and their families and their need to overcome the trauma they have experienced during all aspects of the criminal justice system.
- Invest in early intervention programs to end the multi-generational impact of criminality on families, youth, and the community.
- Require its elected officials to attend training on the criminal justice system sponsored by the Arizona Supreme Court.
- Ensure that prosecutorial and defense agencies, as well as victim rights groups, receive sufficient funding and access to the Legislature to ensure fairness in any criminal justice reform measures.

- Establish a statewide taskforce to determine the best practices—both evidence-based and data-driven—with regard to diversion, problem-solving courts and re-entry programs.
- Fully-fund transition and re-entry programs and resources to successfully integrate formerly incarcerated community members.

## INDIVIDUAL ACTIONS

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the statewide Town Hall. Below are individual actions that were shared.

### I WILL...

- Make more effort to reach out to my community in regards to our criminal justice, and be a source of information of how to get involved.
- Share facts to resolve myths within the criminal justice system and educate my peers and encourage more students and community members to take action and get involved in their communities.
- Educate the public about the needs of victims.
- Work with AzRSOL.org to make progress with those affected by the sex offender registry.
- As Arizona Faith Network: Collaborate with Arizona Town Hall on potential future leaders' forum on this issue, hold forums and reading groups (The New Jim Crow) in and among various faith communities on the issue to educate the public, work across sector to develop consensus or laws and policies we can work on together to enact and implement positive change for the common good.
- Commit to believe that all the positive efforts spoken about can be achieved.
- Be part of the solution.
- Use the same format to hold mini town halls on small and large issues in the criminal justice system so more people learn to research and find civil solutions to problems in their own community.
- Continue to be an advocate for people with disabilities to provide services to keep them out of the criminal justice system.
- Work towards public awareness of the need for reform in the criminal justice system at various levels.
- Continue to stay engaged in the town hall community. Stay abreast of what is happening in the criminal justice community and share what I have learned.
- Focus on developing a criminal justice system organization to tackle issues on the local level and support global improvement at the state level.
- Bring these discussions and ideas to the Governor's office for vetting, consideration, and deliberation.
- Work to educate people about sentencing options.
- Push for more services for crime victims.
- Continue to be an advocate for the formerly incarcerated community, as well as those who suffer from substance abuse.
- Help reverse the negative stigma that is associated with the formerly incarcerated.
- Take the thoughts and concerns from what we have discussed and try to remember it in my daily work.
- Speak on the issue of behavioral health.
- Advocate for treatment courts.

- Work on homelessness.
- Employ better practices in having more effective settlement conferences and creating unique solutions to resolve cases fairly for victims and defendants.
- Seek to learn more and take advantage of resources to better society, including victims, affected family, defendants and the community.
- Continue to work full-time on Pima County's Criminal Justice Reform initiatives, and encourage our Public Defense Offices to engage social workers in their offices to assist defendants with engaging needed services.
- Keep the conversation going by encouraging students to make their voices heard in Town Halls and everywhere they can.
- Work with Arizonans for Rational Sex Offense Laws to change sex offender laws and policies to be less punitive and more evidence-based.
- Reach out to at least five participants and engage about topics discussed.
- Incorporate one item from each question that we addressed into a case.
- Think about discussions with which I disagreed and reflect on the topic. Respond to any follow-ups from other participants.
- Take time to educate myself further on what happens to offenders post-conviction.
- Be open to participating in community re-entry programs.
- Work on next year's Arizona Town Hall theme at Whetstone Unit.
- Take a more active role in reform through lobbying and educating the community about the truth and failures in the system to encourage personal growth amongst community members to engage in change. Mentality related to criminal justice has to change before reform is possible.
- Work with Arizonans for Rational Sex Offense Laws to educate members of the justice community and lobby legislature to create more rational sex offense laws based on facts rather than myths and fear.
- Continue to work with the Arizona court system to make changes to the criminal court procedures and processes.
- Continue to participate in community events; public speaking opportunities, and policy meetings to educate the public on what occurs in the state prisons and encourage community involvement and partnerships to develop re-entry opportunity advancements for offenders.
- Educate legislators about opportunities to invest in low cost alternatives to incarceration that preserve public safety.
- Contact directly, one-on-one, my state legislators from my district and inform them of the recommendations from the 111th Arizona Town Hall.
- Continue to work for criminal justice reform in partnership with all parties with diverse perspectives and the general public in my community.
- Advocate for the Town Hall recommendations to my elected officials.
- Post information about the Town Hall recommendations on social media.
- Contact my state legislators about this Town Hall and the need for change. Keep the conversation alive (without becoming an irritant). Stay informed, keep current on what is happening at the legislature.
- Use what I learned here to promote strengthening of the Department of Economic Security services related to re-entry.

- Work on addressing the child visitation issues and work to find a solution which works for everyone.
- Continue to work with Arizona Council Systems to make changes to the criminal court procedures and processes.
- Continue to participate in community events, public speaking opportunities, and policy meetings to educate the public on what occurs in the state prisons and encourage community involvement and partnerships to develop reentry opportunity advancements for offenders.
- Continue to support my loved one. Educate through discussions of what goes on. Be available to talk with people working on reform with legislature. Try to keep my sanity.
- Educate the public on the facts of sex offenders. Meet with my legislators to change statutes that allow juveniles to have a way to “age off” the registry. Continue to support Arizona Rational Sex Offence Laws (AZRSOL).
- Engage my local government officials to begin the process of assessing/researching our criminal justice programs and practices.
- Engage our legislators and work to become more engaged in the education of the legislative process.
- Continue to work with practitioners on the importance of data and research presented by trained addicts.
- Continue to engage in ongoing dialogue with all kinds of people to identify and address root causes of crime.
- Work on prison and sentencing reform by contacting legislators, educating civic and community groups, and discussing needed reforms with the media. Litigate when necessary.
- As a chamber member, I will educate and encourage fellow business alum to be felony friendly.
- Continue to educate and expose our students to the judicial process and the importance of their need to make wise choices.



# **CRIMINAL JUSTICE IN ARIZONA**

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**COMMUNITY TOWN HALLS  
FINAL REPORT**





# “Criminal Justice in Arizona”

Downtown Phoenix Community Town Hall Report

Phoenix, AZ – April 19, 2018



# **CRIMINAL JUSTICE IN ARIZONA**

## **Downtown Phoenix Community Town Hall Report**

**April 19, 2018 – Westward Ho**

### **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

Arizona's criminal justice system is one part of our larger society, and we should consider how interconnected public systems, from schools to foster care to mental health care, can work together to prevent criminal behavior and reduce its impacts. We should begin with prevention, and preventative efforts should include public education as well as education of children in public schools. If we provide mental health services and drug treatment programs and assist people to meet their basic needs, we can work to break the cycles that lead to incarceration. We should focus on factors such as racism and poverty that fuel the preschool-to-prison pipeline. We also should focus on the individual and make appropriate distinctions between violent and nonviolent crimes and offenders. To reduce the need for prisons we should look at programs such as those in Scandinavian countries, which have made significant progress in that realm.

We should not be soft on crime, but smart about crime. We should recognize that prison is not always the best solution. The criminal justice system should operate as a public service, not a for profit business. We should look at unduly harsh sentencing and consider more programs such as diversion and restorative justice programs that will address the underlying causes of crime rather than simply punishing the offender.

Although public safety is the principal goal of the criminal justice system, rehabilitation also is an important goal, and we should begin to focus on rehabilitation when a convicted person enters the system. Most incarcerated persons will eventually reenter society and we should be preparing them to succeed upon release, rather than to return to prison. We should put greater emphasis on reducing recidivism. We need to provide services to prepare inmates for productive work, to treat drug addiction problems.

### **SETTING PRIORITIES AND TAKING ACTION**

Arizona must shift the paradigm from incarceration to prevention, and reduction of recidivism. To accomplish that Arizona needs elected officials who reflect Arizona's diversity and will more thoughtfully address criminal justice issues, for example, by reducing mandatory sentences. To make the best decisions we need to use independent data that helps us determine who is in the criminal justice system and why they are there, and we should listen to people who have been in the system.

When holding offenders accountable, we should consider the multiple viewpoints of the offender, the victim, law enforcement, and the public at large. The impacts of the criminal justice system upon children and families of incarcerated persons should be considered. We should reevaluate restitution requirements and how they operate. Fines and fees make it much more difficult for persons to exit the system and for ex-offenders to succeed upon release. We should put greater emphasis on diversion programs and alternatives to incarceration.

In addressing criminal justice issues, we should engage the assistance of multiple partners, including the business community, the public schools, and community colleges.

Arizona should eliminate private prisons, but we need to consider the impacts of doing so. Arizona should eliminate cash bail, truth in sentencing, and mandatory sentences. We should better fund community based policing, to enable police forces to recruit more qualified officers who are better equipped to deal with difficult social issues, and provide more on-the-job training. We should invest in smart policing instead of over-policing.

To reduce prison populations and recidivism we need to have more affordable housing, job training and placement services. We should make it easier for ex-felons to get jobs and to find decent housing. Reduction in recidivism should be an explicit goal of Arizona's criminal justice policy. There should be incentives and accountability for achievement of reductions in recidivism rates.

Arizona's sentencing laws and process could be improved and made fairer. Mandatory sentences often are unfair and too harsh, and sentencing practices may vary substantially from county to county. Arizona's sentencing structure needs to be evaluated statewide, and sentencing discretion should be restored to judges rather than being committed to prosecutors. This is an issue that may not be best addressed in the political realm, and sentencing should be evaluated in the light of data about what is effective and appropriate.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the Downtown Phoenix Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Learn more and educate others on the preschool to prison pipeline.
- Continue to inform and engage community, and to work with legislators who will continue the Governor's Taskforce on Recidivism.
- Identify and support political leaders who support change in the criminal justice systems, and elect same.
- Find partners to test a program for families experiencing parental incarceration to PREVENT intergenerational transmission of incarceration.
- Talk about fines and their implications.
- Continue to network and educate the public on how to change laws and put politicians in office who are willing to listen to answers to prevent recidivism rates from going up.
- I will personally get more people with a background in law enforcement involved in the town hall process.
- Talk to as many individuals as possible about things learned here.
- Work to elect legislators who will change our laws; get rid of cash bail.
- De-stigmatize people who are imprisoned and get the general public to view prisoners as people first.
- Encourage awareness of issues and candidates promoting voting based on the above.
- Further promote knowledge of ELCA (faith based) social statements.
- Volunteer in a school in an at-risk neighborhood to discuss constitutional rights and crimes in order to educate youth in an effort to reduce the path toward prisons.
- Continue to have a comprehensive, holistic and open dialogue on the dynamics of the criminal justice system.
- Continue to be an advocate and supporter for people with mental illnesses through promotion of awareness.

# **DOWNTOWN PHOENIX COMMUNITY TOWN HALL SPONSORS**

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# "Criminal Justice in Arizona"

St. Vincent de Paul Community Town Hall Report

Phoenix, AZ – May 1, 2018



**Artwork from Youth Participants**

# CRIMINAL JUSTICE IN ARIZONA

Notes from Community Town Hall at St. Vincent de Paul  
May 1, 2018 – St. Vincent de Paul Family Dining Room

On May 1, 2018, people served by St. Vincent de Paul shared their opinions and stories about Arizona's criminal justice system. Below, their comments are summarized in both English and Spanish.

Included with this report are copies of artwork created by children at the event. The first two pieces were created when they were allowed to create whatever they wanted. The last three pieces were created after they were asked to think about police, courts and other parts of the criminal justice system.

## **WHAT HAVE BEEN YOUR EXPERIENCES WITH THE CRIMINAL JUSTICE SYSTEM?**

One person was frustrated with the criminal detention process and said it is inefficient. This person explained that a criminal is arrested and detained at one location, then transferred to another location to be arraigned, and if he qualifies to post bail, the bail must be paid in another location. The person recommended a more centralized process that is more convenient for all parties.

Some people are scared to report criminal activity to the police because they do not have legal status to live in the United States and they also fear that the police will question them about their legal status when reporting a crime.

Some people fear that if they report a crime to the police the criminal will seek revenge against them.

Some people reported that the police do not respond quickly enough to the scene after they report criminal activity. Some people reported waiting over 30 minutes for police to respond. In some cases where the police arrived late and the reporting person had left for work, the police would leave a note on the person's door. Neighbors and the criminal would see the police leaving the note and would discover who reported the crime. One recommendation is to have more frequent police patrols in areas that have high incidents of crime.

The criminal justice system needs to have more flexible criminal penalties with fewer sentences requiring lengthy incarcerations. For example, sentences for non-violent crimes need to focus on community service, which allows the criminal to serve his punishment while maintaining his employment and family obligations.

Some people feel that the police ask for too much personal information when a person reports criminal activity. These people are concerned about criminals seeking revenge against them or intimidating them.

There is a lack of communication between ICE, police departments, courts, criminals and their families, and victims about the circumstances when a criminal will be allowed to post bail or when he will be transferred to ICE and deported.

# CRIMINAL JUSTICE IN ARIZONA

Notas de Community Town Hall en St. Vincent de Paul  
1 de mayo de 2018 – St. Vincent de Paul Family Dining Room

El 1 de mayo de 2018, las personas atendidas por St. Vincent de Paul compartieron sus opiniones e historias sobre el sistema de justicia penal de Arizona. A continuación, sus comentarios se resumen en inglés y español.

Al final de este informe hay copias de obras de arte creadas por niños que asistieron el evento. Las primeras dos piezas se crearon cuando se les permitió crear lo que quisieran. Las últimas tres piezas se crearon después de que se les pidió que pensarán en la policía, los tribunales y otras partes del sistema de justicia penal.

## **CUÁLES HAN SIDO SUS EXPERIENCIAS CON EL SISTEMA CRIMINAL DE JUSTICIA?**

Una persona estuvo frustrada con el proceso de detención de criminales y dijo que el proceso es ineficiente. Esta persona explicó que un criminal está adestrado y detenido en un lugar, transferido a otro lugar para ser procesado, y si califica para la fianza, la fianza debe pagarse en otro lugar. Esta persona recomienda un proceso más centralizado que es más conveniente para todos los partidos.

Algunas personas tienen miedo de reportar actividades criminales porque ellos no tienen estatus legal para vivir en Los Estados Unidos y ellos también tienen miedo que la policía les pregunte sobre su estatus migratorio cuando reporten un crimen.

Algunas personas tienen miedo que si reporta un crimen a la policía que el criminal buscara revancha contra ellos.

Algunas personas reportan que la policía no responde lo suficientemente rápido al lugar donde ocurrió el crimen. Algunas personas reportaron que esperaron más de 30 minutos para que llegara la policía. En algunos casos cuando la policía llega tarde y la persona que reporto el crimen ha salido a trabajar, la policía debería dejar una nota en la puerta de la persona. Los Vecinos y el criminal verían a la policía dejando la nota y descubrirían la identidad de la persona que reporto el crimen. Una recomendación es para tener patrullas más frecuentemente en las áreas que tienen una alta nivel de incidentes criminales.

El sistema criminal de justicia necesita tener sanciones más flexibles con menos tiempo de detención. Por ejemplo, sanciones para crímenes no violentos tendrían que enfocarse en servicio a la comunidad que permita al criminal mantener sus obligaciones de empleo y de familia.

Algunas personas sienten que la policía pregunta mucha información personal cuando una persona reporta actividad criminal. Estas personas están preocupadas que los criminales van a buscar revancha y buscarán intimidarlos.

Hay una falta de comunicación entre ICE, departamentos de policía, cortes, criminales y sus familias, y víctimas sobre las circunstancias cuando el corte permitirá un criminal pagar una fianza o cuando el criminal transferirá a ICE y deportará.



# **“Criminal Justice in Arizona”**

**White Mountains Community Town Hall Report**

**Lakeside, AZ – July 28, 2018**



# **CRIMINAL JUSTICE IN ARIZONA**

White Mountains Community Town Hall Report  
July 28, 2018 – White Mountain Nature Center

Participants of the July 2018 White Mountains Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

## **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

Before considering goals, we should consider Arizona's responsibilities. First, we have the responsibility to define what a crime is. Mental health and substance abuse, for example, may need to be taken out of the current criminal justice system entirely, or addressed differently. There should be early identification of mental health issues, and we must avoid counterproductive consequences, such as when incarcerated individuals with mental health issues lose their health coverage. We also owe our youth opportunities and programs that will help keep them from becoming part of the criminal justice system in the first instance.

Turning to the principal goals of Arizona's criminal justice system, we must, first and foremost, ensure that our communities are protected, which includes preventing criminal offenses before they occur and supporting rehabilitation after incarceration. Examples of programs that support rehabilitation and reduce recidivism include mentorships and other support systems, like those created through Arizona's current veterans' courts. The costs of the criminal justice system, both intended and unintended, must be considered.

Punishment, on the other hand, is not a goal. Consequences should be proportional to the crimes committed—fair and productive.

## **PRIOR TO INCARCERATION**

More programs should be available to help steer individuals away from incarceration when appropriate. For example, Medicated-Assisted Treatment (MAT) is a program for people struggling with mental illness that helps promote alternatives to incarceration. Specialized courts, such as the Navajo County drug court, or mental health courts, could similarly help match specific types of offenders to the type of help that best suits their needs and reduces recidivism. For these programs to be effective, they must be funded. Civil forfeiture can be one source of funding, but a dedicated source would be more reliable.

In addition to such specific programs, judges—who should be highly qualified and not politically elected—should have more discretion to impose non-incarceration options. If, for example, someone is not a public safety threat, incarceration is probably not the most effective option.

In addition to court-oriented programs, we should have more public and community outreach programs to help youth and repeat offenders. Ohio, for example, has programs where police officers connect with youth in low-income communities. Similar programs can come from churches, community organizations, schools and families.

Finally, we should improve police training and agency coordination, and work to reduce bureaucratic red tape. Police should be trained to better identify mental health, substance abuse and domestic abuse situations. This will improve responses, trust and consistency.

## **AFTER INCARCERATION**

Most of those who are released from prison come back into the community without the skills and resources necessary to find housing, employment and transportation. A few former inmates are connected with programs that supply those services, but that's a small portion of the population.

For some crimes, incarceration could be transformed into a more progressive learning process where classes are mandatory and eventually a participating inmate could "graduate" from prison with the skills necessary to reintegrate into society. This system could also incentivize good behavior during and after incarceration, and would give the Arizona Department of Corrections (ADOC) more input into whether and when particular inmates are ready to return to society.

Furthermore, prisons themselves could help inmates locate housing and employment prior to release. This could include contacting potential employers who may need inmates with particular skill sets. This would help ease former inmates' transition into society. Once in society, the transition should remain gradual. Former inmates should have opportunities at halfway houses to be accountable and receive additional classes or counseling. We also need enough parole officers to form relationships with former inmates and mentorship programs to ease the transition and help reduce recidivism.

Social institutions and programs could also do more to help the families of those who are incarcerated, such as spouses and children, who may need financial and emotional aid. Finally, we need specialized systems in place to deal with mental health and substance abuse or addiction recovery needs.

## **THE WHITE MOUNTAINS COMMUNITY**

In the White Mountains, prevalent crimes include substance-abuse-related crimes, such as opioid abuse and shoplifting alcohol. Domestic violence and sexual assault against minors are also unfortunately prevalent in this area. Furthermore, housing, treatment, jobs and transportation are not as available here as in urban communities, which makes it more difficult to implement prevention and re-entry programs.

The White Mountains community has a mobile population—many of the people who are here in the summer leave during the winter—which creates opportunity for property crimes against vacant properties. The Native American reservations in the area—predominately the White Mountain Apache Tribe reservation—create jurisdictional issues in the criminal justice system.

Solutions for this region, in addition to those that apply to all of Arizona, include increasing communication between tribal and non-tribal jurisdictions, requesting additional federal funding as needed, working to increase awareness of the types of crimes that occur here and collaborating with tribal governments to help reduce on-reservation crime.

The veterans' and mental health courts in this county have been productive, but there is no drug court, which is needed. Most of these issues, however, are statewide and there should be state funding to help resolve these statewide issues that is not allocated based on population alone.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the White Mountains Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Continue to try to create a mental health court in Navajo County.
- Volunteer in community service.

- Share what I learned today and continue the conversation with others.
- Encourage discussion of these problems.
- Vote for those who are open to looking for solutions to criminal justice problems.
- Contact my legislature regarding criminal justice reforms.
- Push for a change in the law to impose higher standards for judges.
- Report back to the town council on results of the town hall.
- Be open to volunteering with retraining and re-entry programs for inmates and former inmates.
- Commit to reducing recidivism in Arizona.
- Continue to give presentations on the criminal justice system.
- Look into a center or school to mentor children with issues at home—whether drug or abuse related.
- Contact Arizona legislators to increase the number of parole officers.
- Attend suicide awareness/training.
- Continue to participate in drug education in the community.
- Work with the League of Women Voters on these issues.
- Attend additional Arizona Town Halls.
- Become a more informed citizen in order to contribute factual information to these conversations.
- Encourage more discussion about the criminal justice system.

## WHITE MOUNTAINS COMMUNITY TOWN HALL SPONSORS

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**Navajo County Bar Association, John and Diana Burton, and Public Service and Public Safety organizations in the White Mountains.**



# **“Criminal Justice in Arizona”**

## **Prescott Community Town Hall Report**

### **Prescott, AZ – September 12, 2018**



# **CRIMINAL JUSTICE IN ARIZONA**

Prescott Community Town Hall Report

September 12, 2018 – Embry-Riddle Aeronautical University

Participants of the September 2018 Prescott Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

## **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

Criminal justice in Arizona is a complex system which must satisfy many different needs. Paramount is the need to ensure and promote public safety and accountability while simultaneously playing a significant role in prevention—especially among youth. To achieve this goal, the system must provide punishment and deterrence balanced with providing rehabilitation and post-incarceration preparation in an environment that is also safe for inmates. The system must be fair and equitable to all and provide justice for victims of crime. The system is also called upon to play a preventative role in the community including diversion programs, school-based programs, early intervention in the lives of our youth, actively engaging with families, and leadership in drug and mental health treatment. Reducing recidivism is also a critical role—recognizing the importance of re-integration programs that include vocational training and requiring that the criminal justice system be an integral part of our communities.

## **PRIOR TO INCARCERATION**

One of the most significant issues we face is the need for robust mental health and substance abuse treatment programs that reach people in need before they are arrested. Arizona's prisons and jails have become the largest facilities housing the mentally ill in the state. The movement away from state mental hospitals and similar facilities have made the criminal justice system their place of last resort.

We need to reach our youth while they are still in school. Programs that incorporate ex-offenders with lived experience can be extremely effective. More counseling resources in our schools could identify at-risk youth early and get them the help and guidance they need. Schools should also promote civic responsibility and incorporate community service.

Police need to be approachable—many in need of mental health and substance abuse care are fearful of police and authorities so we need to find new approaches to outreach. We need to ensure that our police and other first responders have mental first aid training combined with resources such as mobile crisis intervention teams. We need to work closely with police to train and provide consistent policies that help them make the best decision about how to address and possibly divert people with mental illness and substance abuse issues. Advocates could be leveraged to work with the families of first offenders to help create a supportive environment. We should implement a universal phone number to provide access to mental health and substance abuse resources.

We invest significant resources in probation and post-conviction treatment programs but we should be making those investments early to prevent criminal activity. There is also a major equity issue in rural versus urban funding. Diversion and treatment programs are not adequately funded in rural Arizona.

We need to continue to expand collaborative, cross-functional approaches that involve law enforcement, healthcare, all three branches of government, non-profits and other professionals. A very successful example in Yavapai County has been MATFORCE. Another important program is the Crisis Stabilization Unit at West Yavapai Guidance Center. We need to create and expand public awareness of the importance of treatment and prevention programs to support legislative action and public funding.



## **AFTER INCARCERATION**

We need to ensure that convictions do not become a life sentence. Effective re-entry programs are critical to reducing recidivism. They need to include job readiness, and assistance in finding jobs, transportation and housing. Community-based re-entry coalitions including government, faith-based organizations, non-profits, and parole/probation are extremely successful. Parole and probation in Yavapai County work successfully with many community organizations to create a continuum of care. Programs that include peer supports and counselors are also very important.

Education during incarceration—especially vocational training for living wage, sustainable jobs—is very important to rehabilitation and re-entry. Cognitive behavioral programs in addition to substance abuse and mental health assistance are also important. Pre-release counseling is needed to help people develop plans that include transportation, housing, and available community resources. Availability of these resources is critical and can be very challenging in rural Arizona.

While we need to be respectful of victims of crime and address their trauma, we also need to recognize the burden that criminal fines place on people who are convicted and consider alternatives such as community service.

Substance abuse training during incarceration must be continued during re-entry and may include monitoring halfway houses and promoting access and attendance in 12-step programs.

Tax incentives could be used to encourage hiring people who have been convicted. Volunteer coordinators who can assist and coach people in re-entry should also be encouraged.

The Yavapai County Re-Entry Program that engages a mentor to help community re-entry and includes families has been very effective. Family support including pre-release intervention with the family creates an environment which promotes rehabilitation. Yavapai County mental health and veterans court diversion programs have also been very effective. Expanding community involvement in re-entry will keep recidivism down.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the Prescott Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Be a mentor for someone in need and encourage others to do the same.
- Become a prisoner advocate.
- Be a voice for victims.
- Get involved.
- Be better informed and provide support where appropriate.
- Speak to high school students.
- Maintain collaboration with local judges, attorneys, law enforcement, and counseling agencies.
- Initiate discussions on this topic.
- Discuss re-entry planning.
- Promote the Yavapai Re-entry Program.
- Monitor and educate myself on criminal justice reform.

- Educate youth by hosting a Future Leaders Town Hall at Yavapai College.
- Volunteer for a rehabilitation program – I was previously unaware of this issue.
- Engage with children transitioning from the juvenile justice system.
- Work to bring robust improvements to the criminal justice system.
- Continue to promote the Navajo County Inmate Re-Entry Coordinator Position.
- Finish school and prepare for a career in criminal justice.
- Spread communication and knowledge to other young people and those who may not be aware of the criminal justice system, like me.
- Continue to promote Prescott Opinion.com, a blog I created to enable local citizen impact.
- Make time to listen to those who need someone to talk to and to keep giving it my all as the Yavapai County Re-Entry Program assistant.
- Continue to promote and facilitate the creation of a community re-entry coalition.
- Continue to use influence, passion, commitment and position to bring about robust changes to improve the criminal justice system in Yavapai County.
- Begin this discussion with citizens through social media.
- Invite students and citizens to the Town Hall at the Lewis Facility.
- Send Town Hall information to city government.
- Utilize the report from this Town Hall to support strategies and goals of the Yavapai justice and mental health coalition.
- Learn more about and advocate for reentry work and planning.
- Contact my local representatives to discuss transportation issues and resolutions for providing transport to rural areas such as Ash Fork and Seligman.
- Volunteer to assist those newly released from DOC.
- Talk to my legislators to encourage them to be courageous to do the right thing.
- Work toward being a mentor for someone in need. Encourage others to do the same.
- Investigate what resources and programs exist in my area (Sedona Verde Valley) and see what is needed. Look at how the school/community college can help. Create more school/community partnerships to make resources available to families.
- Finish school in order to prepare myself for a career within the criminal justice system.

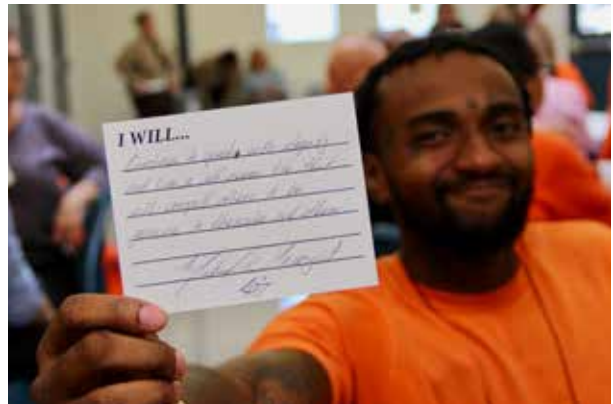
## PRESCOTT COMMUNITY TOWN HALL SPONSORS

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*Ray and Patty Newton  
Family Foundation*

**EMBRY-RIDDLE**  
Aeronautical University  
PRESCOTT, ARIZONA

**“Criminal Justice in Arizona”**  
**Whetstone Unit Community Town Hall Report**  
**Tucson, AZ – September 13, 2018**



**Photos courtesy of the Arizona Department of Corrections**

# **CRIMINAL JUSTICE IN ARIZONA**

## **Whetstone Unit Community Town Hall Report**

September 13, 2018 – Arizona Department of Corrections, Whetstone Unit

Participants of the September 2018 Whetstone Unit Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

### **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

Safety is an important goal for the criminal justice system, as is punishment for crimes committed. However, the punishment doesn't always fit the crime. The scales of justice are out of balance. The punishment is not often just, does not allow for a focus on individual circumstances, and does not adequately take into account mental health and other life circumstances.

The system currently also focuses too much on punishment as opposed to addressing the causes of the behavior that landed people in prison.

It is critical that the criminal justice system focus on how to help people interact effectively with their community so that they don't enter the system in the first place, and that they do not return.

Often, this means providing resources like education and drug rehabilitation for those who need it. Education programs that address behavior issues and life traumas are also critical. The system should address these issues with programs that teach people how to modify their behavior so they can make better choices in the future. Programs like Second Chance are a good example of programs that work towards these goals. Rehabilitation programs should be individualized to the needs of prisoners. If we target rehabilitation efforts to individuals, using individual interactions instead of algorithms, we will get a better return on our investment and improve safety.

We should also support a change of attitude both within the system and in the broader community. Within the system, we should emphasize policies that reward and encourage positive behaviors and attitudes. In the broader communities, we should focus on changing attitudes away from dehumanizing those who commit crimes and instead addressing the issues that led to criminal choices.

Getting the best return on investment is also an important goal to consider. The best return on investment for money spent and resources applied happens if we work collectively towards solving the issues that led to imprisonment and that cause people to return. This includes treatment as needed, programs to learn life and vocational skills, and support from the community at large once leaving prison so that when prisoners are released they can more effectively reintegrate back into the community.

### **PRIOR TO INCARCERATION**

Arizona's criminal justice system should be more transparent, fair and targeted towards the causes of criminal action. It could be improved prior to incarceration by addressing the circumstances that often lead to incarceration. Often a life of crime starts early when children do not have adequate support. This can be a lack of access to education, lack of family support or lack of positive role models. Substance abuse is also a major factor. Programs that address these issues could have a big impact on reducing the number of people who enter the system, whether as juveniles or adults.

Once someone is in the juvenile system, we could focus a lot more on programs that keep juvenile offenders from becoming lifelong prisoners. This should include mentors who have been through the system.



For adults, both the issues to address and the changes needed are similar.

To improve the system prior to incarceration, we simply need more support for mental health and substance abuse. We should work to destigmatize these areas so the communities will better support those who experience them. Community members and the media can help. They can play a role in providing more well-rounded and less sensationalized stories.

Police are an important part of the community and the criminal justice system. The system could be improved by having police who are better educated to handle mental health, substance abuse and child trauma issues.

More and expanded pretrial services would make a big difference, as would prison diversion services. We should make it easier to get treatment for substance abuse and mental illness so that people don't come into prison in the first place. We should also consider more job skills training and consider the use of military and work diversion programs.

Our legislators need to understand that resources would be better used helping those with substance abuse rather than imprisoning them. Canada has some good examples to consider.

The entire system could be improved by considering substance abuse, mental health issues and other factors more in making sentencing decisions. We need to make the public in general more aware and understanding of the impact of mental illness and substance abuse.

We should change the incentives for prosecutors so that they are not incentivized to file the most serious charges and to convict but instead incentivized to consider individualized needs and rehabilitation. We should consider having prosecutors certified they have disclosed everything under the law and we should consider Grand Jury reform. We need to reconsider the use of priors in giving longer sentences. We also should give judges more discretion to determine sentences that are based on individualized circumstances.

## **AFTER INCARCERATION**

The criminal justice system could be improved after incarceration by preparing released prisoners better for integrating effectively into the community

We should start supportive programs inside the system that can continue outside the system such as the Second Chance programs, a version of twelve steps, substance abuse programs, programs that teach behavior modification or other transitional support systems. We should try to form more partnerships with groups like the Veteran's Administration (VA) who can help support inmates once they are out.

We should also consider methods to increase inmate wages that could be saved up to allow them to more effectively transition once released. Alternatively, we should consider tax credits for employers and others that can help released prisoners make a more effective transition.

We need to look at housing programs like permanent supportive housing and even structured housing programs that allow for a smoother transition into the community.

Effective transportation is also an issue related to effectively integrating into the community and to getting and keeping jobs. We may want to consider an Uber/Lyft type service through community groups to help released prisoners get to work.

Job skills are important for inmates to integrate into the communities. The programs currently in place are good. They can be improved with additional programs and having more individualized selection of the programs by personal preference. We should consider eliminating restrictions on professional licenses that limit job opportunities. We should also consider restoring other rights to released prisoners that keep them from fully integrating back into their communities.

We should look at how to create more supportive social networks, including with families. We need to prepare families for inmates getting out and support families in staying connected both during and after incarceration.

Often, released prisoners are not aware of resources that may be there to assist them. Making released prisoners more aware of resources is critical. It is also important to reevaluate the mental health of prisoners upon release so that they can get proper treatment.

If we set prisoners up with the needed tools—job training, housing, transportation and supportive services for substance abuse and mental illness, we will drastically reduce recidivism.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the Whetstone Unit Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Continue to work to change the narrative about people with prior convictions in Tucson, Arizona and the United States.
- Work to help released prisoners secure employment, housing transportation, etc.
- Continue to write and work with legislators to promote the emphasis on community safety in the criminal justice field over the promotion of a graduated reentry/release program.
- Expose myself to providers and services available to be eligible for community re-entry; including mental health services; substance abuse counseling and rapid rehousing.
- Continue to advocate and knocking on doors until the right people answer to help me and my efforts in reducing recidivism and guiding fellow inmates to succeed after incarceration.
- Become more knowledgeable of resources available and bring awareness to the prison community of those resources. I will create new connections in the community and also write legislators.
- Share all these good perspectives with everyone and anyone willing to listen. Provide my time, effort, and life to pursuing these goals – a very needed on at that
- Share my new appreciation for the issues and problems within the criminal justice system and advocate for sensible reform.
- Continue to work to change the narrative about people with prior convictions in Tucson and work to help them secure employment, housing, transportation, etc.
- Share my experience and increased understanding about what will make the criminal system work more efficiently.
- Continue to speak with integrity and live a self-aware life that will compel others to be genuine to their selves and others.
- Look into volunteering at Old Pueblo Community Services – an organization that helps newly released prisoners and writing legislators.
- Continue to stay aware of current events affecting the criminal justice system. Advocate and assist with legislative efforts that will bring about positive change.
- Further educate myself on fees associated with the criminal justice system (pre and post incarceration) to understand how they may create a barrier to successful re-entry or result in incarceration and what can be done to remove or lessen the burden they create.



- Help out with my full potential to help change the community and recidivism.
- Stay sober, living through God!
- Continue to support Arizona Town Hall's mission to affect change. Share the ideas I learned today with my circle of influence.
- Continue to speak with integrity and live a self-aware life that will compel others to be genuine to themselves and others.
- Continue to commit myself to changing myself so that I can help these other men that I surround myself to make better choices and find a new direction for their lives.
- Engage in my own recovery and I will maintain a positive attitude when I am released. I will also educate others on the yard about the issues discussed here today.
- Work within the community to help inmates be successful.
- Continue to educate the community regarding state prisons and inmates; emphasizing the positive. Work with the community to build a partnership to develop resources for inmates upon release and emphasize the need for programs pre-incarceration.
- Advocate for others so that not only myself but my peers will not be without a voice. Helping all those that seek it!
- Continue to push more inmates to stop the cycle of going back to prison, to reach out for help before that happens and to find a life coach, someone that can help them in time of need.
- Help with ideas to reduce recidivism on the yard.
- Bring the university community into the conversation.
- Dedicate myself to legislative change to reduce penalties for possession of pocket drugs, and volunteer to help tutor in jails/prisons to increase literacy.
- Write to Senators and Legislators to help promote legislations to reduce prison time, mandatory sentencing, and to suggest an oversight committee on legislation.
- Work towards adding more peer aides for education and substance abuse.
- Continue to be confused on why the Department of Correction allows tobacco products within the system, and try to educate more inmates on quitting! Addictions come in many forms.
- Continue to teach inmates to learn construction and to believe in themselves.
- Try to arrange public speaking opportunities for Department of Correction administration to discuss system challenges and needs.
- Continue the conversation and dedication to change, and help others to make the changes they would like to make to better their lives.
- Make it a practice to learn more about the criminal justice system, and what might be done to make improvements to it. The way I see it, there's much room for a major overhaul to the system.
- Be heard and a voice for my community. Help for a better change and a better understanding and make strong, positive choices.
- Tell my fellow inmates about the things discussed for positive influence on the yard and moving forward to go back home.
- Continually advocate for a more involved method of treatment for people involved in the criminal justice system and advocate for more resources to be directed towards prerelease programs.

- Talk more freely about the issues we have in the justice system. Ask for help before doing another crime.
- Talk to those I know about what I learned today as well as the positives that I heard about and about what we can all do to educate the legislators and citizenry.
- Be an advocate in educating the public about facts with regard to the efforts being made by the Department of Corrections in transitioning inmates back into the community to be a contributing citizen in their communities.
- Spread the knowledge that I learned today about the prison system. Emphasize that prisoners are humans like the rest of us and deserve better treatment.
- Take steps to make changes in the recidivism rate, by thinking of the consequences of my actions before I make a choice.
- Make sure my children and grandchildren are supported and given proper guidance to get an education. Give my family time and love.
- Keep educating myself by listening to others, and keep giving back in my job in the Department of Corrections as a Recovery Support Specialist hoping to also work with individuals getting out when I get out myself. I will speak out for those who don't feel they have a voice. Help all people.
- Continue to facilitate and advocate Recovery Support/Peer Support program in the prison community as well as the outside community.
- Continue to seek information and knowledge on how to better myself as well as others.
- Continue to support criminal justice reform in Pima County.
- Spread the word to fellow inmates and my community. Practice the goals inside and outside to help people understand the deeper problem.
- Continue to be a mentor and positive role model to each individual that come my way.
- Remember these conversations and recommendations and apply them to my own research and work with police departments across Arizona.
- Look into prison chaplaincy work and youth mentoring, skill instruction.

## WHETSTONE UNIT COMMUNITY TOWN HALL SPONSORS

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**“Criminal Justice in Arizona”**  
**Marana Community Town Hall Report**  
**Marana, AZ – September 14, 2018**



# **CRIMINAL JUSTICE IN ARIZONA**

## **Marana Community Town Hall Report**

September 14, 2018 – The Highlands at Dove Mountain

Participants of the September 2018 Marana Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

### **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

The core goals of the criminal justice system should be based on safety including prevention, rehabilitation, and reduced recidivism, and should include the following:

- A focus on the deployment of community resources to prevent crimes, such as mental health services, substance abuse treatment, early education for children and continued education throughout their development;
- A respect for the role of the victim, including victim safety and closure through the process of justice; and
- A return on investment reflecting an increase in community safety and true rehabilitation of offenders rather than a simple ratio of dollars spent to crimes committed, including a focus on services throughout the pendency of the justice process, on education designed to reduce recidivism, and on an appropriate series of consequences and alternatives specifically related to the nature of the offense.

These goals should be adequately and sustainably funded.

### **PRIOR TO INCARCERATION**

Prior to the point of incarceration, the process of criminal justice can be improved by strong efforts in the following areas:

- Education, involving sustainable funding for early education continuing through adulthood in areas of a specific relation to crime prevention and building skills for successful lives outside of crime; educating citizens through civic engagement efforts focused on awareness of their role in criminal justice and how to promote community safety through involvement; and better education within the criminal justice system itself, in order to provide resources and programs to the pre-incarcerated offenders which strengthen their skill sets prior to becoming incarcerated.
- Support for our youth, specifically defined as increased funding and support for child protective services; better support for youth involved in the juvenile justice system, including increased educational resources; increasing resources for parents and parent surrogates, including community resources such as YMCA and Big Brother Big Sister; and providing vocational education and job training to prepare young people for paying careers.
- Specialty Courts, including a specific focus on the efficacy of the misdemeanor level intervention; including the provision of the appropriate amount of services and resources for professionals in the field of mental health, substance abuse, and other areas related to the specialties to participate adequately in the justice process; appropriate funding for diversion and deflection programs; and increased and sustainable funding to reflect the true value the Specialty Courts provide; collaboration and coordination among misdemeanor problem-solving courts within each county; ensuring adherence within the problem-solving courts to evidence-based best practices published by the National Drug Court Institute; training by National Association of Drug Court Professionals, for judges, prosecutors, and other criminal justice professionals alike.



- Reforms of certain pre-incarceration practices, such as the fee structure of fines within the process of justice and how to decrease the instances of increased entrenchment within the criminal justice system due to the inability to pay fees; the focus on deflection and diversion programs, when appropriate, in place of incarceration, including the relationship-building efforts necessary between criminal justice agencies and community services organizations such as CRC or CBI; reducing racial and ethnic disparities through tools such as the risk assessment instrument; legislation should be enacted to allow for institutionalization of dangerous, violent offenders who are incompetent and cannot be restored to competency.
- Increased support and funding for public safety, with the simple appropriation of additional officers being a core strategy in this regard, but also the integration of specialized professionals, such as mental health and substance abuse treatment providers, into the front-line approach to criminal justice.

## **AFTER INCARCERATION**

After incarceration, steps that can be taken to improve Arizona's criminal justice system include:

- The general policy that the re-entry process begins upon incarceration, and that a continuum of service should be instituted to ensure the best possible rehabilitation and outcome for society, including the speedy assignment of appropriate sentencing, leading to reduced recidivism; and the appropriate inclusion of victims and victim families in the re-entry process.
- A robust program of transitioning inmates back to society, including job training; discussion and training related to inmate safety, health, and wellness; community-based inmate work programs; educational offerings throughout and after incarceration; and an established system of support for the released to actively rely upon for access to these program element.
- Availability of post-incarceration services to inmates after release, including continuing mental health and substance treatment; accessible housing; job placement services; and accountability on the part of those service providers to ensure that the released are meeting the goals of transitioning into society.
- Access to the rights afforded to them as post-incarcerated individuals, including the support and education necessary to understand their rights.
- The reduction of legal and administrative barriers to re-entry, for example in the form of "ban the box" type initiatives; and community outreach and education necessary to reduce collateral consequences of incarceration.

## **THE MARANA COMMUNITY**

The most critical criminal justice issues facing the Marana/Pima County community are lack or misallocation of resources, funding, and staffing for criminal justice-related services regionally; substance abuse and mental health and their effects on the justice process; lack of coordination between different jurisdictions, agencies, and mental and behavioral health treatment professionals in Pima County, leading to gaps in service and missed opportunities for appropriate treatment or sentencing; pay disparity between public employees, leading to larger state and federal agencies being more attractive employers for experienced criminal justice professionals; lack of access to basic health services; and an underfunded child safety program statewide.

Solutions offered to these critical issues include increased funding for resources and staffing in the region, to the point of ensuring local jurisdictions are able to offer pay which is competitive with larger state and federal agencies; eliminating silos through better coordination between jurisdictions, agencies, and community service providers to ensure that the criminal justice process makes the most efficient use of all of its resources; greater education and outreach regarding the current services available to all involved in the justice process, including pre-trial services and their benefits to offenders; and statewide focus on supporting child safety and services not only through increased funding but also greater education such as domestic

violence awareness campaigns, access to health services from an early age, and a strong education system which support children throughout childhood, adolescence, and early adulthood.

## **SETTING PRIORITIES AND TAKING ACTION**

Participants first determined the most important priorities and goals for addressing criminal justice issues in the Marana Community. The areas identified (in no particular order) are: re-entry programs; collaboration; early intervention; and alternatives to incarceration. Participants then self-selected into groups to develop outlines of needs and action plans for accomplishing the identified goals.

- Re-entry programs
  - a. There should be services available to someone post-conviction.
  - b. Have dedicated case managers to provide necessary accountability and to ensure they are adequately transitioned back into community.
  - c. Before they are released into custody, ensure that they have adequate time to have job training and soft skills training.
  - d. Do a better job of identifying high demand employment areas for post-conviction.
  - e. Provide vocational training.
  - f. Make individuals aware of what services they need to have readily available post-release and create connections for those services to be made available.
  - g. Workforce development grants should be restructured to be focused on people with convictions specifically.
  - h. Create a task force at the County level to work with every player in the criminal justice system process (from behavioral health to attorneys to the court) to provide information on re-entry services as soon as the process begins for any particular individual.
- Collaboration
  - a. Create more collaboration between all players in the criminal justice system.
  - b. Get coordinated community responses to address families and individuals.
  - c. There is a great opportunity in Pima County given its reasonably manageable size and willingness of participating jurisdictions.
  - d. Information sharing is a major challenge, with technology being costly and requirements such as HIPAA being barriers to increased participation. Develop a consistent release form for all stakeholders to share so that all can feel comfortable sharing information.
  - e. Amelia Cramer is going to speak to the Pima County Justice Coordinating Council about expanding participation by creating smaller county groups made up of criminal justice professionals which will discuss specific issues.
  - f. Training will be provided on evidence-based best practices.
- Early intervention
  - a. Develop good relationships between police and the community through initiatives such as school resource officers in middle schools in Marana.
    - i. Address substance abuse before it starts through early education by having school resource officers (SROs).
    - ii. Identify funding for SROs by researching ways to allocate court fines to SROs, school bonds and overrides, funding within police agencies, technology fees, grants and lottery funds.
    - iii. David Udall & Ed Nossem volunteered to get together with middle schools to assess and see how to make these goals happen.
    - iv. Use people with lived experiences, such as former inmates, to educate children on impact of substance abuse.



- b. Provide education at well-child checks to parents who may not have the knowledge.
  - i. Madeleine Hernandez will work with Vic Paric to get these handouts to MHC Healthcare centers.
- Alternatives to incarceration
  - a. Look at opportunities to expand drug diversion and other programs as a way to identify situations where someone does not require incarceration but should not be released into society and could be placed in a treatment facility.
  - b. Personnel, funding, and community partnerships all present challenges to the above goal.
  - c. Specialty Courts are in need of more dedicated funding beyond grant-based funds.
  - d. The County Attorney's office can collaborate with other public organizations in the region to increase the efficacy of these existing programs.
  - e. These efforts should involve not only criminal justice system professionals but also health care providers and other community partners.
  - f. Continue to apply for grant funds when and where available.
  - g. Successes with alternative programs should be documented and publicized to increase the public's awareness, which will aid in lobbying for increasing funding for these programs.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the Marana Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Continue to attend Town Hall meetings to gain further knowledge of how I can impact my community in a positive and effective way. I will take what I learn out to the community and my co-workers.
- Be more proactive in strengthening my knowledge and relationships of and with other agencies and entities of the criminal justice system in my community in order to better serve it.
- I would like to facilitate communication between criminal justice organizations and service agencies to break down the silo approach that currently exists.
- Focus on prevention by presenting to and communicating with school-aged children on being a responsible and contributing member of a community.
- Make an effort to better engage members of the criminal justice system in treatment planning for behavioral health clinics.
- Make efforts to coordinate/communicate with other participants in the criminal justice system.
- Work with other agencies to increase collaborative services and lobby elected officials.
- Enhance publicizing and training on evidence-based best practices for Drug Courts and Drug Treatment Alternative to Prison and Diversion.
- Continue to educate, continue to advocate for change, and use social networking to help others
- Be a mentor; volunteer in junior high school.
- Refine my mental health court program.
- Reintegration and employment opportunities with employers participating in AZ@Work prevention initiatives.
- Talk with other community members about criminal justice system issues that were discussed today; correct inaccuracies about the criminal justice system when people discuss reforms to ensure meaningful reforms are discussed and proposed.
- Advocate for early intervention at grade school level.

- Develop and participate in the education of defendants and their families regarding available community services.
- Continue to work to build a diverse coalition of stakeholders to support more effective offender reentry within my jurisdiction.
- Continue to share the insights and ideas that I have learned through the community town halls throughout the state.
- Look into the feasibility of a portion of court fees/fines being allocated towards education; look for other creative sources of funding.
- Vote.
- Participate in community meetings to increase collaboration and connectivity to behavioral health services.
- Go to church and pray for our community.
- Continue to make an impact on offenders lives while incarcerated and prepare for successful integration back into society.
- Advocate for victims of violence so their voice is not forgotten as agencies focus on reentry and decreasing jail population;advocate for the broadened use of 13-3601.01;use best practices supported by evidence to interact with defendants and victims.
- Increase communication between agencies and community partners.
- Educate my family, friends, community, and networks regarding issues within the criminal justice system so that they can make more informed decisions on legislation – legislators and their involvement in community activism.
- Work with my administration regarding creating better communication efforts between agencies
- Contact behavioral health provider in our area to better communicate needs of accused and families in criminal justice system.
- Participate in non-profit organizations that serve underprivileged children.
- Bring info from today's session to Metropolitan Education Commission/Youth Advisory Council for further discussion and formulation of ideas and action items.
- Get involved!
- Continue to empower victims to seek justice and connect to resources to regain control and establish their new normal.
- Continue to pay attention to communication and info on criminal justice practices. Lobby state legislators to increase funding and close the gap on incompetents being released.

## MARANA COMMUNITY TOWN HALL SPONSOR

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# **“Criminal Justice in Arizona”**

## **East Valley Community Town Hall Report**

### **Mesa, AZ – September 28, 2018**



# **CRIMINAL JUSTICE IN ARIZONA**

## East Valley Community Town Hall Report

### September 18, 2018 – Mesa Community College

Participants of the September 2018 East Valley Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

#### **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

We can best keep our communities safe when we base our laws on facts, not fear. Equality and fairness are critical, and ethnic and racial disparities must be addressed, but there are important differences between offender types that should be considered (e.g. men vs. women, young vs. old, etc.). A one size fits all approach is not necessarily effective or desirable.

Punishment is often necessary to maintain public safety and to produce a deterrent effect. However, for the benefit of safe communities and offenders alike, our focus should primarily be on transformative and restorative justice that both corrects aberrant behavior and releases productive citizens into safe communities. A significant focus should be on preventing crime before it happens through education, mental health services, etc.

Issues that should be examined carefully include prisoner safety; prevention of crime before it happens; desirability or effectiveness of community restrictions on sex offenders; ensuring punishment fits the crime; effectiveness of pre- and post-crime services and diversion sentencing options; implementing the most time and cost-effective crime prevention and correction for a measurable return on investment.

#### **PRIOR TO INCARCERATION**

Arizona should implement and fund significant sentencing alternatives to incarceration. Education, mental health treatment, community policing, substance abuse treatment and rehabilitation, community advocacy, and approving additional judgeships and increased judicial discretion may reduce criminal behavior before it occurs. Arizona needs to talk about these issues at all levels and not merely for political gain.

Many issues are public health and social issues and should not be viewed as justice issues—or should be resolved before they become justice issues. 911 should not be our primary conflict resolution resource and the Arizona correction system should not be viewed as the catch-all solution to these issues. Rather, Arizona needs to recognize it takes a village. A significant commitment to funding pre-crime resolution of public health and social issues is necessary. Identification and support of at-risk youth is critical.

#### **AFTER INCARCERATION**

Post-crime, Arizona should focus on sentence diversion alternatives and ensuring that inmates, particularly non-violent inmates, have a more transformative and rehabilitative correctional sentence. Mandatory sentencing laws, vast prosecutorial charging power, and the potential for over-policing of poor communities need to be examined carefully. Arizona's bail system, as well as fines and surcharges, should also be carefully examined.



Probation and parole in Arizona should be a support system to transition criminals to full civilian engagement in the community. They should be part of a fresh start, not be a gotcha to ensure further punishment. Increasing the number of well-trained parole and probation officers and their support systems will be required to accomplish this goal.

Arizona needs to properly fund a support system, pre- and post-crime, based on facts, not fear. These systems might include social services, substance rehabilitations services, job placement and training services, mentoring services, food services, transitional and permanent housing services, and many others. Early assessments and ongoing assessments during incarceration will help ensure the effective placement in these services. Institutionalization must be properly addressed.

All Arizonans can play a critical role in helping convicted criminals to transition to home, to our communities, to our places of employment and worship, etc. We cannot just warehouse individuals convicted of a crime and turn them back into society without change or worse than when they entered the justice system. We are all safer and more productive when every member of our society is engaged to their potential.

Employment, and particularly the limited availability of employment for individuals convicted of a crime, should be a critical Arizona priority. Arizona should consider expungement laws, setting aside convictions, implementing employment application limitations and other actions to resolve this issue.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the East Valley Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Attend the statewide town hall. Speak to friends about my experience.
- Job training, substance abuse counseling, substance abuse counseling, and crisis intervention – clinical services.
- Work with Arizonans for Rational Sex Offence Laws (AZRSOL) to limit the registry, educate the public about wide-net sex offence laws, and allow sex offenders to reintegrate successfully.
- Communicate what I have learned to others and take action based on what I have learned.
- Educate myself further about these issues. Try to raise awareness about issues to others, especially those that tend to go unnoticed or unheard of. Connect with law enforcement in a more positive way.
- Educate my peers about the complexity of our justice system and to enlighten them that those who are incarcerated are still people.
- Share what I have learned with family and friends. Evaluate how I can contribute to the many issues faced by individuals faced with potential incarceration.
- Tell others about this experience. Educate myself more about how to change the criminal justice system in Arizona.
- Continue my advocacy work with volunteering with Valley Interfaith Project in justice reform.
- Commit continued advocacy for pre-arrest diversion opportunities especially the disparity of the justice system for people of color.
- Change my own mindset with offenders and support them in their journey to rehabilitation, especially juvenile offenders need health and social services.



- Read the Book of Mormon daily. Go to the Temple twice a month. Post a spiritual thought on Tinder. Not go to jail.
- Educate myself further to understand the issues of the Arizona criminal justice system.
- Find more events like the Arizona Town Halls to keep myself involved.
- Gain a stronger understanding of issues surrounding criminal justice, in Arizona especially. Search for opportunities to be more active in social issues.
- Continue to support inmate families. Continue to tell it like it is with others.
- Continue to be Educational Director of Arizonans for Rational Sex Offense Laws. Continue to present information to anyone available to listen. Support sex offenders.
- Hold my legislators accountable and vote for candidates who support criminal justice reform. Become and stay informed on criminal justice issues and share this information with others I know.
- Contact my state legislators to urge them to change the mandatory sentencing guidelines.
- Continue to talk about issues discussed today with members of community to stress the importance of reform. Contact lawmakers to make them aware of my beliefs on issues that need to be addressed. Encourage other people to take action on a grass roots level and with law makers. Vote.
- Continue to share these ideas with the Governor's desk. Hold civic academies with our forty member organizations. Attend further sessions at Lewis on Thursday. Recruit more for later sessions.
- Become a billionaire.
- Bring back information learned and try to get buy in from local officials in my city. Policy changes with those in charge at the local level. Can translate to county/state level.
- Work in my agency to "ban the box" and reduce stigma associated with someone who has paid their debt to society.
- Speak to my government teacher about speaking to the class about criminal justice in Arizona and its serious problems. Also, I'd like to give info on the Future Leaders Town Hall. Send letters to legislation.
- Tell my family about the criminal justice lecture: New ideas. Bring awareness. Also, I will look at the criminal justice system and the people in this system in a new light- a more educated light.
- Discuss what I learned with my parents and family, and watch how I treat people because I never know what they have been through.
- Commit to educating myself more thoroughly about this issue so I can engage with policy on this more thoroughly with policy on this more thoughtfully and with more info.
- Work on sex offender registration changes.
- Attend Arizona Town Hall.
- Continue to work to change offense categories and sentences.
- Fight the stigma of "criminal" re-introduction in order to aid the cause of rehabilitation instead of adding fear in into the general public.
- Remain committed to educating my community to provide solutions.
- Work on shortening the probation conditions. Instead of twenty-two, try to have less than ten statewide standard probation conditions.
- Teach the skills I use in work to former criminals, helping them have something to use in job interviews and networking.

- Vote.
- Understand the sentencing laws we have now and how we can change them; help with re-entry programs in the prisons; help with community support—jobs, housing, and the felons.
- Commit to making sexual offenders a part of the judicial reform conversation.
- Continue to educate the general population about the true meaning of sexual offenses and promote elimination of mandatory sentences.
- Attend the statewide town hall. Speak with friends about the experience.
- Follow all bills affecting criminal justice going through legislature and contact legislators.
- Continue to speak-up for and educate others of the need for a Restorative Justice System. I am a model of a productive restored inmate and a kind, loving community member.
- Meet with our legislatures to encourage them to enact rational legislation to reduce crime and protect the public while lessening the prison population and sharing the constitutional rights of all Arizonians.
- Specific changes we'd like to make this legislature include modernizing ARS 13-923, 13-3821, and 13-3826 all of which provide some relief of a plural offence.

## EAST VALLEY COMMUNITY TOWN HALL SPONSORS

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# **“Criminal Justice in Arizona”**

## **Lewis Facility Community Town Hall Report**

### **Buckeye, AZ – September 20, 2018**



**Photos courtesy of the Arizona Department of Corrections**

# **CRIMINAL JUSTICE IN ARIZONA**

## **Lewis Facility Community Town Hall Report**

September 20, 2018 – Arizona Department of Corrections, Lewis Facility

Participants of the September 2018 Lewis Facility Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

### **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

The goals of the criminal justice system should be examined from the perspectives of both the individual offender and society as a whole. Public safety is a principal goal, but we should be concerned with safety for both individuals (including incarcerated persons) and society. For example, there is a need to separate violent and non-violent offenders, and to protect inmates who suffer from mental illness. Accountability is important, for both the individual and society. Public officials should be held accountable for the system. But sentences are too onerous, and the cost of punishment might be better spent on prevention and treatment efforts. The criminal justice system should be focused on serious offenses, rather than petty offenses, such as minor drug offenses. The system should be fair, unbiased and consistent.

More focus should be placed on understanding the causes of crime, on prevention, and on rehabilitation. The public should be better educated about the causes, costs and consequences of criminal behavior, the justice system, and incarceration. We need better programs to address issues that contribute to incarceration, such as substance abuse, serious mental illness and PTSD. Treatment and training programs should be available starting at the beginning of a prison term, rather than just in the last sixty days. The Second Chance program is very effective, but is too limited in time and scope. Provision should be made to address relapse and other behavioral health issues other than through isolation or punishment.

Addiction and substance abuse are major contributors to incarceration. We need better ways to educate, train, and support inmates from the first day they enter the criminal justice system until they are released.

### **PRIOR TO INCARCERATION**

In Arizona, the punishment is often not proportional to the crime. The U.S. has five percent of the world's population and twenty-five percent of its incarcerated persons. Many things contribute to this result, including harsh sentencing laws, inconsistent and unfair application of penalties, the fact that judges have limited discretion and prosecutors have too much power and too much discretion. Mandatory minimum sentences and guidelines contribute to large prison populations and unfair punishment. There is usually more to the story of a crime than is presented to the judge at sentencing, and the lack of information can contribute to unfairness of the outcome.

There are racial and other disparities in the system, from initial interactions with police to sentencing and incarceration. There should be greater emphasis on community policing, to improve the interactions between police and the communities they serve and reduce the effects of racial bias.

Proposition 200 established a three-strike rule for minor drug offenses, primarily those involving marijuana, which begins with probation for a first offense, and increasing severity of consequences for subsequent offenses. This approach should be expanded to include sales offenses for drugs, at least first and second offenses, and generally to make more people eligible for this treatment.



Money should not determine the outcome of criminal cases. With no money for a good defense you get a raw deal. The plea bargaining process should be improved, to give the accused more dignity, information and options. We should have more specialized courts and services, and more and better diversion programs. Fines, fees and bail money should be set aside to help inmates get set up upon their release from prison. We should find ways to accomplish the goals of the system by less onerous means. Other states offer programs that are more flexible and less punitive, and Arizona should consider implementing such programs.

We have become good at punishing but not treating and training. Defendants are too often punished for a substance abuse/addiction problem. Many people enter the criminal justice system because of mental illness or substance abuse. We need more funding for the behavioral health system, better training for police and prosecutors to help them more effectively deal with behavioral health issues, conflict resolution and de-escalation of problems.

Failure to treat behavioral health problems, including substance abuse, contributes to a system in which children are more likely to become involved in crime and the criminal justice system because that is what they are exposed to at home. Treatment and preventive efforts, including drug education in schools, could short circuit this cycle and produce benefits for individuals, families and the community at large. Children should be made aware that the eventual consequences of their behavior could include imprisonment and that prison is not a place where anyone wants to go.

Many prisoners sit in county jail for three to six months awaiting trial. Time spent in jail or prison provides an opportunity for treatment of behavioral health issues instead of simply warehousing people. We should take advantage of these opportunities.

Those concerned about the problems with our criminal justice system need to become involved in communicating those concerns to legislators and to the general public. For example, many people believe that prisoners have access to education while in prison; the reality is that they generally do not.

## **AFTER INCARCERATION**

In order to change the man, we must shape what he thinks. If we don't change that thought process the prison gate will be a revolving door. Inmates must take personal responsibility for their conduct, the consequences of that conduct, and for taking advantages of opportunities for improvement and change. But they also need mentoring. Formerly incarcerated persons are the people who are best able and best situated to help those who are being released from prison to successfully reenter society. However, our system restrictions on probation and release generally prevent formerly incarcerated persons from associating with other persons who have a criminal record. Inmates released from prison are at risk of being sent back to prison if they violate these restrictions. This is just one example of how formerly incarcerated persons are judged by society based on their past, and how that past follows them around after their release, but is arguably the biggest contributor to recidivism.

To be successful upon release, incarcerated persons must know what is expected of them and be prepared with the skills and resources they need to succeed. For example, an inmate who enters the system at age eighteen and is released after a fifteen-year sentence may have no experience at holding a regular job, or even using a smart phone. Due to lack of funding, there are limited educational opportunities and the resources needed to help incarcerated persons prepare for success on the outside are lacking. When a person emerges from prison with \$150 he is expected to become self-supporting, to find housing and to find a job. Yet the mere fact of having a criminal record makes it more difficult for that person to find decent housing and a job. Those without family support are particularly vulnerable.

There are a number of strategies that could be pursued within the correctional system to better prepare inmates to succeed upon release. Inmates with mental health issues should receive meaningful treatment. More jobs should be made available to help inmates accumulate the resources they will need to provide for



their own support upon release. There should be more and better training for correctional officers, and the Department of Corrections should work to change the prevailing culture. There should be better preparation of inmates for reintegration with their families. There should be work furlough programs. Programs should follow the inmate, rather than being interrupted when the inmate is transferred to a different yard. There should be Second Chance centers at every Department of Corrections campus.

It may appear that there are resources available to assist persons released from prison, but in reality the available resources are inadequate. There are too few programs and supports to help prevent or address relapses. Halfway houses are not regulated, and many are drug-infested opportunities for relapse.

We need reentry programs that have career support specialists, supportive housing programs, and better oversight of halfway houses. Probation and parole officers should be better trained to provide support and guidance for released inmates. Voting rights should be restored as soon as possible. Recidivism is a specialty problem. Perhaps there should be a special center where those released from prison can get all the services and resources they need in a single place.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the Lewis Facility Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Do my best to pass on the information and ideas that I have learned at this Community Town Hall. We all know there is a problem now we can focus on being part of the answer.
- Continue to stay on the path to success by going to work going to substance abuse meetings, church and surround myself with successful people instead of the old friends I'm used to hanging around.
- Be the change in the criminal justice system.
- Try to seek out places and programs where I can assist and give an opinion like today. It was nice to be acknowledged.
- Be as productive as society allows me to be.
- Write about this experience and educate people. Work on legislative agenda to make changes.
- Write a letter to Doug Ducey.
- Take an active approach to helping others who have struggles. I am going to use my voice to make change.
- Make the effort to share the information and knowledge that I have gained from this meeting with inmates and family, and continue to voice myself in any community I am in.
- Vote!
- Stay out of prison and do my best out on the streets. Tell guys in the yard about the stuff I learned today.
- Continue to support organizations like Middle Ground and Town Hall dedicated to prison reform.
- Help restore voting rights to felons.
- Share what we discovered today and encourage others to attend town halls. Research candidates' stances on criminal justice policies and legislature.
- Take responsibility for my sobriety, and understand that there are people willing to help if I need it. It is really all up to my choices.
- Get what I can out of the second chance center, and take my change seriously now and when I am released.
- Help others begin their rehabilitation process immediately.

- Help to educate the community on ways to improve the system and how they can help. Community awareness is a major factor and educating the community could provide great impact to improving the justice system.
- Get involved.
- Continue to give my all in doing the right thing by being a productive member of society in both my personal and professional lives.
- Continue to grow my Second Chance program, providing as many resources as possible, overcoming as many obstacles as possible, releasing more productive and well-rounded individuals who contribute to their community in a positive manner.
- Continue to work advocating with felons and the mentally ill involved with the judicial system.
- Inform my family and friends about the issues, vote for people who will change this for the better, seek out opportunities to personally help.
- Do whatever it takes to stay with my family.
- Continue to advocate for sentence reform. Work with non-governmental organizations and faith based groups to help provide program access to assist released offenders in their transition back to the community.
- Continue to embrace change and bring my experience, strength and hope to the community. Take personal responsibility, always being mindful of how my behavior affects others. Understand it's my responsibility to re-enter successfully.
- Be more open minded to view things in all perspectives. Hope to attend a future Town Hall meeting from a non-incarcerated sense.
- Address my mental problems and my drug addiction and try to help others. Bring more light to this program, get all the help I need to improve and help others.
- Help spread awareness about mental health and the issues those who are ill face in prison. I will also find a way to help my fellow inmates upon release that will give us a better chance to stay out of prison.
- Be more considerate about my future career and be thoughtful over my opinions.
- Be more proactive in grass root programs to assist in change in sentencing laws and reentry programming in all yards.
- Continue to work to change sentencing laws.
- Hold education forums in communities.
- Vote and encourage voting.
- Meet with police and sheriff.
- Ensure that community connections reexamines their term of supervision to allow for healthy prosocial interactions between inmates.
- Continue to set groups and challenge myself daily. Continue to stay sober and strive to be a better member of society.
- Continue my focus on positive thinking and working on change dealing with decision making and work on staying productive to society.
- Continue my sobriety.
- Give my commitment to the community. Stay sober.
- Be a help to others who are struggling with their goals and plans in life.
- Help others to not make the same mistakes I did.
- Help with ideas to reduce recidivism on the yard, help my peer inmates with the program to give them the best chances for success possible.
- Ensure more meaningful programs are available for the inmate population at all institutions.
- Contact my legislators to urge sentencing, criminal; justice reform.

- Help inform my local communities of problems in the prison and criminal justice system and the possible solutions offered by inmates and other participants.
- Write to legislators to get minimum mandatory changed on low level drug offences.
- Do more to understand the prison system and the prisoners' perspectives.
- Continue to make better choices that have such a huge impact on me as well as the community as a whole.
- Try to help recidivism on the yard.
- Share this conversation with others and encourage others to attend town halls.
- Educate self on local candidates' stance on criminal justice policies/legislation.
- Finish school to be a voice for those who don't have one and slowly and surely change the criminal justice system for the benefit of the community, offenders, and society in general.
- Continue to enlighten civilization, representing my minority groups, whether that be racial, inmate or socioeconomic. By continually expanding the dialog that is being had in society.
- Continue to work on re-entry.
- Have group discussions with fellow inmates about having or starting a support group for those coming off of long term sentences.
- Contact my legislators to promote prison reform.
- Continue my education to assist in increasing knowledge about the system.
- Be a success story and use my experience to help others. Participate with town halls.
- Expand my knowledge on re-entry.
- Inform my family about Arizona Town Hall so they can become involved to help me and others upon my release.
- Get my family involved in re-entry issues.
- Contact legislators and the Department of Corrections with suggestions about how to address the re-entry issue.
- Continue to advocate and be a voice for these gentlemen. I am going to work on building a post-release mentor program to provide hope and guidance for pre- and post-release.
- Make the conscious decision to make better choices using the tools available as well as the hope for a better future. I will also work as hard as it takes to not return.
- Become more active in my local community.
- Advocate for the rights of formerly incarcerated individuals.
- Educate my local officials.

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# **“Criminal Justice in Arizona”**

## **West Valley Community Town Hall Report**

### **Avondale, AZ – September 21, 2018**



# **CRIMINAL JUSTICE IN ARIZONA**

West Valley Community Town Hall Report  
September 21, 2018 – Estrella Conference Center

Participants of the September 2018 West Valley Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

## **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

The primary goal of Arizona's Criminal Justice System is the rehabilitation of offenders. Public safety, and safety within prisons also are important goals.

To meet these goals, we must understand the root causes of criminal conduct, including behavioral health issues and mental illness. Rehabilitation could be improved through better initial assessment of inmates, incorporating trauma informed care, and taking a more holistic approach to treatment while they are incarcerated. Prevention and cost effectiveness are also considerations. There is concern about the impact of private companies that profit from the criminal justice system.

## **PRIOR TO INCARCERATION**

Because the majority of criminal cases are resolved through plea bargains, there is opportunity for improvement of the system by holding prosecutors accountable for certifying the evidentiary basis for a charge.

Another opportunity for improvement lies in sentencing reform. In Arizona the sentences are unduly harsh and lengthy. Prosecutors have too much power, which leads to overcharging, and that contributes to unfair sentencing. As a result, judges have too little discretion in sentencing, and judges may be less knowledgeable about the issues affecting sentencing and outcomes.

Instead of immediately taking recourse to the criminal justice system, police should be encouraged to use their discretion to de-escalate situations.

The greatest potential for improvement lies in programs that address the underlying causes of crime. Trauma affects children beginning at an early age. The lack of quality education and jobs also contributes to the conditions that may increase the incidence of crime in a community. As prison populations and funding of corrections has increased, funding has been reduced for programs that address the underlying conditions that cause or contribute to criminal conduct, such as education, early childhood development programs and family support programs. There is a great need for programs that address substance abuse and mental illness, both of which contribute to crime. The reduction in such programs disproportionately affects inner cities and people of color. Higher incarceration rates in those communities magnify those conditions, as families suffer when a parent is not in the home. We should use cost savings that will result from reducing prison populations to fund programs that address the conditions that lead to incarceration, and to fund efforts to rehabilitate incarcerated persons.

Our system of bail and fines also needs reform. Too often people who lack financial resources languish in jail.

If these reforms are to be achieved, it is necessary that members of the public become aware of and informed about the issues, and take responsibility for raising awareness in others and advocating for change.



## **AFTER INCARCERATION**

People in prison learn how to live in prison, but they don't learn how to succeed in the outside world. The correctional system should fund and implement programs to address behavioral health and substance abuse issues and prepare inmates for their eventual release, including more and better services, counseling, education and medication.

Some prisoners suffer abuse and violence in prison, and the correctional system should take steps to prevent such conduct. Vulnerable inmates, including the many who are mentally ill, are particularly in need of protection. Prisoners should be separated based on the nature and severity of their conduct. Prisoners are subjected to extreme and damaging punishment such as isolation. This should stop.

As it is, people released from prison face many challenges. They need help preparing for release and adjusting to their new circumstances. Although they have served their time, their criminal record follows them throughout their lives, and as a result they face many barriers and burdens that make it even more difficult for them to return to productive lives in the community. It is a barrier to decent housing, particularly affordable housing. Released inmates often lack access to transportation, basic medical and dental care, behavioral health and substance abuse treatment, and education. They face probation and law enforcement officers who may impose inconsistent requirements.

To prepare prisoners for successful reentry the correctional system should provide better education and training opportunities, including trade schools. They should help prisoners maintain social and community connections, and strengthen family connections. There should be a more gradual, multi-phased transition process that prepares prisoners for return to the community.

Once a prisoner is released, help and support is needed from a variety of sources, including families, social service agencies and the criminal justice system. Supportive services, including counseling, should be made available. Funding for such services is greatly needed.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the West Valley Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Write a report on this meeting and the important topics about the criminal justice system to the public and citizens of the West Valley so they are aware of these issues.
- Get more involved.
- Share the information that I have learned with others, and use my information to improve my schoolwork.
- Share this with others and continue to fight for change.
- Vote – Early and Often!
- Continue to learn more.
- Be an advocate and a voice for those who are incarcerated/released, as well as implement new ways to educate and support our youth.
- Share on Facebook, vote knowledgably, and find a house for reentry.
- Work with organizations to approach the legislative body to reform the criminal justice system to reduce recidivism and incarceration as a whole.

- Create awareness through all of my platforms of certain concerns as well as come to more town hall meetings and do my best to make change.
- Take these ideas to the state legislature.
- Spread the word on various Arizona Town Hall meetings and discussion groups through personal contacts and social media. Be more active in my community, school system and political areas.
- Always treat every human being—despite their criminal history—with respect. Every individual is worth more than the worst thing they've done.
- Become active in the community to make necessary corrections. I will also participate in voting.
- Try to integrate consensus building into my daily life. Vote.
- Share my ideas with people who are in need, such as young adults. Share with the world my words on crime trends. Try to get involved with criminal justice police officers. Have them engage with community.
- Educate myself more on the justice system to share the ideas I got today and I will learn more in the future to share with either classmates or members of my community.
- Continue with St. John's prison ministry.
- Continue to support individuals in the correctional system, I will continue to educate others on the correctional system and substance abuse. I will continue to break down negative stigma associated to corrections and substance abuse.
- Share what I have learned with others and take action where possible.
- Share what I have learned today, make a difference in the criminal justice system and vote. Seek more services for our clients who are released from prison.
- Get law enforcement to attend November conference.
- Share what I have learned with my work peers and community and educate myself more on other aspects of the criminal justice system.
- Speak at community forums, council meetings, and the state legislature to plea for basic reforms, better use of dollars spent "in the system." More money spent on social services.
- Share information and work to impact community awareness.
- Share what I have learned about this issue with family and friends.
- Get more involved with Middle Ground Prison Reform. The abused are sent to the hole far too often for far too long periods. Once released they need support systems.
- Become better informed on laws impacting this community and vote informed.
- Speak up to educate others on the re-entry population needs.
- Communicate these ideas/thoughts to co-workers, which include judges and prosecutors.
- Share what I know with elected officials, community leaders, and business about what is needed to improve the criminal justice system.
- Educate myself before I vote to ensure I am giving my honest and educated input.
- Continue to attend town hall meetings to learn more about the criminal justice system and contribute to the discussion about the system in Arizona.
- Educate myself more on the criminal justice system to share ideas I learned today and in my future to classmates, friends, and my community.

- Promote fairness, understanding and discretion for those who enter the criminal justice system and implement policies and actions for my organization.
- Dedicate my efforts to education for incarcerated students.
- Utilize the consensus learning model with my criminal justice class to learn and teach the state of Arizona's criminal justice system. I will share what I've learned this morning with my family and friends.
- Become active in the community to make necessary corrections. I will participate in voting.
- Continue to learn more about issues and see how our programs can be developed to meet needs.
- I will vote more knowledgeably, early and often.
- I will stand diligently with all agencies and myself at the Legislature to support needed reforms.

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# “Criminal Justice in Arizona”

## Tucson Community Town Hall Report

### Tucson, AZ – September 28, 2018



# **CRIMINAL JUSTICE IN ARIZONA**

Tucson Community Town Hall Report  
September 28, 2018 – YWCA Conference Center

Participants of the September 2018 Tucson Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

## **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

Goals for Arizona's criminal justice system must include promoting community safety, rehabilitation, reducing recidivism, providing accountability and consequences, and preventing people from entering the system in the first place. These goals are interwoven and interconnected, and the criminal justice system must serve all of them. Prisons may not be the most cost-effective solution for these goals.

The system should fund and provide effective treatment for persons who need mental health care or substance abuse treatment. Achieving improved quality and access to treatment will require improved funding; it will also require replicating successful models that already exist. We must recognize that prisons may not be the most effective place to provide long-term support for mental health or substance abuse issues. These are social issues, not simply criminal justice issues, and should be addressed accordingly.

The system should provide life skills, career training, and other resources that help incarcerated persons reenter society and help persons on probation transition to a successful future. Reducing recidivism requires a concerted effort to create job opportunities for people when they leave the system. It also requires advocating for services for families of persons in the criminal justice system, who become the support network for people when they leave the system. Prevention is linked to early intervention—including through childhood education—that can help reduce the number of people who enter the criminal justice system.

Accomplishing these goals touches upon programs and systems outside the purview of the criminal justice system, including our education system, our job training system and employment laws.

## **PRIOR TO INCARCERATION**

Substance abuse correlates strongly to contact with the criminal justice system. We should seek to reduce the impact of substance abuse in our communities. This requires a comprehensive approach, which should reach into schools and neighborhood groups.

Education, including vocational and career training, can help instill passions and goals in our citizens to keep them away from crime. Schools also can serve as a first line of prevention and early intervention. Schools can benefit from improved access to mental health professionals to help with prevention. We must recognize that prevention can be less expensive and more cost-effective than punishment. Redoubling our emphasis on mentoring programs in schools can also pay dividends. Arizona ranks near the bottom nationally in spending on counselors in its schools. This must change.

We should help our law enforcement agencies by providing better training and rethinking who needs to be in jail and prison. Law enforcement are at the front lines of recognizing opportunities for intervention and treatment, along with teachers, mental health professionals and emergency room doctors. Training should focus on de-escalating conflict, decriminalizing poverty and helping identify treatment and services for at-risk populations. At the same time, we ask a lot of law enforcement, and need a more collaborative approach with other service providers to reduce the burden on them.



Regarding prosecution and courts, more funding is needed for probation officers and for alternatives to incarceration, such as Pima County's Drug Treatment Alternative to Prison program (DTAP), which provides a last chance at intensive treatment and services for persons who do not qualify for other treatment alternatives and would otherwise be headed to prison.

We need to understand the needs of the population in the system and look for ways to help them to make the system more efficient—a system of text-message reminders about pending court dates is an example. Arizona should adopt a system for merit-based selection for judges in all counties, instead of electing its judges

We also need to seek more efficient uses for scarce tax dollars. For instance, it costs about \$100 a day to jail a person in Pima County, but it would only be \$8 to \$15 per day for electronic monitoring. Reform of bond and bail laws should also be addressed to prevent unintended consequences. Arizona should evaluate the system of criminal fees and fines and the way that these can impose severe economic consequences for people who cannot afford them.

We should look to other states for best practices and innovative approaches that can be adopted here. We should also promote best practices locally and spread those to the rest of the state. As an example, Pima County has a criminal justice reform unit dedicated to reducing jail populations and improving opportunities for re-entry.

## **AFTER INCARCERATION**

Arizona's criminal justice system could be improved by having reentry programs begin with the first day of incarceration. We also should explore how to better support families who have people incarcerated.

When in prison, we need to foster more ties with the outside. We need to look at how wages are paid to inmates in prison and consider whether they should be paid real wages for prison labor that could then be paid into the victim restitution fund or otherwise used to help with effective reintegration after release. We should also consider reintroducing the policy of giving time off of sentences for working or good behavior

We should support workforce development and life skills programs in prison that continue after release. We should also support programs that give inmates a source of pride and hope for their future.

With respect to private prisons, we need to analyze the impact of private prisons and whether they are meeting our goals of rehabilitation. We should consider having a requirement that private prisons provide resources and services based on industry best practices.

After release, we need to continue assistance—perhaps with "Community Integration Officers" who can help released inmates to transition with wrap-around services that allow them to better integrate into society.

We need to foster relationships with families and, if possible, reunify those released with their families. If this is not possible, we need to provide community based housing and other support. We need to look at what we can do as a community to reduce recidivism. We can all play a role. This may include providing transportation, housing or job training. It may also be as simple and powerful as being available to provide an ear for a recovering addict who needs someone to talk to when experiencing difficult times.

We need to have cultural changes that truly allows released prisoners to reintegrate back into society with the support of various community members and organizations. This includes providing incentives and support for them to reenter society. We should consider when it is important to require a criminal history and when it is not on applications for jobs and housing. "Ban the box efforts" should be supported for initial applications. We should consider restoring rights such as voting and expunging criminal records when appropriate.

## **THE TUCSON COMMUNITY**

Pima County's geography contains different and distinct populations, each with a unique dynamic. These include a metropolitan area, a large rural area, and several Native American tribal communities. Compared with the rest of the state, Tucson and Pima County face special challenges posed by a high poverty rate, and by their proximity to the U.S.-Mexico border—specifically the proximity to corridors for drug smuggling and human trafficking.

As in other parts of Arizona, Tucson and Pima County suffer from a lack of funding for local law enforcement, and our populations have been hit hard by the effects of substance abuse and the rising tide of the opioid epidemic.

Solutions include local initiatives to move cases through the system more efficiently, and to explore lower-cost alternatives to having people remain in jail, such as electronic monitoring.

Solutions extend beyond the realm of law enforcement. We should invest more in education. We should also engineer streets, parks and other social environments that promote safe and healthy behaviors.

Mental health services need to be provided and funded. Without them, we lose a key piece in prevention.

We need a culture of collaboration and integration between the public, private and non-profit sectors. Arizona is rich with non-profit organizations, but we seldom bring them to the table together at the same time.

We also should promote more effective communication between law enforcement, prosecutors, mental health professionals and corrections and parole agencies. For instance, if we break down silos between corrections and parole agencies, this may create benefits for our citizens as they re-enter society.

After incarceration, prisoners need an opportunity to gain stability and access to resources. Post-incarceration services are lacking and need to be funded better with the goal of helping people reintegrate into society.

Our conversation must include victims. Improved services for victims, including culturally appropriate support, are needed to further the goal of justice for all.

We need to foster a political conversation that focuses on prevention, and not just on campaign promises about punishment. We and our legislators need to agree not only that action is needed, but that those actions have value, and require resources.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the Tucson Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Work with prisoner re-entry programs.
- Serve as a mentoring or literacy volunteer for adults (or youth in jail or juvenile detention).
- Support funding for improved behavioral health care and substance abuse treatment and better mental health treatment facilities.
- Continue advocating at the Legislature for criminal justice reform, and work to elect legislators that will advance criminal justice reform.
- Support "wrap-around" services for recently released inmates.
- Work on removing barriers to re-entry, such as a lack of education and counseling programs.
- Support programs to assist re-entry, such as restoration of rights for persons who successfully complete sentences.

- Continue to volunteer to Arizona Town Hall and continue conversations about issues of importance.
- Promote “Grow in Place” as a key element to safer neighborhoods.
- Strive to further my own education.
- Help organize a panel in Southern Arizona to discuss private prisons.
- Leverage my sphere of influence to educate and involve others; be a connector and a champion.
- Share what I have learned with others.
- Teach my students about criminal justice issues relative to health and planning issues in an integrated planning process.
- Look at mandatory sentencing laws, time-off sentences for time worked, and low-level drug laws to change the system and reduce the prison population.
- Advocate increased funding for teachers, counselors, and school nurses.
- Work with the Legislature to change laws on marijuana possession, mandatory sentencing and private prisons.
- Do not ignore families “left behind” when a family member is incarcerated.
- Work on reform with victim perspectives in mind.
- Vote to fund more law enforcement officers.
- Publicize the idea that education and criminal justice programs are an investment, not an expense.
- Help organize a panel in southern Arizona discussing private prisons.
- Support drug prevention and education programs in schools.
- Talk with other community members about the need for change in the criminal justice system to help them be better educated voters.
- Collaborate with local agencies and organizations to improve services.
- Provide programming for girls with incarcerated parents—including advocacy and civic engagement training.
- Actively serve on relevant coalitions and committees.
- Encourage adults in my circles to engage in mentorship programs for elementary aged children especially in marginalized communities.
- Continually work to get people to vote through phone calls, emails and social media.
- Learn more about issues, support education so children will be less vulnerable to becoming a criminal, work so the prisons provide more preparation for entering life after prison, learn more about privatized prisons.
- Try to better myself and tell others about what I have learned.
- Support candidates who believe in positive change in our criminal justice system.
- Continue to explore and pursue using my skill set and career to impact criminal justice system.

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# **“Criminal Justice in Arizona”**

## **Sierra Vista Community Town Hall Report**

### **Sierra Vista, AZ – October 4, 2018**





# **CRIMINAL JUSTICE IN ARIZONA**

## Sierra Vista Community Town Hall Report

### October 4, 2018 – Cochise College Sierra Vista Campus

Participants of the October 2018 Sierra Vista Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

#### **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

The principal goals for Arizona's criminal justice system should be to provide proportional punishment that is met with effective rehabilitative social services addressing underlying problems. The services should include counseling, education, psychological, mental health, self-esteem, mentoring, opportunities to volunteer and interaction with the community. The focus should include creating opportunities for work coming out of prison, such as incentives for businesses and safe environments that reduce the stigma around felonies. To increase the return on investment, judges should be given discretion in sentencing and support deferment into treatment for those who can be rehabilitated. The system should ensure that all crimes are reported and investigated, providing safety from all crimes. We must evaluate disparities in sentencing based on racial or social status and prior convictions. The most important goals are rehabilitation and safety and security for everyone involved.

#### **PRIOR TO INCARCERATION**

Improvements to Arizona's criminal justice system prior to incarceration should include meaningful pre-trial services that provide access to bus passes, text reminders, housing and counseling. There should be treatment way stations that include diversion programs that front load treatment for mental health and rehabilitation, and that address learning disabilities.

We need to provide flexibility and training that foster public officer accountability through internal means and citizen review boards. We also need to:

1. Make use of resources other than jail such as mental health care, rehabilitation, diversion programs and drug courts;
2. Remove minimum sentences and increase the ability of judges to offset prosecution over charging;
3. Increase support of indigent defense and assure that fines and fees are proportional to income and do not result in being stuck in the system; and
4. Reinvest money from private prisons into education and law enforcement.

We are all responsible for what we want in our communities; it takes a village. We should foster and support investments in education that create champions not criminals.

#### **AFTER INCARCERATION**

Improvements to Arizona's criminal justice system after incarceration should include recognizing that getting out of prison is like getting out of the military. We should issue state IDs while incarcerated. We should allow and create opportunities to graduate and decompress in prison while implementing evidence-based correction practices. We should ban the felony box and review collateral consequences that impact job opportunities. We must bridge the gaps between the prison and the community while considering closing private prisons. We should pay for jobs that are performed while incarcerated and establish savings for use once released. We should use services performed as a means of restitution while considering the removal of probation fees and increase fine forgiveness. We must incentivize employers to work with the Department of Corrections. We should recognize the role of the faith community, community advocates, organizations and



families in developing the life skills of our returning citizens. We must provide mental health, health, rehab, peer mentoring and legal services. We must consider if prison is the only way.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the Sierra Vista Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Have conversations with people I disagree with instead of disregarding them.
- Reach out to programs that are assisting people in all stages of the criminal justice process, as well as those who have mental illness.
- Advocate for the rights of returning citizens.
- Be more aware of struggles that someone entering back into society after being incarcerated have to go through.
- Research local volunteer opportunities for dealing with offender families during incarceration and re-entry.
- Continue to hire ex-cons when possible.
- Support political candidates who will implement innovative measures to help rehabilitate inmates, focus more on rehab rather than punishment, redirect private prison money to education and rehab, and reduce prison population.
- Be more informed and engaged in the community. Also talk to more people and the criminal justice system and what we can do to help.
- Use the terminology "citizens returning to the community."
- Educate my child to get as far as he can in his education, teach him tolerance, and to reach out to those around him.
- Be more sensitive to those incarcerated by checking on family members and their children.
- Make donations and volunteer time for re-entry program and the like venues.
- Work on a ministry program to encourage folks toward stability.
- Create an entrepreneur program to help ideas become reality for those getting out of prison.
- Examine the police academy curriculum for ethics and mental first aid.
- Converse the benefits of plea bargains vs costs and risks of jury trial and the benefits of prosecutorial discretion.
- Work on developing a volunteer program to address transportation needs in rural communities.
- Offer free legal services for restoration of voting rights for Cochise County residents.
- Help to educate people on becoming homeowners.

## **SIERRA VISTA COMMUNITY TOWN HALL SPONSORS**





# Criminal Justice

in Yuma County

FINAL REPORT

 **SWATH**  
South West Arizona Town Hall

## **CRIMINAL JUSTICE IN YUMA COUNTY**

October 5, 2018 – Final Report

### **THE PRINCIPAL GOALS FOR ARIZONA’S AND YUMA COUNTY’S ADULT AND JUVENILE CRIMINAL JUSTICE SYSTEM**

While the adult and juvenile criminal justice systems may have different individualized methods and processes of achieving criminal justice, the principal goals for the Arizona and Yuma County adult and juvenile criminal justice systems should be the same. They should include a balanced approach to the promotion of fair and timely justice, ensuring the safety of the community, prevention and deterrence of future crime, and responsibly utilizing community resources to carry out its objectives. There are many ways to achieve these goals, but the system should illicit community involvement to allow whatever processes are chosen to be most successful.

First, and simply put, the goal of the criminal justice system should be to lessen crime in our community and one of the ways to do so is to ensure that victims, defendants and the community obtain justice in a fair and timely fashion. It is critical that the system guarantees that due process protections are upheld while also holding defendants accountable for their actions and keeping our community safe. The criminal justice system should place a high priority on public safety out of concern for family and property, with a broad definition of public safety. There is a question, however, of whether removing someone from society means true safety since that person will likely return to the community. The consequences for criminal behavior should, therefore, be meaningful and encourage community involvement.

Thus, it is imperative that our criminal justice systems take a holistic approach in determining how an offender should be held accountable to ensure the safety of the community, which includes intervention and help with basic life needs. Courts should consider what level of punishment is necessary for the specific individual and the specific crime and the effect on the victim. In making this determination, community resources should be utilized to allow offenders to be held accountable and keep the community safe, while also helping to prevent recidivism.

Lastly, the criminal justice system must ensure that all available tools are being used effectively to maximize return on tax-payer investment and protecting the welfare of the community. The community relies on the criminal justice system to enact procedures and processes to ensure that these principal goals are achieved for the betterment of the whole community.

### **ACTIONS TO IMPROVE ARIZONA’S AND YUMA COUNTY’S ADULT AND JUVENILE CRIMINAL JUSTICE SYSTEM PRIOR TO INCARCERATION**

There are many opportunities to take action in improving Arizona’s and Yuma County’s adult and juvenile criminal justice system prior to incarceration. As Benjamin Franklin famously once said, an “ounce of prevention is worth a pound of cure.” This maxim applies here, in discussion of reformation to the criminal justice process. Simply put, the best way to improve the criminal justice system is in the prevention of the development of the future offender, and prevention of involvement in the system itself. So much of the current focus is in addressing the symptoms of the problems, but not the root cause—the prevention of the problems all together. Early intervention has a cost, but that cost has a return on investment that prevents the higher societal costs of later incarceration.

These actions start at their most fundamental—in the home and in the family, whether such families and homes be defined as traditional or non-traditional. Early intervention with at-risk children, such as those within the foster system, help to place children on constructive paths of promise rather than destructive paths of hopelessness. These interventions can range from teaching life skills and offering mentorship, to individualized therapy or specially-designed preventative programs, to placement in jobs and after-school programs that occupy children’s time and remove the opportunity for crime. Certain programs like Kids at Hope, Campesinos Sin Fronteras, and Successful Futures, have successful models in place that can be expanded or used by other willing organizations as a roadmap. Exposing children to non-criminal activity early and modeling correct behavior greatly assists in those children rejecting criminal behavior in teenage and adult years. Intervention solely after the criminal act is often too late, as the offender is already in the system and subject to the often life-long implications of the same.

Interventions must also involve the parents, as so often the parental problems are the root cause of the children’s, leading to generational cycles of criminality, mental illness, domestic violence, and drug use. Parents who are at-risk, such as those already in the DCS system or offenders themselves, would benefit from training in some of the same areas, including life skills, parenting, reading (and other core educational needs), and finance (e.g., writing checks and budgeting). The goal is to break the cycle of poverty and abuse, such that parents can step off the wheel with their children, leading to better outcomes for both at-risk groups.

It is critical to develop outreach programs to the community so that these at-risk populations are aware of the services available to them. Additionally, such individuals must be educated on what agencies can and cannot do and the limits of discretion available to authority when deciding outcomes.

The goal for approaching both groups once they find themselves in criminal trouble or in crisis due to issues such as domestic violence, mental illness, and drug addiction should shift to one of intervention, diversion, and treatment rather than incarceration. Police officers, once given wide latitude to ignore certain offenses and simply cart juveniles home for discipline by the parent, now often have their hands tied. Mandatory minimums constrict the judiciary. Nevertheless, there are programs for diversion and intervention available rather than arrest, and continued training of law enforcement officers and prosecutors can enable the removal of offenders from the traditional criminal justice system to one of treatment and diversion. However, additional resources for law enforcement officers and criminal justice professionals, such as more programs for mental health and substance abuse, and training in the use of such programs and handling encounters with at-risk individuals, should be a component of any reform.

Further, for individuals intersecting with the criminal justice system, for both victims and defendants, it is crucial that they have efficient and equal access to the system and fair and timely justice. The red-tape that exists in the system right now, and the, at times, bureaucratic inefficiencies, can be difficult for at-risk populations to understand and successfully function within. These groups often lack basic understanding of how the system works, and an overly complicated process makes it more likely they will never function well within its constraints. Providing education on the how the system works, and assisting individuals to function within it, leads to better outcomes that are not one-sized fits all, as individuals are better able to advocate for themselves. One option would be to use prior offenders who have navigated the system and successfully been rehabilitated to serve as a model for individuals facing the criminal justice system. Such an approach to equitable access leads to lower recidivism, as individuals receive the resources they need. Community participation is also key to a healthy criminal justice system.

Community-led involvement adds a vital component to prevention, including Opportunities for employment, mentorship, education, and treatment access. Employment alone is a huge factor in both prevention and recidivism. By collecting and analyzing data on the economic impact of successful rehabilitation and the trends and needs of preventative intervention, the system can support its advocacy for use of diversion of treatment and appeal to the business-minded community.



## **ACTIONS TO IMPROVE ARIZONA'S AND YUMA COUNTY'S ADULT AND JUVENILE CRIMINAL JUSTICE SYSTEM AFTER INCARCERATION**

There are several actions that can be taken to improve Arizona's and Yuma County's adult and juvenile criminal justice system after incarceration. Again, similar to the approach with at-risk populations prior to any offense, prevention is the key. Prevention begins during incarceration. Incarceration is a fork in the road; failing to assist during incarceration leads to a singular pathway to recidivism. During incarceration, a key opportunity is presented to screen individuals for issues and treat them. Issues to be assessed include mental health, substance abuse, reading and other educational deficiencies, medical issues such as vision and hearing, and others. While these issues are often symptoms of offenders, they may not be the cause. But regardless, even if these issues were not the cause of the offense, these disabilities or lack of life skills exacerbate recidivism. Additionally, employment and vocational training should be provided to give real-world skills to inmate prior to release. Educational programs during incarceration should focus on being a productive part of the community, including for example curriculum directed to life skills, and job training, and to replace negative influences with positive influences.

Though there are some programs in place now for services during incarceration, much depends on the particular facility. But starting services during incarceration brings hope for changed behavior. When an inmate is excited about future possibilities and can visualize a pathway to achieve them, the changes for recidivism are reduced.

Certainly, as an individual approaches release from incarceration, recidivism is the main concern, and protecting both the offender and society from re-offense is the primary goal. A lot of repeat offenders do well for a while, then fall back to old behaviors. However, most recidivism tends to occur in the first six months, with the first two weeks being particularly critical, so it is important to closely monitor and work with high risk people during this early period.

Offenders sometimes reoffend because of lack of other assistance, such as housing or jobs, or a lack of knowledge to other ways of life. Work on re-entry plans should begin before the individual is released in order to prepare them for their new life and to acquaint them with resources available, particularly given their assessed needs (e.g., mental health, substance abuse, etc.). The reentry plan should include assistance to the individual to obtain identification, find appropriate housing, secure AHCCCS coverage, and explore employment opportunities. Without such planning, the person could end up homeless or in an emergency room. Additionally, inmates should be provided information about what kinds of crimes can be set aside and how to restore of civil rights.

While in jail and after, pairing with mentors can lead to critical support and real-world models for success. Video feeds into the facility for inmates to meet with peers to learn about what life will be like once the individual is released and how to ease the transition provides one such pathway. Mentors can help develop a plan for re-entry based on real, successful experience. Education for families of incarcerated so that they can learn how to help the individual transition from incarceration can also provide needed support. More recently, re-entry simulations are being used for providers to prepare for an inmate's release. These simulations include basic problem-solving strategies, and are based on maneuvering through real-life issues.

Indeed, many of these programs in a more abbreviated form should be expanded to low-level offenders. There are very few programs available for those convicted of misdemeanors or those being released from justice and municipal courts. By better addressing the underlying issues of this group (example mental health) it may reduce the chance they will go on to commit felonies.

Intersection between the offender and the community is obviously an eventual consequence of release. While much attention is paid to how to prepare the inmate, attention should also be paid to preparing the community for reception of formerly incarcerated individuals. As an educational opportunity, the community should understand the challenges facing an individual who is released from incarceration to change the



mindset of the community towards offenders and encourage empathy. For example, encouraging employers to hire felons through appropriate incentives and training helps reintegration and reduces recidivism. Additionally, "impact panels" or forums that bring victims of crimes together with offenders for interaction and education helps many to understand the consequence of wrongful actions and also prevent re-offense. None of this is meant to diminish the effect on and cost to victims of crimes, and support should be given to them in tandem with assistance to offenders. Lastly, a system of data tracking should be put into place to monitor the efficacy of programs and to identify weak spots in recidivism. Such data helps bolster community support for the cost of assistance and benefits inmates by providing better services.

**THERE ARE SEVERAL CRITICAL CRIMINAL JUSTICE ISSUES FACING YUMA COUNTY THAT ARE BOTH SIMILAR AND DIFFERENT FROM THOSE FACING ARIZONA AS A WHOLE AND THAT CAN BE ADDRESSED AND IMPROVED**

As a border town, Yuma is unique. Yuma's uniqueness includes our fluctuating and seasonal populations, high unemployment rate and close proximity to Mexico and California borders. As a result, Yuma faces several critical criminal justice issues including high incidents of drug-related crimes, lack of professional resources to adequately address mental health and substance abuse issues, and high unemployment rates (including higher turnover rates of law enforcement officers to higher paying jobs elsewhere).

Many of these issues can and should be addressed by education. We need education in our schools, communities, local businesses, non-profit organizations, and local and state leaders. A targeted campaign, through social media, television and community outreach presentations should be instituted to educate our community about the cost-benefit analysis of rehabilitative programs versus the incarceration cycle, including ways in which community members can get involved. Such a program should help the community shift the perception that all criminal offenders are bad people to one that understands that a large majority of offenders simply need help with underlying issues like drug addiction, mental health conditions, or poverty issues. The educational campaign should also include information on risk factors, intervention programs, and resources available in the community to promote use of the resources as a preventative measure without shame or stigma. This campaign should also encourage voluntarism and increase the feeling of neighbor helping neighbor.

Additionally, there needs to be a focus on collaboration between law enforcement, the courts and legal system, and businesses and non-profit organizations. Through this collaboration, it could be possible to develop a program to help offenders obtain long-term employment upon release to help them become contributing members of the community with purpose and value. There also needs to be collaboration about how to attract and keep good professionals, such as licensed substance abuse counselors and mental health professionals, educators and law enforcement personnel. This could potentially permit the existence of more specialty courts to focus on drug or mental health issues, thereby decreasing the risk of re-offense and building a safer and stronger community.

Lastly, the court system and legislators should re-exam the appropriateness of existing sentencing structures and the effect of a criminal record on a person's employability. Courts need to utilize, and be given the opportunity to utilize, alternative solutions to issues involving an inability to pay fines and fees associated with a conviction which lead to violations of probation and incarceration. Such alternatives could include community service, release or (extended) probation. Lawmakers should also consider allowing and setting forth guidelines to permit courts to expunge a person's conviction, versus merely setting it aside. This action would permit more offenders to secure employment and take away a cause for recidivism.

## **THERE ARE THREE TOP PRIORITIES FOR REFORM FROM THE COMMUNITY MINDS OF THE YUMA COUNTY SAFE**

The over-arching priority is to make our community safer, which is achieved by better support and intervention for at-risk populations and services and reformation for transitional offenders to avoid recidivism. This can be achieved by:

1. Improved and more readily available support services for at-risk children and adults to address the underlying issues that often lead to criminal behavior, such as mental health, substance abuse, poverty, life skills, parenting, career development, and educational disparities. Improved and more readily available support services for the identification and rehabilitation of the issues in inmates and other low-level offenders, along with robust transitional support services prior to and upon release, including job training, mentorship, housing plans, medical care, and concrete, attainable plans for reintegration in society.
2. Community education and outreach that fosters community awareness of, funding support for, and engagement in the programs and services identified in goal number 1. Such community education should include people and families close to at-risk populations and inmates but should extend far broader.
3. Involvement of the State's rule making bodies (e.g., state legislature) to allocate adequate funds for the support programs needed and identified in goal number 1, as well as to reevaluate the criminal justice system, including mandatory sentencing provisions and the accessibility of the criminal justice system.

# “CRIMINAL JUSTICE IN ARIZONA” SOUTHWEST ARIZONA TOWN HALL FORUM SPONSORS



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# **"Criminal Justice in Arizona"**

## **South Phoenix Community Town Hall Report**

### **Phoenix, AZ – October 11, 2018**



# **CRIMINAL JUSTICE IN ARIZONA**

South Phoenix Community Town Hall Report  
October 11, 2018 – Mountain Park Health Center

Participants of the October 2018 South Phoenix Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

## **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

Arizona's criminal justice system should serve and protect. It should be just and it should balance safety, punishment and rehabilitation or restoration of those who enter the system. It should not simply be a warehousing system. Rehabilitation should address mental illness and substance abuse issues and it should begin as soon as someone enters the system. People should not leave the criminal justice system with greater mental illness and substance abuse issues than what they had entering the system. The criminal justice system should focus on how to restore people so that they become constructive members of their community.

## **SETTING PRIORITIES AND TAKING ACTION**

We need to build a system that honors relationships, expand communications and education and that teaches respect between communities and those who run the criminal justice system. We need to consider broad changes that include diverse and underrepresented voices.

We need to change the current methods of policing and the culture surrounding it. We need more community policing and more involvement of the community in the entire criminal justice system—including possibilities like a community court. Police need to have more education, including how to better deal with different kinds of people.

There should be more equity in sentencing. We should reevaluate what we are criminalizing and should avoid criminalizing lifestyle choices that do not harm others. We also need to look at reforming or eliminating our bail system.

Instead of sending so many people to jail, we should shift to a system that is more of a restorative model. As part of this system, we should consider diversion programs that are more effective for those with substance abuse or mental illness issues. Or, if someone commits a nonviolent crime, we could require them to do community service instead of going to jail.

We should reform the system so that people do not feel forced to take an unfair plea deal. We also need more qualified judges.

Once people are in the system, we should be running the system using best practices that are outcomes-based. We need to provide programs that allow inmates to transition to life outside of prison. This may include treatment programs, education and life skills.

Our criminal justice system, including our prisons and transitional or halfway houses, should not be based on or motivated by profit.

After release, we need to change policies that keep people from getting housing or employment. For example, we should ban the box on job and housing applications that requires ex inmates to disclose if they have been convicted of a crime. We could also do a better job at helping former inmates to reintegrate back into society, including how to guide them to restore rights such as voting.



Communities can help educate each other and assist former inmates in finding programs that can help them. Change doesn't happen unless we as community members take action. If you want to make change you have to advocate for change.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the South Phoenix Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Follow Arizona Town Hall future activities.
- Continue to improve access and services for our patients.
- Come to another Town Hall meeting and invite someone.
- No longer judge others simply based off of their being experienced in the criminal justice system. Understanding that the system is not just for violent offenders.
- Opinar que cuando asen un delito simple nol os encarselen sino les ayuden con un programa y si usan una droqa que les ayuden nolos metan presos.
- Share the truth of our criminal justice system's data with my family, workplace, and friends, so that we can all consider what is necessary to do to create change for all involved and that they should include in their advocacy that equality is not equal and a broad approach may not work. Some will need more support than others.
- Make contact with criminal justice agencies and distribute information on email and Facebook.
- Continue to work in and for the criminal justice system in a capacity to enact meaningful change.
- Continue to work to connect people to resources they can use to impact change in the local criminal justice system.
- Seek to understand views that are different from my own.
- Ask for understanding of systems that impact my community.
- Use my voice to help communicate with stakeholders on all sides with equity.
- Running for office to be the change I want to see in the community.
- Become more involved in my local government.
- Continue advocating for people in situations that my sons have been in and the sad result of my son's experience in prison and their inability thus far to become members of society.
- Connect with Alison Rapping to find Synergy.
- Connect with Let's Talk.
- Stay involved.
- Guide people through the process to restore Civil Rights.
- I will present the Town Hall Report and the Report of this community Town Hall with the people I work with.
- Participate more in my community and be a voice for change.
- Share the final report with my network.

- Communicate the recommendations with my legislators.
- Educate myself better on this important topic.
- Enhance my skill sets and knowledge to better support my community and those around.
- Continue to build the Arouet Foundation. Support as many women as we can who are currently incarcerated and coming out of incarceration. Serve on State and National Boards and commissions. Advocate, educate, and support. Build community!
- Vote, raise my voice, support organizations and intervention programs.
- Continue to educate for humanity and educate.
- Have discussion with friends about criminal justice in our state.
- Stay more informed about the Town Halls and read the report. Petition our legislature to do more toward prison reform.
- Continue to volunteer in AZ prisons and share any experience and concerns with other members of the community hopefully changing their feelings about those who are incarcerated.
- I want to change with those who have committed murder and don't spend much time in jail but then there are people who are innocent that get too much time in prison.

## SOUTH PHOENIX COMMUNITY TOWN HALL SPONSORS

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# “Criminal Justice in Arizona”

Criminal Justice Town Hall for Affected Populations Report

Tucson, AZ – October 13, 2018



# **CRIMINAL JUSTICE IN ARIZONA**

## **Criminal Justice Town Hall for Affected Populations Report October 13, 2018 – Habitat for Humanity Tucson**

Participants of the October 2018 Criminal Justice Town Hall for Affected Populations make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

### **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

The criminal justice system should focus on safety, prevention and rehabilitation (which includes reducing recidivism) instead of punishment. It should be fair and it should be just. It should focus on facts and research rather than political and emotional responses to different types of crime. We should reconsider the use of private prisons motivated by profit.

We should tailor responsibility for crimes committed to the crime itself while accounting for the needs of the victim. To meet these goals, we need to consider an overhaul of the system that includes looking at the role of discretion across the system and our current sentencing structure.

Incarceration should be looked at as a last resort—especially as it relates to drug abuse or mental illness. Sustainable funding for rehabilitation and diversion programs will result in healthy individuals, families and communities. It is a better return on investment of funds than money spent on punishment.

Rehabilitation, which will help reduce recidivism, should involve programs that start immediately and should have as a goal how to make people successful outside of the system. This may include greater assistance for mental illness and substance abuse, life skills training, educational opportunities and providing job skills that can be used upon release. There should be a case manager assigned from the beginning who can help guide inmates through these programs.

The programs that would have the greatest impact for those being released from the criminal justice system are those that provide transitional housing, transportation and jobs. We should also look at returning rights so that former inmates can more effectively transition back into society.

### **PRIOR TO INCARCERATION**

Better education, including early education, is critical for preventing actions that may cause someone to enter the criminal justice system. The more we invest in education, the less we will need to spend on the criminal justice system.

We simply need to invest more money in education, including social workers and extracurricular activities that help prevent criminal activity. Literacy is a significant issue for many who are in the system. If we can improve literacy and educational opportunities, we will reduce the number of those who enter the system and those who recidivate.

We need to try to break the cycle with prevention programs, social service programs and programs that consider all victims, including family members of those incarcerated.

Families are critical for preventing incarceration. We need to provide more support for families in need and look for ways that we can constructively intervene before a problem happens. We also should look for ways to support families who have members who are incarcerated.

We should provide more training for police officers on mental illness, substance abuse, mindfulness and how to build better communication with the communities they serve.

We should look into more deflection and diversion programs that can help people stay out of jail and that address the issues underlying any activity that may be criminalized. This includes programs for mental illness and substance abuse, programs that are community based and “last chance” programs.

Court fees and fines and the bail system create challenges for those with low income which creates inequities in the system that disproportionately affects those who don’t have the funds to pay the fines. We need to consider changes to this aspect of the system.

We should look at all aspects of the system that involve discretion on the part of police, prosecutors, judges and others. We need to also look at sentencing guidelines, especially mandatory minimums.

We can prevent people from reentering the system if we better address repeat offenders who commit nonviolent crimes and restore rights to those who have served their time so that they can become more integrated into their communities. We need to stop identifying people for the rest of the life by the worst thing they’ve ever done.

Finally, to improve the criminal justice system, we as citizens need to be involved with public policy through informing and talking to legislators. Tax dollars pay for a lobbyist for prosecutors. This should be balanced with a lobbyist that supports other perspectives. We also need to vote.

## **AFTER INCARCERATION**

As soon as someone is incarcerated, we should assign a case manager who will work with people to set goals and design programs that allow them to succeed. These programs should be provided to all inmates, including those who have been convicted for crimes that currently prevent them from having access to such programs. They should include programs that address substance abuse, health needs (including mental health), job training and life skills. The goal should be to provide the best foundation for successfully reintegrating into society once they get out and to avoid technical violations that may cause them to return.

Essentially, we need to have a comprehensive support system that provides assessments of needs, available programs and resources to help inmates address issues both within the prison system and upon release. This should include better mental health and addiction management, necessary medications, positive daily routines that help with transition to the outside, and job training that is mapped to opportunities and jobs that are actually available on the outside.

Once released, we should provide identification cards, necessary medications and resources that can help with housing, transportation and jobs. We also need a process that addresses reintegration with families and communities.

We should consider standards, benchmarks and other incentives that encourage stakeholders running the system to be more accountable for the success of inmates once released. We should tailor laws and our systems for reentry to allow for success after release rather than failures.

Probation and parole need to be more of a support system than a continued system of punishment. A system that uses care workers instead of probation officers would be more effective. Intensive probation and other overly restrictive requirements should be reimaged so that ex-offenders have greater opportunities for employment. For example, there should be an opportunity to petition to get off of lifetime probation. We also should consider restoring rights in a way that allows all offenders to better integrate and take responsibility for the success of their own life. This may include restoring access to the internet for sex offenders as appropriate and specifically includes the right to vote. We should also consider a pathway for a more clearly defined and expanded opportunities for expungement or restoration of rights.



Reeducating the public is crucial. Public perception often leads to the inability of ex-offender to get housing and employment. Ex-offenders and others need to get their stories out so that the public can better understand what actually works to create a safer community and allow ex-offenders to become productive members of their communities. The media should provide a more balance portrayal and employers should be encouraged and incentivized to hire ex-offenders.

Education and community support is critical to end the cycle of incarceration. The entire community needs to shift to common sense notions around the system. For example, this might include restitution to the community through more community work which would help the ex-offenders reintegrate and allow them to give back instead of being saddled with the burden of fines.

It's also important to consider the rights of victims. We should have a centralized database that makes it easier for post-conviction notification by text or other electronic means.

In the end, it all comes down to us. We need to have productive conversations with neighbors and friends to make these changes happen.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the Criminal Justice Town Hall for Affected Populations. Below are individual actions that were shared.

### **I WILL...**

- Educate the staff at the next meeting about this organization and topics discussed. I will educate the residents (former and current inmates) about the same information.
- Support Arizonans for Rational Sex Offense Laws. I am convinced we need more evidence-based laws and fewer fear-based laws.
- Engage in conversations about the importance of criminal justice system reforms.
- Spread the word and further the cause. I will participate and contribute my time and resources to Arizonans for Rational Sex Offense Laws. I will stand up for the rights and dignity of sex offenders.
- Do what I can to get legislators elected who are concerned with improving our criminal justice system. Also, push for cutting out national defense spending by one-third so we have more money available for these programs.
- Continue to increase my community activism to help move forward the much needed criminal "justice" system in Arizona.
- Contact Boy Scouts to see if they have a troop like Girl Scouts with incarcerated parents.
- Vote! – Continue to share and speak up/out about how to help those incarcerated. I will continue to help support and encourage those in and getting out.
- Be part and support Arizonans for Rational Sex Offense Laws. I will contact legislators and attend additional Town Hall meetings.
- Communicate what I have learned with others.
- Advocate for Arizonans for Rational Sex Offense Laws.
- Continue to further the conversation to educate others.
- Talk with my colleagues and friends re this Town Hall and use the information I learned in my work.
- Put together a list of resources for ex-offenders in Pima County.

- Continue to stay sober and make a difference in others' lives!
- Meet with our legislators to encourage them to enact rational legislation to reduce crime and protect the public with a focus with relief for youthful offenders.
- Personally send Arizona Town Hall reports on Criminal Justice in Arizona to government and legislative representatives for my community. I will include a personalized note or have a conversation.
- Do my part and speak up!
- Continue to educate my community on the impact of the criminal justice system and the need for reform.
- Work with Arizonans for Rational Sex Offense Laws to educate the public and our legislature to change the sex offender registry to be less onerous!
- Continue to participate in the discussion of these issues by educating myself and staying aware of legislation that could impact it.
- Work with Families Against Mandatory Minimums and American Friends Service Committee to become a legislative advocate for sentencing and incarceration reform.
- Continue working directly with incarcerated individuals and providing them with info on successful transition to the outside.
- Support Arizonans for Rational Sex Offense Laws. Meet with legislators. Find a legislator to support bills that will allow those convicted as a youth a way to get off the sex offender registry.
- Continue to increase my knowledge on the legal system of Arizona, including listening to perspectives different than my own, do volunteer work with organizations such as Arizonans for Rational Sex Offense Laws and American Friends Service Committee, and share what I know with friends, neighbors and peers.

## CRIMINAL JUSTICE TOWN HALL FOR AFFECTED POPULATIONS SPONSORS

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# **“Criminal Justice in Arizona”**

**Phoenix - Soroptimist Community Town Hall Report**

**Phoenix, AZ – October 25, 2018**



# **CRIMINAL JUSTICE IN ARIZONA**

Phoenix – Soroptimist Community Town Hall Report  
October 25, 2018 – Hilton Garden Inn

Participants of the October 2018 Phoenix – Soroptimist Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

## **GOALS FOR ARIZONA’S CRIMINAL JUSTICE SYSTEM**

The most important goal of the criminal justice system is public safety and deterrence of undesirable behaviors. Other goals include holding people accountable for their conduct, rehabilitation, and dealing with offenders in ways that are designed to reduce the harm of incarceration and criminal conduct and reduce the risk of recidivism. We should use evidence-based best practices. For example, there is evidence that low-risk criminals should be diverted rather than incarcerated, as even three days in prison can cause lasting harm. There are more people on probation than in prison, and community supervision is an important resource that should be used to best advantage.

Although it may be natural to think of punishment as a principal goal of the criminal justice system, increasingly we are recognizing that interaction with the criminal justice system offers opportunities to correct circumstances that lead to criminal conduct. The operator of the prison system is called the Department of Corrections, not the Department of Punishment. It should be more focused on dealing with prisoners based on the totality of their individual circumstances rather than just their sentence, providing educational opportunities, preparing inmates to transition back to the community, dealing with substance abuse and helping prisoners learn social and problem solving skills.

## **SETTING PRIORITIES AND TAKING ACTION**

When people talk about the criminal justice system they most often think of prison, but that is the last stop in the process and the least susceptible to cost-effective reform. Money spent on programs that divert people from prison (including preventative programs such as early education programs and drug treatment programs, and criminal justice programs such as probation and effective diversion programs) is a better investment than spending money on prisons.

By some estimates substance abuse has a direct role in approximately 75% of all crimes that result in incarceration. Addressing this problem could have a major impact on the criminal justice system. Children in foster care are dumped out of the system at age 18 with few resources and connections, and there are other populations of young people who lack resources and family support. There is a strong correlation between inability to read in third grade and future criminal conduct. Addressing these social conditions would make a difference.

It is important to recognize that prisoners will eventually be returned to the community. Our society needs to be educated about the challenges that prisoners face upon their release, including barriers that make it difficult to find jobs and housing. The Department of Corrections is taking steps to help prisoners apply for AHCCCS and other needed services. The business community and the Department of Corrections are collaborating to provide training and job opportunities for prisoners preparing for release that will improve the odds of successful transition.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the Phoenix – Soroptimist Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Try to raise awareness on problems facing inmates being release from incarceration.
- Continue to share my thoughts with friends and neighbors as it pertains to substance abuse and how we can each spot early signs in our children, friends and families.
- Increase capacity to offer proven intervention strategies to probationers in order to change behavior.
- Continue educating community members about the criminal justice system.
- Communicate with someone incarcerated.
- Consider how I might impact drug abuse and drug training.
- Become more knowledgeable of the criminal justice system and small ways I can be involved.
- Share what I've learned with friends and neighbors to raise awareness.
- Because 90% of female inmates experience physical or sexual violence prior to prison—I will continue to work through Soroptimist to eradicate violence against women.
- Be open to discussion and/or support to inmates as they reenter society (i.e. supporting businesses who hire those with a record, being open to halfway houses, etc.).
- Look into why the D.A.R.E. program was discontinued and how it can be started again.
- Investigate the relationship between foster kids reaching maturity and percentage who get involved in the criminal justice system.
- Consider criminal justice issues in considering candidates for office.
- Identify opportunities to educate individuals within the community about challenges ex-cons face and how we can change our thinking about such. All should be given opportunities to reenter our communities without harsh obstacles.

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# “Criminal Justice in Arizona”

## Flagstaff Community Town Hall Report

Flagstaff, AZ – November 7, 2018



# CRIMINAL JUSTICE IN ARIZONA

Flagstaff Community Town Hall Report

November 7, 2018 – High Country Conference Center

Participants of the November 2018 Flagstaff Community Town Hall make the following findings and recommendations. This report reflects the consensus achieved through group discussions by Community Town Hall participants.

## **GOALS FOR ARIZONA'S CRIMINAL JUSTICE SYSTEM**

Criminal justice in Arizona must begin with a fair, equitable and impartial framework promoting public safety and accountability while simultaneously playing a significant role in prevention. We also need to proactively and systemically provide early intervention and prevention through systems outside of the criminal justice systems including education and healthcare that also address the needs of people with mental health and substance abuse challenges. We need evidence-based, data driven decision-making that starts with early intervention and supportive legislation. We need to understand that one way to assess a community's values is how we prioritize resources and need to use the least intrusive intervention or measure such as diversion to address or promote justice, public safety and return on community investment. We need to move away from ideological and charged thinking.

## **PRIOR TO INCARCERATION**

One of the most significant issues we face is the need for early intervention and both robust mental health and substance abuse programs that begin with parents and early childhood education. We currently invest significant resources in probation and post-conviction treatment programs but we should be making those investments early to prevent criminal activity. We need to ensure that we include youth in the discussion and need to create and expand public awareness of the importance of treatment and prevention programs to support legislative action and public funding. Our focus should be on community wellbeing increasing funding for education and preventative programs. Annual assessments of all K-12 students could be offered along with providing counseling resources that will lead us to growing healthy kids instead of attempting to fix adults through the criminal justice system.

It is critical for legislation requiring diversion programs and alternatives instead of mandatory incarceration. We should not be relying on the criminal justice system being the social service agency of last resort. We should also consider de-criminalizing, or reducing to misdemeanors, some drug offenses.

We need more transparency in public funding and budgeting is needed, including prioritizing preventative measures. A thousand beds a year are added through the legislative allocation process to the prison system and this needs more thoughtfulness and consideration. Savings in the criminal justice system resulting in reduced incarceration should be tracked and incentives for alternative programs should be offered.

We should require that all prisons have outcome measure that promote a reduction in recidivism.

We need to continue and expand community recidivism and re-entry programs that include families. Family support should also be incorporated in pre-release intervention to foster an environment which promotes accountability and rehabilitation. Expanding community involvement in re-entry will keep recidivism down.

We need to eliminate silos in the criminal justice system and re-allocate resources to address basic needs and expand connections in the community between law enforcement, education, and mental and physical healthcare providers.

## **AFTER INCARCERATION**

Effective re-entry programs are critical to reducing recidivism and should begin at the time of initial incarceration and need to seamlessly include community-based coalitions including government, faith-based organizations, youth, educators and non-profits. We also need to ensure funding and sustainability of these programs, provide shared data systems, and track outcome measures. These programs need to include providing people who are released from incarceration with Arizona identification cards, food vouchers, clothing, counseling, prescribed medication, transportation from jail, a list of employers and trades that will accept them, assistance in establishing credit, behavioral health and social service connections. We need effective pre-planning that also encourages family support and includes appropriate step-downs including halfway houses.

Mental health should be classified as a public health issue and resources allocated accordingly.

We need to remove barriers to employment including creating statewide incentives for fair chance employment and banning the box. Coconino County's decision to ban the box has encouraged private employers to participate.

## **INDIVIDUAL ACTIONS**

Recognizing that the power to change the future begins with each individual, participants committed to take personal actions based on their experience and discussions at the Flagstaff Community Town Hall. Below are individual actions that were shared.

### **I WILL...**

- Continue to advocate for criminal justice reform.
- Advocate for the people who have been impacted by the criminal justice system by creating an innovative nonprofit that focuses on helping transform the lives and perspectives of those impacted.
- Make it my priority to form my actions based on what's good and right.
- Engage our youth.
- Meet with Board of Supervisors of Coconino County to seek partnership in choosing a location for our residential, educational nonprofit for men who have been convicted.
- Continue to advocate for front-end investments and focus on justice as community wellness.
- Join others to take action based on what I learned or people I met.
- Communicate what I have learned with others.
- Encourage people to vote!
- Continue to keep an eye on policy and legislative opportunities to improve things for people who are entangled in the criminal justice system.
- Work with the Collective Impact Project to help break down silos.
- Participate in future events.
- Actively become involved in my community's engagement and roles of leaders at each level.
- Become more informed of criminal justice and its role in social justice.
- Vote at every opportunity for reforms in regard to criminal justice.
- With the Criminal Justice Coordinating Council (CJCC), lead the initiative in Coconino County to tackle justice reform including: non-monetary alternatives to bail/bond; reduction of recidivism; addressing mental illness in our jails; and discretion for judges to have a variety of options for sentencing, rehabilitation, etc.
- Listen and become more aware of what the justice system is doing and how it impacts my community.
- Continue to advocate for people of color in the criminal justice system by using my privilege and education to change and create policy.
- Continue to establish diversion programs that bring the justice and behavioral health systems together to provide better programs for those trapped in the justice system.

- Continue to advocate for equity and the renewal of justice in the criminal justice system.
- Vote.
- Speak out and educate regarding social injustice.
- Fight against, in small and big ways, the insidious impacts of patriarchy and white supremacy.
- Become informed about the Task Force on Fair Justice for All in order to become involved in this issue.
- Work on technical training and opportunities for young people.
- Engage in transformative acts.
- Champion and provide policy discussions and decisions that will align resource allocation and efforts of criminal justice, behavioral and physical health for outcomes that improve the lives of members of our community.
- Facilitate front line officer training in mental health first aid to educate law enforcement in identifying and successfully dealing with alternative solutions to incarceration.
- Seek and create opportunities to engage the community in dialogue and feedback regarding criminal justice issues, mental health and substance abuse.
- After receiving and digesting final statewide town hall report, I will write my Arizona Legislative District 6 legislators with a succinct request for reflection and action, and make an appointment to visit both the district and Phoenix offices.
- Lobby legislature.
- Show up and continue to be part of the transformative change process.
- Work to break down challenges and silos, and meet the needs of individuals struggling with mental health involved with criminal justice.
- Transfer resources to the front-end of system.
- Continue my work with the homeless community to prevent criminal activity.
- Leverage my position to convene stakeholders for cross-system, integrated, and coordinated improvements.
- Advocate among health system leaders to improve alignment with criminal justice system goals.
- Communicate the ideas forwarded at the Town Hall to policy-makers as opportunities arise.
- Be an outspoken advocate for the value of proactive resources that deal with mental health and substance abuse and support the reduction of barriers to reentry after incarceration.
- Endeavor to work more closely with individuals in the criminal justice system to identify positives and negatives in their lives that may impact that person's ability to be successful post-incarceration.
- Offer opportunities to learn more about how reentry for people in the criminal justice system can be improved.
- Lobby my legislators.

## FLAGSTAFF COMMUNITY TOWN HALL SPONSOR

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# FUTURE LEADERS TOWN HALLS ON "CRIMINAL JUSTICE IN ARIZONA"

*"It is a great experience for gaining knowledge on important topics and having an opportunity to make your voice heard."*

Participant, Tucson Future Leaders Town Hall



## FUTURE LEADERS TOWN HALL LOCATIONS

Mesa Community College

City of Phoenix – Burton Barr Central Library

Arizona State University – Downtown Phoenix Campus

University of Arizona – Tucson Campus

Arizona Western College – Yuma Campus

Cochise College – Sierra Vista Campus

Yavapai College – Prescott Campus



# KEY POINTS FROM FUTURE LEADERS TOWN HALLS ON “CRIMINAL JUSTICE IN ARIZONA”

## GOALS OF ARIZONA’S CRIMINAL JUSTICE SYSTEM

- Ensure fairness and justice for all including criminals, victims, and the community.
- Make punishment equitable and specific to the offense.
- Focus on rehabilitation during incarceration.
- Have consequences and accountability for those who commit crimes.
- Provide for the safety of the community.
- Offer programs and services after release that reduce recidivism.
- Consider the return on investment of dollars spent on incarceration vs. rehabilitation vs. crime prevention.
- Create safe environments for learning, work, worship and public gathering.

## WAYS TO IMPROVE OUR CRIMINAL JUSTICE SYSTEM

- Create more therapy and rehabilitation programs for substance abusers and people with mental illnesses.
- Give judges more discretion to allow them to make case-specific decisions on sentencing.
- Train police officers on how to focus more on the preservation of peace and better interact with people who have mental health and communication issues.
- Expand diversion programs like drug, mental health and homeless courts that keep people out of prison and rehabilitate them to become productive members of society.
- Reduce the stigma of being a criminal through programs like the pen pal system, community service projects and work-release opportunities.
- Reform the bail system to reflect the severity of the offense and provide alternatives for those who lack financial resources.
- Focus on crime prevention by cleaning up neighborhoods, making social services more accessible, and improving job training and educational opportunities.
- Provide education and counseling to families and students to reduce interaction with the criminal justice system.

*“This program has enlightened me. I feel I can express my ideas and use my voice. I have learned a lot.”*

Participant, Tucson Future Leaders Town Hall

*“I felt heard for the first time and it felt good.”*

Participant, City of Phoenix Future Leaders Town Hall

## **MESSAGES FOR ARIZONA'S ELECTED LEADERS**

- Strengthen our education system to recognize and address problems to prevent young people from becoming involved with the criminal justice system.
- Increase funding for organizations delivering re-entry programs and services.
- Provide incentives to businesses to hire those with a criminal record.
- Make laws based on what is best to create safe communities and productive citizens vs. a mindset of being “tough on crime.”
- Provide sufficient funding to public defenders and their offices to ensure adequate legal representation for those who cannot afford an attorney.
- Revisit why and how we use private prisons and contractors.
- Consider legislation that looks at changes needed in sentencing guidelines, parole, fees, crime prevention and rights after release.
- Shift resources to focus on building healthy communities and improving trust in the criminal justice system.

## **INDIVIDUAL COMMITMENTS TO ACTION**

- Contact elected officials to advocate for the issues and ideas we discussed at the Town Hall.
- Get more involved in programs that stop the school to prison pipeline.
- Talk to our peers about the specific issues facing the criminal justice system and the stereotypes of those caught up in it.
- Present our colleagues with statistics and factual evidence that they can share with those in their networks.
- Register to vote and educate myself on the current state of our criminal justice system.
- Support elected officials and other leaders who advocate for fairness for criminals, victims and their family members.
- Learn about available services to help point others to better their situation and avoid a criminal path.
- Seek educational opportunities to better understand the criminal justice system such as internships, explorer programs and interactions with those who work in the system.



Participants at the Yavapai College - Prescott Campus Future Leaders Town Hall



# **CRIMINAL JUSTICE IN ARIZONA**

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**BACKGROUND REPORT**



# CRIMINAL JUSTICE IN ARIZONA

2018

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# INTRODUCTION

Arizona's criminal justice system (CJS) touches everyone in the state. Even those who will never see the inside of a courtroom must shoulder the tax burden of maintaining our system of courts, jails, prisons and police forces. Every Arizonan also benefits from the protections offered by this system.

Criminals are seldom sympathetic figures, and politicians of every stripe score points with the electorate by promising to "get tough on crime." The natural human reaction may be to lock away those who violate the norms of society. But this reaction should not prevent us from looking at the underlying principles of our criminal justice system and searching for the most efficient, economical and humane solutions to the problem of crime.

With more than \$1 billion spent annually in the state to maintain the CJS, it is worth asking whether that money is being spent wisely. But before that question can be addressed, there should be some thought about the purpose of the system.

Is the purpose of our criminal justice system to punish those who commit crimes, or is it to rehabilitate them so they don't offend again? Perhaps it is to protect citizens from crime?

In reality, the CJS performs each of these functions to some degree. As the attitudes and preferences of society change over time, the prominence of each of these functions gradually changes as well. In some eras rehabilitation is seen as the primary purpose of the system, while in others punishment is in favor.

Are changes in store for the criminal justice system? Is there the political will to reform a system that stirs such strong emotions? Possibly. Organizations from across the political spectrum, ranging from the Koch Brothers Foundation to the American Civil Liberties Union, have advocated for criminal justice reform.

The criminal justice system consumes a large and increasing share of our tax dollars. These dollars should be used wisely and in ways that protect public safety. We need to start asking such hard questions with the realization that asking such hard questions is not being "soft on crime." Asking hard questions and demanding evidence-based answers can protect both the public's pocket book and its safety - on our streets, in our courtrooms, in our jails and prisons and in our communities.

The following chapters trace the path that one might follow through the criminal justice system, from the initial contact with police through charging and sentencing and eventual release from the system. We also will look at how the system becomes an endless cycle for many people, with a high percentage of ex-prisoners reoffending and re-entering the system.



# SIZE AND SCOPE OF ARIZONA'S CRIMINAL JUSTICE SYSTEM

By Dan Hunting, Senior Policy Analyst,  
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Arizona's criminal justice system (CJS) is a sprawling enterprise, with courts, jails and prisons scattered across the state. In addition to incarcerating tens of thousands, it also employs thousands of Arizonans as law enforcement officers, prosecutors, judges and other court employees, and prison guards. This section describes the CJS, detailing the size and composition of both the facilities as well as the people who live and work in the system. Arizona's criminal justice system, including police officers, inmates, and crimes committed, is relatively large compared to other states. Arizona has the fifth-highest percentage of prisoners per capita.<sup>1</sup>

## Key Points:

- The number of crimes committed have been declining for years.
- At the same time, incarceration rates have gone up.
- The crime rate has decreased over one-third since 2006.
- Court cases are heard by 435 judges throughout the judicial system.
- The vast majority of cases heard by the courts are relatively minor traffic and civil cases.
- Total costs of the municipal, county, and statewide criminal justice system vary according to location, but average approximately \$525 per person every year.

## Crime Rates

The impetus for having a criminal justice system in the first place is the presence of crime in our communities. So, it's worth looking at the rate of crime over time to get an idea of how big our CJS should be. A society with zero crime would simply be wasting its money if it built prisons for criminals that didn't exist. Similarly, a very-high-crime society will need to construct a large CJS infrastructure to handle the problem.

So where does Arizona stand? There are many ways to measure crime, but two of the most useful are the number of crimes committed each year and the rate of crime, usually expressed as crimes per 100,000 population.

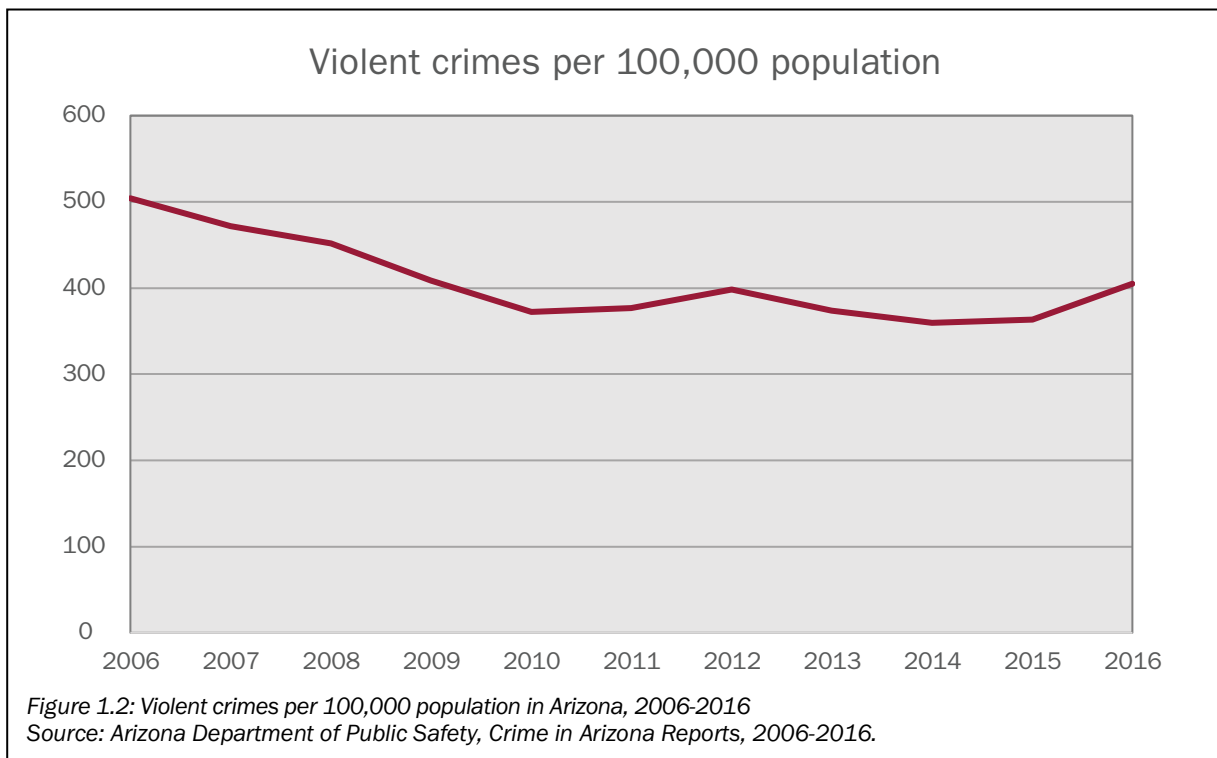
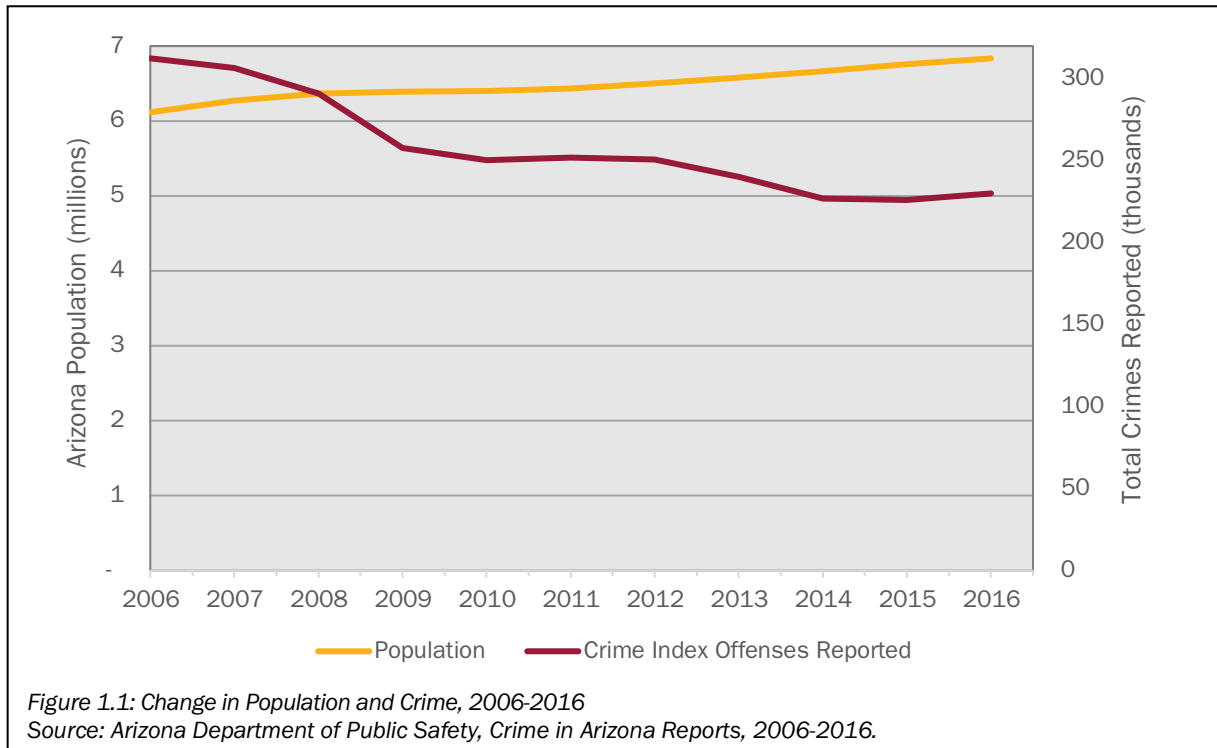
The state's population continues to grow, so intuitively, one might think that more people moving to the state should bring more criminals, as well. But this is not the case. Although the state population increased by 12 percent – from just over 6 million to just under 7 million between 2006 and 2016 – the total number of crimes committed annually in Arizona decreased from 312,519 in 2006 to 230,129 in 2016, a drop of 26 percent (Figure 1.1).<sup>2</sup> This translates to a drop in the total crime rate from 5,110 crimes per 100,000 population in 2006, to 3,367 per 100,000 in 2016, a decline of over one-third.

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<sup>1</sup> National Institute for Corrections, 2015, <https://nicic.gov/state-statistics/2015/arizona>

<sup>2</sup> Population numbers from the Arizona Office of Economic Opportunity, <https://population.az.gov/population-estimates>  
Crime statistics from Arizona Department of Public Safety Crime in Arizona reports, 2006-2016; <https://www.azdps.gov/about/reports/crime>

Crime statistics are usually divided into two broad categories for analysis: violent crimes such as murder, rape, and assault, and property crimes including burglary and automobile theft.



## Violent Crime

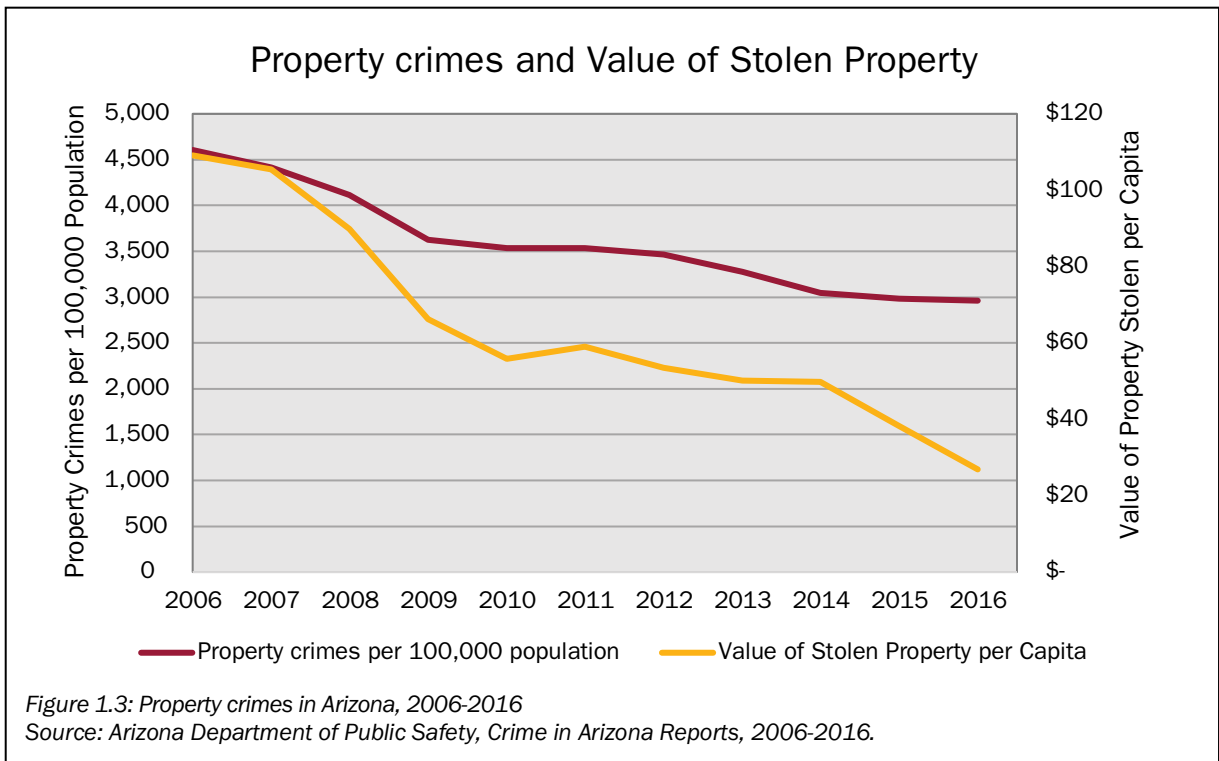
There has been a reduction in the absolute number of violent crimes committed in the state, from 30,833 in 2006 to 27,704 in 2016. This is a decrease of 3,129, or 10 percent. Especially in a growing state like Arizona, the impact of crime on society is better expressed as a rate per 100,000 population. At the same time the absolute number of violent crimes was dropping, the population was increasing, so the actual crime rate has dropped significantly, from 504 per 100,000 population to 405, a decrease of 20 percent (Figure 1.2).<sup>3</sup>

## Property Crimes

Although violent crimes typically grab the headlines, the average citizen is much more likely to be a victim of property crime, ranging from petty theft to burglary and auto theft. There are about 20 property crimes committed for every violent crime in the state.

There has been an even more dramatic decrease in property crime since 2006, with the absolute number of crimes committed dropping from 281,686 to 202,425 by 2016. The total number of property crimes reported in 2016 was 79,261 less than in 2006, a decrease of 28 percent. As with violent crimes, the concurrent increase in population led to an even larger decrease in the property crime rate, from 4,605 per 100,000 population in 2006 to 2,961 in 2016, a drop of 36 percent (Figure 1.3).<sup>4</sup>

The Arizona Department of Public Safety crime reports also offer another way to measure the impact of property crime through estimates of the value of property stolen each year. The value of property stolen annually in Arizona dropped by 72 percent over 10 years, from \$667 million in 2006 to \$184 million in 2016. Much of this drop in value is attributed to an 82 percent decrease in the value of automobiles stolen across the time period.



<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

## Law Enforcement

### Agencies

There are sworn police officers at every level of government; federal, state, tribal, county and municipal. There are 77 municipal police forces in the state, ranging from small towns like Kearny and Patagonia, each with three officers listed on the force, to the Phoenix Police Department, with over 2,700 officers. There are 8,672 municipal police officers in the state of Arizona,<sup>5</sup> meaning there are 1.6 officers per 1,000 citizens statewide. Each of the state's 15 counties operates its own sheriff's office to handle crimes in unincorporated areas of the state. As sovereign entities, the state's Native American tribes also maintain their own police departments. State troopers working for the Department of Public Safety patrol Arizona's highways. Finally, there are federal officers serving in the United States Marshals Service, Forest Service, National Park Service and Border Patrol.

The Arizona Peace Officer Standards and Training Board is responsible for establishing standards for over 150 agencies statewide, certifying sworn officers in addition to correctional officers.<sup>6</sup>

### Officers

There are over 12,000 sworn police officers in Arizona, not counting those working for federal agencies. In addition, there are about 10,000 civilians working in law enforcement statewide in support roles (Figure 1.4).

The average age of Arizona police officers is 40, with 81 percent of officers being male. They are more educated than the general population, with 41 percent having a bachelor's or master's degree. An additional 49 percent have an associate degree or have attended some college.

	Officers	Civilians	Total
Municipal Police	8,672	3,460	12,132
Universities and Colleges	218	163	381
County Sheriff's Departments	2,003	4,988	6,991
Arizona Department of Public Safety	1,159	906	2,065
Tribal Police	401	259	660
Other	21	20	41
<b>Total</b>	<b>12,474</b>	<b>9,796</b>	<b>22,270</b>

*Figure 1.4: Non-Federal Law Enforcement Employees in Arizona, 2016  
Source: FBI 2016 Uniform Crime Report, Police Employee Data*

### Courts

Arizona's court system consists of five venues to handle criminal cases, ranging from traffic offenses to capital murder cases and appeals. The Supreme, Appeals, Superior, Justice of the Peace and Municipal courts employ a total of 435 judges. Superior Courts also employ over 100 judges pro tempore, commissioners and hearing officers.<sup>7</sup> The state has an additional Tax Court to handle civil tax cases.

There were nearly 2 million cases filed in Arizona's court system in 2016, including civil and criminal cases. Municipal courts handle 57 percent of this workload, over 1 million cases. About three quarters of the cases seen in Municipal courts are civil and criminal traffic cases. Justice of the Peace courts handle another large portion of the total court system caseload, with nearly 715,000 cases. Traffic-related cases make up over half of the Justice of the Peace filings.

<sup>5</sup> FBI: Uniform Crime Report 2016

<sup>6</sup> Arizona Peace Officer Standards and Training Board, <https://post.az.gov/>

<sup>7</sup> Arizona Judicial Branch Annual Report, 2016. <http://www.azcourts.gov/Portals/38/Annual%20Report%202016.pdf>

As the state's crime rate has decreased, the number of cases in the court system has dropped by 25 percent, from 2.5 million total in 2006, to 1.9 million in 2016.<sup>8</sup> Much of this decrease is due to the drop in traffic filings over time.

### Corrections

Over 42,000 people are incarcerated in the state prison system, giving the state an incarceration rate of 596 per 100,000 population, well above the national rate of 385 per 100,000 population.<sup>9</sup> In addition, there are nearly 14,000 people in county jails and nearly 85,000 probationers.

### Correctional Facilities in Arizona

Correctional facilities of several kinds can be found across the state. Each county has its own jail to detain those awaiting trial and those incarcerated for relatively short periods.

The Arizona Department of Corrections operates 10 facilities housing over 33,000 prisoners convicted of felony offenses.

There are seven private prisons operating under contract with the state, housing about 8,300 prisoners.

The state and private prisons are concentrated around Florence and the western part of Maricopa County, as well as Mohave County (private) and Yuma County (state).

In addition, there are federal prisons in Tucson and Safford housing over 4,000 inmates in total.

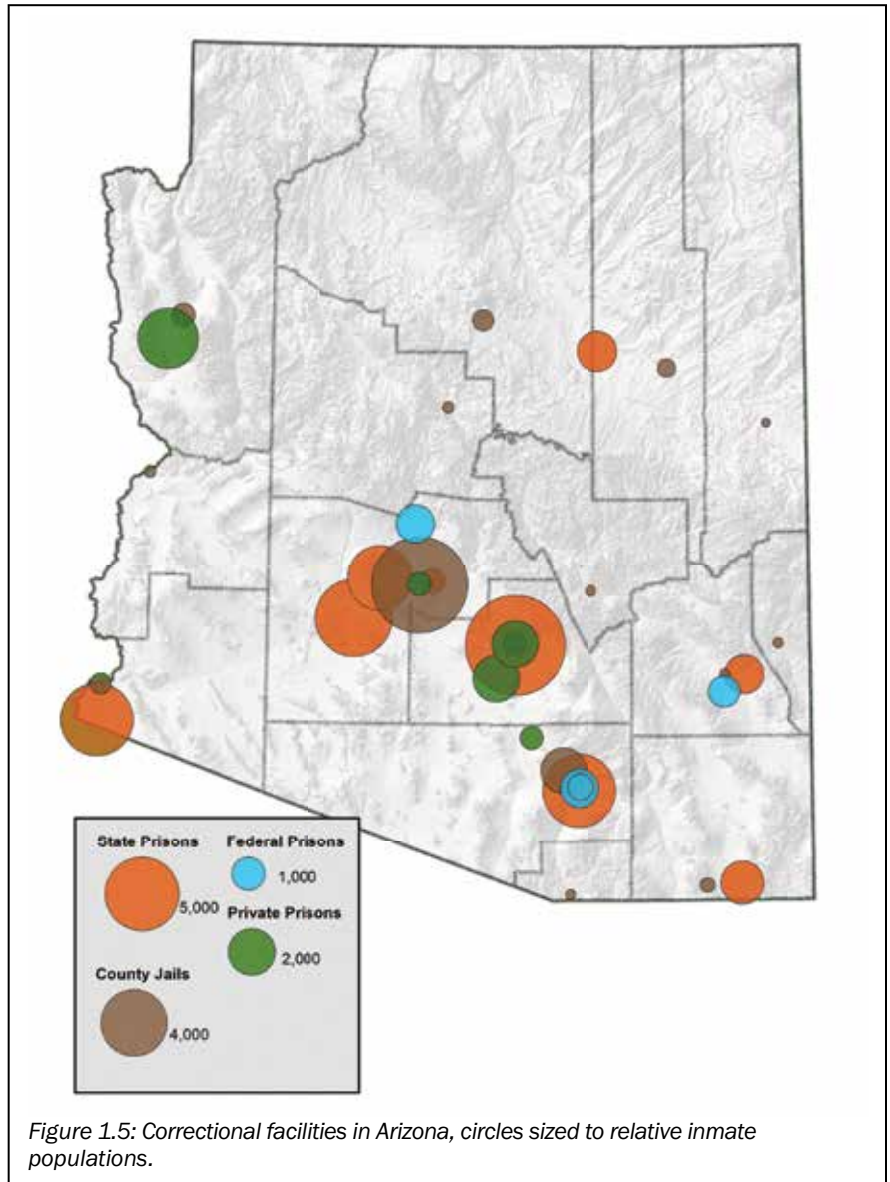


Figure 1.5: Correctional facilities in Arizona, circles sized to relative inmate populations.

<sup>8</sup> Arizona Judicial Branch Annual Report, 2016. <http://www.azcourts.gov/Portals/38/pdf/2006AnnualRpt.pdf>

<sup>9</sup> National Institute for Corrections, 2015.



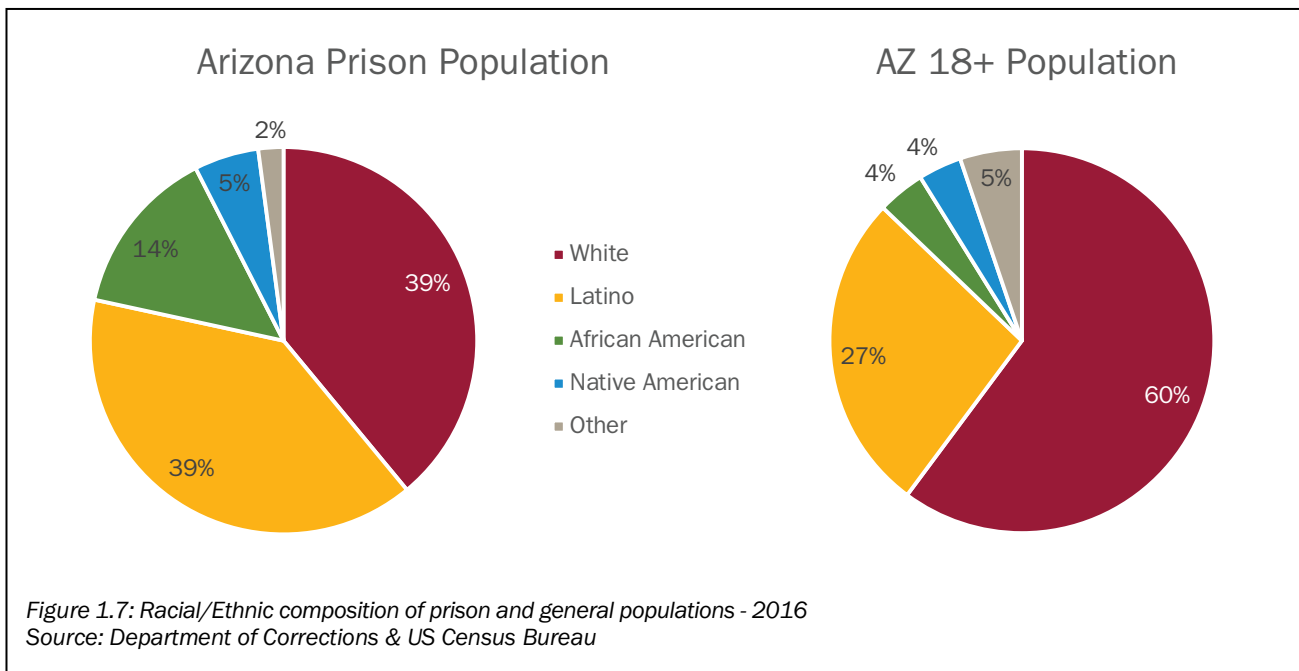
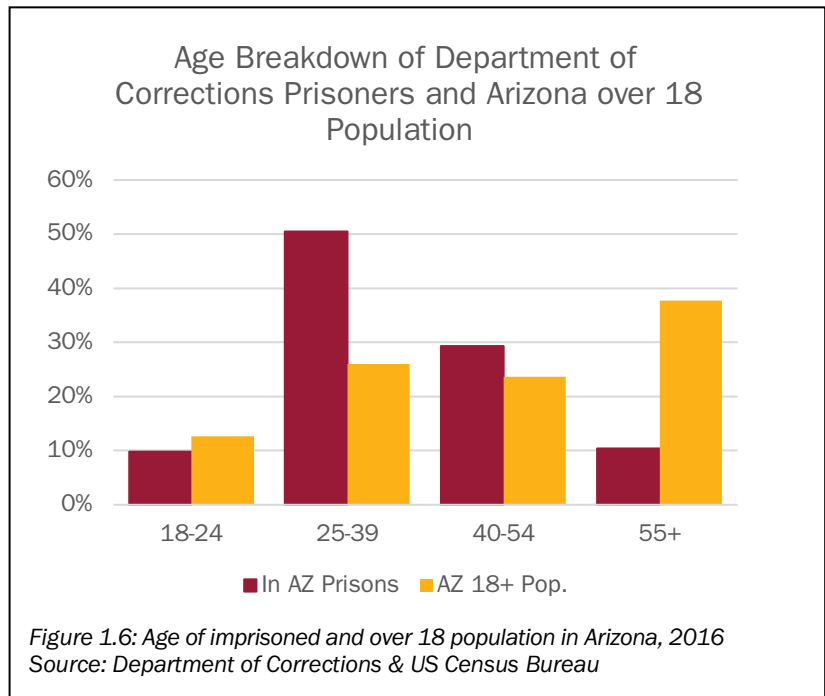
## Incarcerated Population

### State Prison System

There were 42,073 prisoners in the state prison system as of November 2017, including both state-run and private prisons.<sup>10</sup> These inmates have been confined for relatively long sentences for felony offenses. Of this total, 33,763 are housed in 10 facilities owned and operated by the state of Arizona, with 8,310 incarcerated in private prisons operating under state contract.

Inmates sentenced for drug-related offenses, including possession, sales and trafficking, account for 22 percent of the state prison population. Slightly over half (52 percent) of the prison population is currently serving time for a violent crime, but an additional 22 percent have a violent offense in their past record.

The demographics of those in prison are markedly different from those of the state as a whole. Over half of those in the Arizona prison system are between the ages of 25 and 39. In the statewide over-18 population, just 26 percent fall within that range (Figure 1.6).



<sup>10</sup> Arizona Department of Corrections, Corrections at a glance, November 2017.  
<https://corrections.az.gov/sites/default/files/REPORTS/CAG/2017/cagnov17.pdf>

Additionally, the racial and ethnic background of the prison population diverges from that of the state as a whole. While 60 percent of the state's population over age 18 is White, 39 percent of those in state prisons are White. Conversely, 39 percent of Arizona's prison population is Latino even though the state's overall adult Latino population is at 27 percent. African Americans also have a disproportionate number of adults in Arizona prisons. (Figure 1.7).

### County Jails

Most of the inmate population in the state's 15 county jails await trial and thus have not been convicted of a crime. The remainder of the jail population has been incarcerated on short term sentences for misdemeanors.

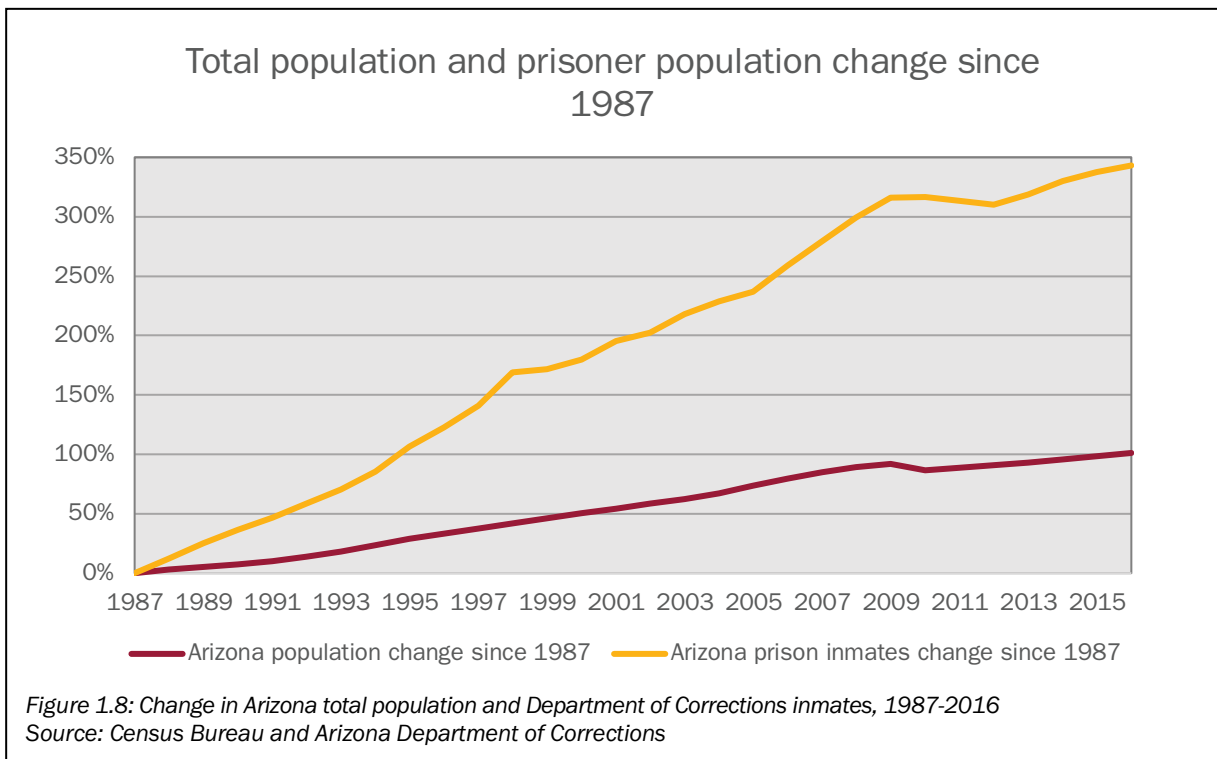
The jail population changes daily, depending upon the flows in and out of the court system, so a precise count is difficult to establish, but somewhere around 13,000 individuals are likely to be in one of the state's 15 county jails at any one time. Jails in the highly populated Maricopa and Pima counties naturally account for the bulk of this number.

### Federal Prisons

The state is home to four federal prisons: two in Tucson and one each in Safford and Phoenix. These facilities house over 3,000 inmates in total.

### Incarceration Rate

The number of prisoners incarcerated by the Arizona Department of Corrections has increased considerably over the years. This growth has exceeded the population growth of the state. Since 1987, Arizona has doubled its overall population, from 3.5 million to about 7 million today. Over that same period, the prison population has increased fourfold (Figure 1.8).



Since 2006, the population in state prisons has increased by 24 percent, from 34,864 to 43,061.

### On Probation

Some convictions result in probation rather than jail or prison time. Probation is a type of criminal sentence where the defendant agrees to adhere to specific conditions rather than be incarcerated. While on probation, a defendant may be required to report to a probation officer, pay fees or fines or complete community service.<sup>11</sup>

As with incarcerations, the number of people on probation in Arizona has increased over the years. In 2006 there were 72,661 adults on probation in the state. By 2016, that number had increased by 13 percent to 82,204.

County	Population	Sherrif's Office Budget	Sherrif's Budget Per Capita
Apache	73,112	\$7,791,662	\$107
Cochise	125,770	\$20,043,132	\$159
Coconino	140,908	\$12,193,131	\$87
Gila	53,556	\$13,427,579	\$251
Graham	37,599	\$9,639,043	\$256
Greenlee	9,613	\$4,278,479	\$445
La Paz	20,317	\$5,065,792	\$249
Maricopa	4,242,997	\$374,050,627	\$88
Mohave	205,249	\$27,950,091	\$136
Navajo	110,026	\$7,827,200	\$71
Pima	1,016,206	\$163,297,184	\$161
Pinal	418,540	\$51,553,290	\$123
Santa Cruz	45,985	\$11,640,275	\$253
Yavapai	225,562	\$41,673,038	\$185
Yuma	205,631	\$12,597,116	\$61
<b>Total – All Counties</b>	<b>6,931,071</b>	<b>\$763,027,639</b>	<b>\$110</b>

*Figure 1.9: Sheriff's Department expenditures by county  
Source: Census Bureau and county budget documents*

### Cost of the System

Maintaining the criminal justice system is an expensive undertaking. Police officers, judges, prosecutors and prison guards must be paid and corrections facilities built and maintained. The Department of Corrections alone accounts for approximately 10 percent of the state's General Fund expenditures. These are expenses that are not easy to trim when budgets get tight. If a defendant is sentenced to a 20-year term in prison, the state assumes a 20-year obligation to house and feed that prisoner, regardless of whether tax revenues are plentiful or scarce.

With law enforcement agencies and court systems spreading across local, county, tribal and federal jurisdictions, accounting for the many expenditures made to support the criminal justice system is a daunting task. However, a rough estimate of what our CJS costs the average citizen can be determined:

- At the state level, the Department of Corrections expenditures are appropriated about \$1 billion each year from the General Fund. The court system, Juvenile Corrections and the Department of Public Safety all combine for another \$300 million. Divide that by the state's population of 6.9 million and it comes down to every man, woman and child in Arizona paying about \$189 annually to maintain the state portion of the CJS.

<sup>11</sup> Arizona Court, Adult Probation Report, 2016.  
[http://www.azcourts.gov/Portals/25/AnnRepPop/FY2016\\_%20REPORT.pdf](http://www.azcourts.gov/Portals/25/AnnRepPop/FY2016_%20REPORT.pdf)

- The primary CJS expenditure at the county level is to fund the sheriffs' office. Statewide, about \$763 million is spent annually for sheriffs' services, or \$110 per capita. This amount varies considerably from county-to-county, however, as shown in Figure 1.9. Rural counties, generally have higher per capita expenditures on their sheriffs' departments. Sheriffs deputies in these counties must often cover vast areas, although tribal law enforcement assumes many of the duties of a sheriff's department on reservation land in Apache, Coconino and Navajo counties.
- Most cities and towns, regardless of size, operate their own police departments and municipal courts. Police services statewide average around \$310 and municipal courts \$19 per capita. Again, there is wide variation in these amounts depending upon both geography and population.

Total costs for the municipal, county and statewide criminal justice systems are difficult to determine due to the many jurisdictions, agencies and budgets involved. However, a rough estimate is that such expenses are around \$525 per person per year in Arizona.

## ABOUT THE AUTHOR

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# ARIZONA'S CRIMINAL JUSTICE PROCESS

*Adapted from azcourts.gov*

Adapted from <http://www.azcourts.gov/guidetoazcourts/How-a-Case-Moves-Through-the-Court-System>

This summary concerns felony (serious) crimes. Lesser crimes (misdemeanors) follow much the same process.

## **Arrest / Citation**

Individuals are most likely to enter the criminal justice system by being arrested by a police officer, who must be convinced there is "probable cause" to believe that a crime has been committed and that individual is the likely perpetrator. In less-serious cases, an individual may be issued a citation. If the individual is arrested and "booked" into jail, he/she will remain there until the initial appearance before a judge within 24 hours of the arrest. If cited, the individual will be summoned to appear before a judge on a certain date.

## **Initial Appearance**

At the initial appearance, the defendant will appear before a judge. He/she will be informed of the allegations and the right to an attorney or to have one appointed. Conditions for release will be established, based on such factors as the severity of the crime, an individual's criminal record and his/her stability in the community. The defendant may be released solely on his/her "own recognizance" – a simple promise to return to court. Or, he/she may be released only after posting bond, which is money secured by the court beforehand to help ensure the defendant's return. Or, he/she may be released on condition of wearing a monitoring device or supervised by a court officer.

## **Filing Charges**

A felony charge is initiated by a complaint or an indictment, with the options being the prosecutor's choice. If done by complaint, the defendant will attend a "status conference" where he/she will meet with an attorney, go over the case and discuss a plea bargain offer if the prosecutor makes one. The prosecutor may offer a plea agreement that provides a lighter sentence than if the defendant went to trial and lost. If the defendant accepts the offer, he/she gives up the right to a preliminary hearing and a trial. If the plea offer is declined, the defendant will have a preliminary hearing before a justice of the peace or a court commissioner, usually that day or a few days later.

If the commissioner finds that there is not sufficient evidence to believe that the crime occurred or that the defendant probably committed it, the case will be dismissed. If the commissioner believes otherwise, the defendant will be "arraigned" and the case set for an Initial Pretrial Conference.

## **Grand Jury (Felonies Charged by Indictment)**

If the defendant received an "indictment" on a felony offense, he/she will not have a preliminary hearing because at least nine members of the 16-member grand jury already found probable cause for charges. The decision to send an individual's case to trial will be decided by this panel rather than a single judge. These proceedings, unlike the public preliminary hearing, are held in private.

## **Arraignment**

The judge reads the charges against the defendant, enters a "not guilty" plea on his/her behalf and ensures that the defendant will have an attorney. The case is assigned to a judge and court dates are set.



### **Victims' Rights in Arizona**

Arizona's criminal justice system performs a number of important tasks, but none more vital than serving victims of crime and their families. In the early 1990s, state residents underlined the gravity of this duty by enshrining it in the Arizona Constitution (Article II Section 2.1) as the Victims' Bill of Rights. Its 12 provisions include a victim's right to be treated with respect; to be kept informed of the status of the case; to confer with prosecutors; to be heard at court hearings concerning bail release, charging and sentencing; and to obtain a speedy resolution of the case and prompt restitution when appropriate.

A "victim" means a person against whom a criminal offense has been committed, or their survivors or lawful representatives. The responsibility for providing services is lodged in the Office of Victims' Services in the Arizona Attorney General's Office. The office - among other duties -- ensures compliance with victims' rights law, refers victims and their families to appropriate resources, conducts presentations and training sessions statewide, provides technical assistance to relevant agencies and monitors court-ordered restitution.

*Adapted from the Office of the Attorney General, <https://www.azag.gov/victim-services>*

### **Plea Agreements**

The vast majority of criminal cases don't go to trial but instead end in a plea bargain. This is an agreement between the defendant, the defense attorney and the prosecutor – and accepted by a judge – that usually offers the defendant a lighter sentence than if he/she went to trial and lost. If the defendant pleads guilty, he/she formally acknowledges guilt to the judge and no trial is held.

### **Pretrial Hearings**

If a defendant's case goes to trial, the judge will schedule several pre-trial conferences where attorneys can file various motions and where the prosecution and defense can continue to discuss possible plea bargains. If a plea agreement is reached, no trial will be held.

### **Trial**

In a criminal trial, the prosecutor must prove "beyond a reasonable doubt" that the defendant committed the crime charged. Felony trials are heard by a jury unless the defendant, the defense attorney and the prosecutor agree to have the case presented to a judge alone. In a jury trial, eight or 12 members of the public will hear testimony and review evidence to determine if the defendant is guilty or not guilty. If the jurors decide the defendant is not guilty, the acquitted individual is released and cannot be retried for the same crime. If there is a "hung jury," which happens when a jury cannot reach a unanimous decision, the state can amend the plea agreement, retry the defendant with a different jury or move to dismiss charges.

### **Sentencing**

If the individual enters into a plea agreement or is found guilty at trial, he/she will be scheduled for sentencing approximately one month later. The defense may try to convince the court to give a lenient sentence. However, the judge must follow sentencing laws that consider any prior convictions and other characteristics of the crime.

### **Appeal**

If an individual is convicted after a trial, he/she has the right to appeal the case. The defense attorney will file a notice of appeal within 20 days after sentencing. There is no guarantee an appeal will be granted.

# POLICE

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## Key Points:

- The public has shown increased interest in policing practices in recent years.
- Arizona has over 140 different police agencies at all levels of government, employing about 15,000 sworn officers.
- The number of officers per 1,000 residents in Phoenix has gone down since 2008, but crime rates also have declined. The connection, if any, between these statistics is unclear.
- When citizens view police actions as legitimate and procedurally just, they are more likely to obey the law and cooperate with police.
- Use of body-worn cameras by police may lead to a reduced number of complaints from citizens.



Policing in Arizona and elsewhere has received widespread attention in recent years, due in part to a series of high-profile events involving officers' use of deadly force. While the public has always closely followed the work of the police, the 2014 killing of Michael Brown by a Ferguson (Mo.) Police Department officer has spurred even greater interest from policymakers and the public about police-related issues, particularly those related to fairness, transparency and race relations.

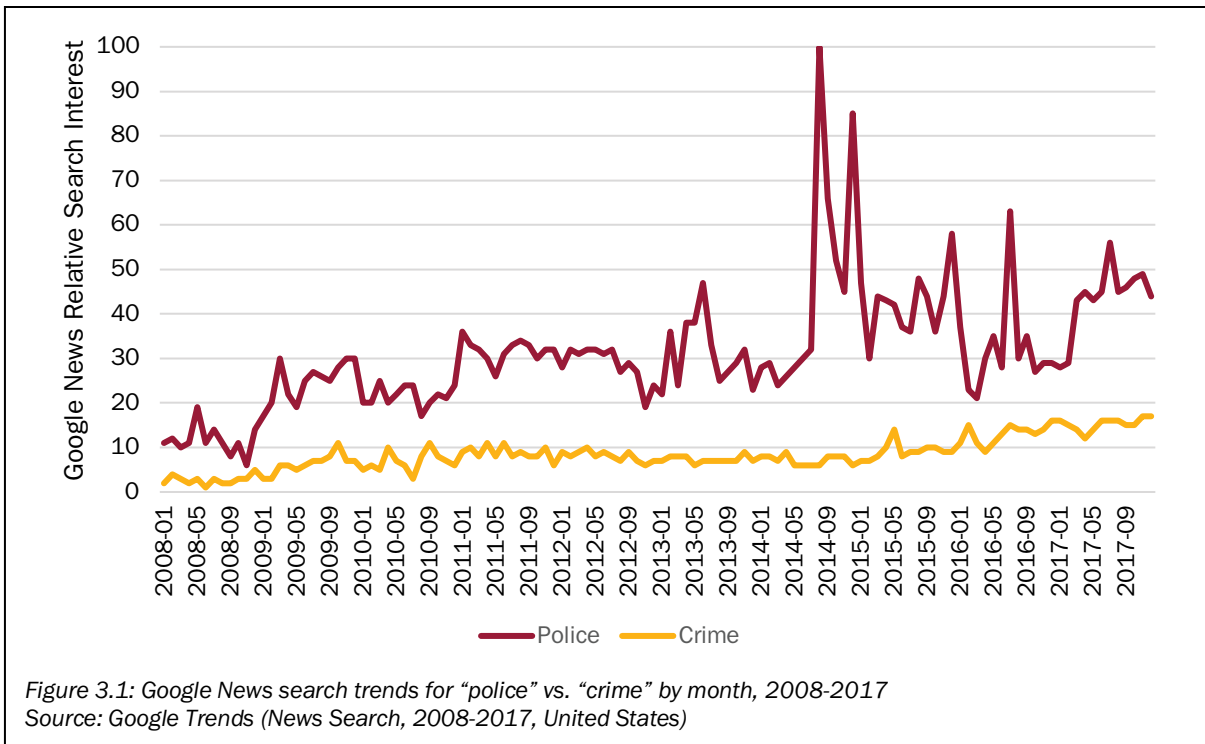
One example of this increased attention can be seen in Figure 3.1, which displays data from Google News on the relative interest of Americans in the topics of "police" and "crime" from 2008 to 2017. Two things stand out. First, the relative interest in policing has increased substantially in recent years, surrounding instances of deadly force. Second, this increasing interest is not simply a proxy for increasing concerns about crime. While national crime data showed increases in violence, particularly homicide, in 2016, crime levels remain far below rates seen in the 1980s and early 1990s.<sup>1</sup>

This report focuses on a number of areas where the policing landscape is changing. These include crime, police funding levels, legitimacy and police fairness, immigration enforcement, interactions with individuals with mental or behavioral health problems, the role of body cameras, and the impact of militarization.

Many of these issues were addressed in President Barack Obama's Task Force on 21st Century Policing report released in 2015.<sup>2</sup> This report also draws from a report from George Mason University's Center for Evidence-Based Crime Policy and the International Association of Chiefs of Police review of the research evidence for these recommendations.<sup>3</sup> But change continues to happen quickly. For example, in 2017 the

<sup>1</sup> FBI's Uniform Crime Report data at <https://ucr.fbi.gov/crime-in-the-u.s>

<sup>2</sup> [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf)



Justice Department under President Donald Trump announced changes in the federal role in local law enforcement. These include a de-emphasis on the use of federal oversight through consent decrees and a return of the program allowing police agencies to acquire surplus military equipment (see below). Further changes in local policing and the federal role in local law enforcement are likely in 2018.

Policing in the U.S. and Arizona is highly localized. Nationally, there are more than 12,000 local police departments, employing approximately 477,000 sworn officers. Adding in sheriff’s offices and state police agencies increases this number to approximately 18,000 police departments and more than 765,000 sworn officers.<sup>4</sup> As a result, it is challenging to draw national or even state-level conclusions about the state of policing.

In total, Arizona has approximately 141 police agencies. Ninety-six of these can be categorized as local police departments, which generally provide police services to a city or town. Arizona has 15 elected sheriffs and sheriff’s offices. The remainder agencies are state agencies (e.g., the Department of Public Safety) or agencies with special jurisdiction (e.g., the Arizona State University Police Department). Across all agencies, there are approximately 15,000 sworn officers. The bulk of these officers, however, serve in a small number of large-city police departments. The Phoenix Police Department, for example, employs about 18 percent of the officers in the state.

<sup>3</sup> Lum, C., Koper, C.S., Gill, C., Hibdon, J., Telep, C. & Robinson, L. (2016). *An Evidence-Assessment of the Recommendations of the President’s Task Force for 21st Century Policing: Implementation and Research Priorities*. Fairfax, VA: Center for Evidence-Based Crime Policy, George Mason University. Online at <http://cebcp.org/wp-content/evidence-based-policing/IACP-GMU-Evidence-Assessment-Task-Force-FINAL.pdf>

<sup>4</sup> Reaves, B. A. (2011). *Census of state and local law enforcement agencies, 2008*. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice.

## Funding Levels

Because police funding is generally done at the local level, it is difficult to compile data across the state or country. This section focuses on the Phoenix Police Department, in part because it is the largest department in Arizona (and the eighth largest in the U.S.), and because its funding in the past decade is representative of the situation faced by many large departments. Additionally, this section focuses on “sworn” personnel numbers, because numbers are more easily comparable year to year and because sworn personnel represent the largest share of a municipality’s policing cost. The 2017-2018 budget in Phoenix, for example, allocates a total of \$677.6 million dollars to the Phoenix Police Department. Sworn personnel wages and benefits total \$508.2 million (75 percent of the total costs for the agency).<sup>5</sup>

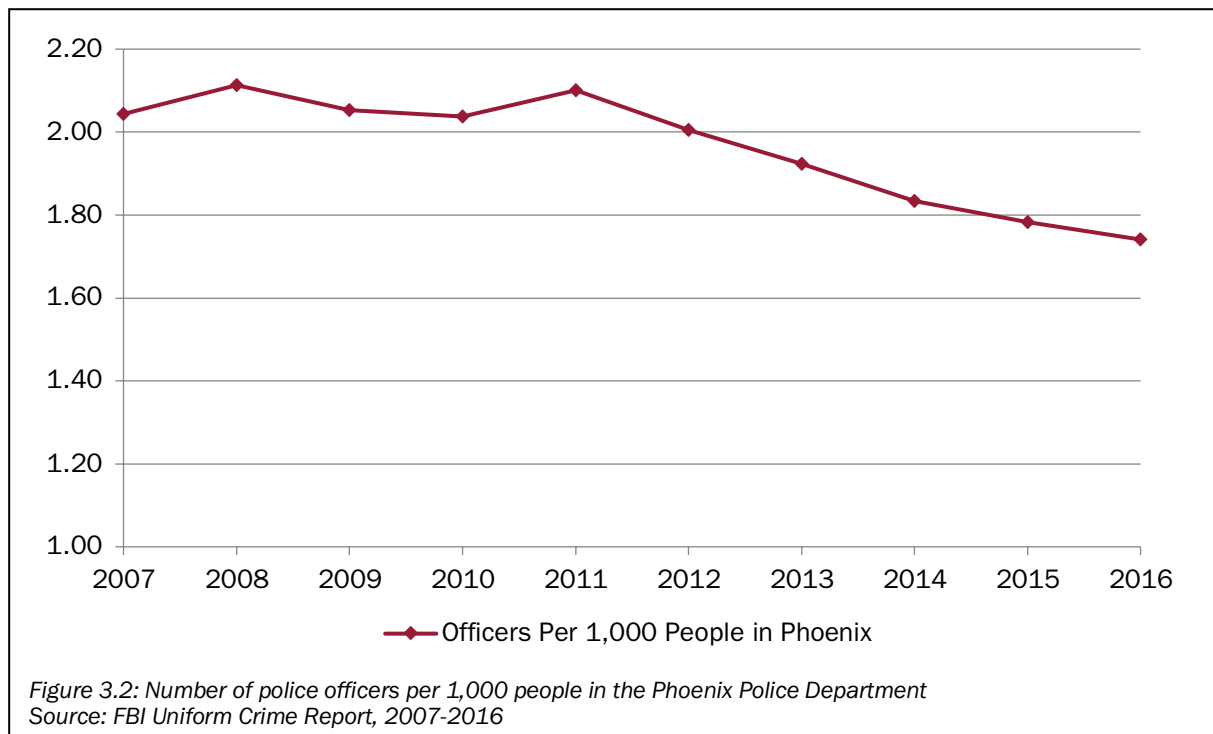


Figure 3.2 displays the number of police officers per 1,000 residents in Phoenix for the last decade (2007-2016).<sup>6</sup> Phoenix, like most police departments in the western United States, has fewer officers per capita than large agencies in other parts of the country. The 2.0 officers per 1,000 Phoenix residents in 2013, for example, compares to 4.4 per 1,000 in Chicago and 4.1 per 1,000 in New York City.

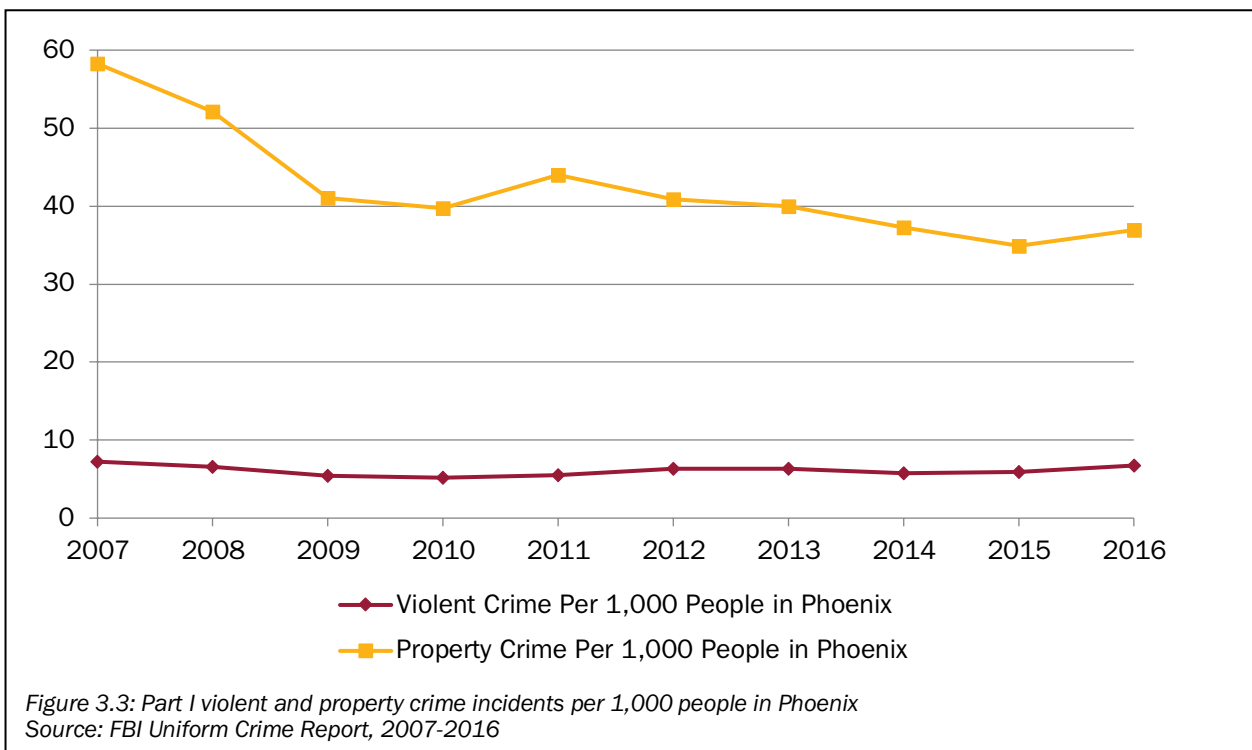
Figure 3.3 shows a decline in staffing levels per capita in recent years, after fairly stable numbers between 2007 and 2011. This largely resulted from a seven-year hiring freeze that began in conjunction with the 2008 financial crisis. During this time, the Phoenix Police Department declined in sworn officers from 3,351 in 2008 to 2,781 officers in 2015. The per capita numbers in Figure 11 account for the decline in Phoenix’s population following the housing market crash and the now increasing city population. The 2016 numbers suggest the city employed about 1.74 officers per 1,000 people, down from 2.11 in 2008. The Phoenix Police Department is currently aggressively hiring to expand to 3,125 officers by summer 2018.

<sup>5</sup> <https://www.phoenix.gov/budgetsite/Budget%20Books/Detail%20Budget%202017-18.pdf>

<sup>6</sup> Data drawn from the FBI’s Uniform Crime Report data on police employment.

What is the appropriate funding level for the Phoenix Police Department? This is a challenging question since there are not clear metrics for the “right” size of a department. As noted earlier, department size in large cities varies substantially. The Phoenix Police Department currently has an authorized staffing level of 4,317 sworn officers, suggesting that even with the current efforts to increase department size, officer numbers are substantially below where they could be.

There is some evidence that response times to 911 emergency calls have increased in recent years due to reducing staffing levels in patrol. As a result, Phoenix Police Chief Jeri Williams moved many detectives and special unit officers to patrol in 2017. Still, there is little evidence that response time is closely linked to crime levels or the likelihood police will identify a suspect, although response time in priority calls in which a crime is in progress is important.<sup>7</sup>



One useful metric to examine is crime levels. If staffing levels are “too low,” this could lead to increased levels of crime. Figure 3.3 presents the number of serious violent and property crime incidents per 1,000 people in Phoenix between 2007 and 2016.<sup>8</sup> Although officer ranks declined in recent years, crime levels have generally declined or remained fairly stable, with small upticks in property and violent crime in the 2016 data. The data in Figure 3.3 do not suggest that reduced staffing levels have substantially affected crime rates, although examining this relationship is complicated by the fact that crime incident counts are impacted by the number of officers available to write incident reports.

<sup>7</sup> <http://cebcp.org/evidence-based-policing/what-works-in-policing/research-evidence-review/standard-model-policing-tactics/>

<sup>8</sup> Serious crime is based on FBI classifications for Part I incidents. These are homicide, robbery, aggravated assault, and rape for violent crime, and burglary, larceny/theft, and motor vehicle theft for property crime.



## Officers and Undocumented Immigrants

Arizona law enforcement agencies face unique challenges due to the state's border with Mexico. As a result, Arizona has been at the center of debates regarding the role of local police agencies in immigration enforcement. Such issues were especially prominent in 2010 with the passage of Arizona Senate Bill 1070. This state measure expanded the role of local police departments in immigration-related work, which has traditionally been the role of federal law enforcement agencies.

Despite the vigorous local and national debate about SB 1070 and the role of local police in immigration enforcement, there has been limited empirical research on this topic. There are no studies of the effect of agencies' efforts to decouple immigration enforcement from local policing. Analyses of the impact of increased immigration enforcement in Prince William County, Virginia, found a limited crime control impact (only aggravated assaults declined) and a negative impact on Hispanics' perceptions of police, particularly among Hispanics whose primary language was Spanish.<sup>9</sup> A study of the impacts of SB 1070 on crime found decreases in property crime. However, researchers concluded these were largely a result of decreases in the undocumented population and particularly young men, who tend to commit more crimes

### Personal Insight

Brian Issitt doesn't quite say it, but his point is clear: It's not his dad's police force anymore.

A lieutenant in the Phoenix Police Department, Issitt remembers when his father was on the force in Michigan.

"When he was an officer in the 70s and 80s, police were just expected to enforce the law," he says. "Now, police officers are expected to wear a plethora of different hats." Among the most important of these tasks are forging deeper relationships with the community and "trying to do our best with the mental health issues."

In part, Issitt said, this cascade of tasks flows from the fact that police are "the most visible aspect of the criminal justice system." Another reason is that police in Arizona and elsewhere are trying to forge deeper relationships with the communities they serve. This "vitally important" mission, he says, means trying to be a jack of all trades.

It also means dealing with the community's criticism.

"There's a segment of our population that believes our use of force has become a problem," Issitt says, accusations that are "sometimes warranted and sometimes not." The keys to reducing such conflicts? Community involvement and officer training.

Another key, he says, is for people to remember that police officers are human beings who sometimes have to deal with split-second decisions, he says. "I think sometimes the public looks at situations from a black-and-white perspective, when in reality there are shades of gray in these all incidents."

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<sup>9</sup> Koper, C. S., Guterbock, T. M., Woods, D. J., Taylor, B., & Carter, T. J. (2013). The effects of local immigration enforcement on crime and disorder: A case study of Prince William County, Virginia. *Criminology and Public Policy*, 12, 239-276.

regardless of race or ethnicity, rather than a link between immigration and crime per se. Research focused on the Secure Communities program found no change in crime or clearance rates, potentially suggesting that immigrants did not become less cooperative with police as a result of local police becoming more involved in immigration enforcement.<sup>11</sup>

Scholars also have raised concerns about potential negative consequences of local police being involved in immigration enforcement, including more unjustified stops of Latinos, and increases in unreported victimizations, particularly in Arizona.<sup>12</sup> These have not all been empirically examined.

As immigration policy continues to evolve, it remains an important area for continued research. In California, recent preliminary analyses of crime data suggest decreases in reporting of domestic violence among Latinos, which may be a reflection of concerns about the Trump administration's focus on immigration enforcement.<sup>13</sup>

## Evaluating Police Performance

Evaluating police performance can employ measures related to both effectiveness in terms of crime control and fairness in terms of citizen perceptions of police legitimacy and fairness. These are primary indicators in Arizona and nationally. Indeed, the National Research Council called its 2004 review of the policing research evidence *Fairness and Effectiveness in Policing* to highlight the importance of these two, ideally mutually reinforcing goals in democratic policing.<sup>14</sup>

## Crime Control Effectiveness

A growing body of rigorous research on policing interventions suggests the police can effectively reduce crime and disorder.<sup>15</sup> Effective interventions include “hot spots” policing, problem-oriented policing and focused-deterrence strategies. Hot spots policing has officers focusing extra attention on the small percentage of street blocks or other small geographic units that experience a large share of a jurisdiction's crime problem.<sup>16</sup> In problem-oriented policing, police craft a tailored response to a problem that addresses the factors contributing to the problem's occurrence.<sup>17</sup> Focused-deterrence strategies involve police delivering a credible deterrent threat to gangs or other high-crime groups in a call-in meeting, and then following up with swift and severe sanctioning of group members who continue to engage in crime.<sup>18</sup>

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<sup>10</sup> [http://achalfin.weebly.com/uploads/8/5/4/8/8548116/chalfindeza\\_lawa.pdf](http://achalfin.weebly.com/uploads/8/5/4/8/8548116/chalfindeza_lawa.pdf)

<sup>11</sup> Cox, A., & Miles, T. J. (2015). Legitimacy and cooperation: Will immigrants cooperate with local police who enforce federal immigration law? *Public Law and Legal Theory Research Paper Series Working Paper No. 15-43*. Chicago: University of Chicago.; Miles, T. J., & Cox, A. B. (2014). Does immigration enforcement reduce crime? Evidence from Secure Communities. *The Journal of Law and Economics*, 57, 937-973.

<sup>12</sup> Provine, D. M., & Sanchez, G. (2011). Suspecting immigrants: Exploring links between racialised anxieties and expanded police powers in Arizona. *Policing & Society*, 21, 468-479.; Zatz, M. S., & Smith, H. (2012). Immigration, crime, and victimization: Rhetoric and reality. *Annual Review of Law & Social Science*, 8, 141-59.

<sup>13</sup> See “Fearing deportation, many domestic violence victims are steering clear of police and courts” in the *Los Angeles Times* <http://latimes.com/local/lanow/la-me-ln-undocumented-crime-reporting-20171009-story.html>

<sup>14</sup> <https://www.nap.edu/catalog/10419/fairness-and-effectiveness-in-policing-the-evidence>

<sup>15</sup> <http://cebcp.org/evidence-based-policing/what-works-in-policing> and <http://www.policingmatrix.org>

<sup>16</sup> <http://cebcp.org/evidence-based-policing/what-works-in-policing/research-evidence-review/hot-spots-policing/>

<sup>17</sup> <http://cebcp.org/evidence-based-policing/what-works-in-policing/research-evidence-review/problem-oriented-policing/>

<sup>18</sup> <http://cebcp.org/evidence-based-policing/what-works-in-policing/research-evidence-review/focused-deterrence/>

Some agencies in Arizona have adopted these evidence-based strategies. The Glendale Police Department implemented a problem-oriented policing project to reduce convenience store crime with funding from the Bureau of Justice Assistance.<sup>19</sup> The project reduced crime at targeted convenience stores through a combination of situational measures, increased enforcement and an awareness campaign. The Tucson Police Department is currently implementing a hot spots policing program focused on residential locations across the city, and the Phoenix Police Department is expanding its intelligence officer program, which focuses on the gathering and sharing of information to better respond to repeat offenders and high crime locations.<sup>20</sup>

### Police-Community Relations in Arizona

A great deal of recent research has focused on questions of police-community relations, and in particular police legitimacy. This research has focused on survey samples from across the country, though few have focused on Arizona specifically.

“Legitimacy” here refers to the public belief that there is a responsibility and obligation to voluntarily accept and defer to the decisions made by authorities. The police need the support and cooperation of the public to effectively combat crime and maintain order. When individuals do not perceive the police as legitimate, they may be more likely to disobey police requests and to violate the law.<sup>21</sup> A large body of research suggests that the way police treat people in interactions affects perceptions of legitimacy.

When police are procedurally just, citizens tend to perceive officers as more legitimate. This “procedural justice” has four components: officers allowing citizens to tell their side of the story; being neutral and transparent in decision-making; treating individuals with respect; and having trustworthy motives (i.e., showing care and concern for citizens and the community).<sup>22</sup> These studies demonstrate that perceptions of treatment matter a great deal in how citizens view interactions with authority figures.

While research suggests that procedural justice is important across racial groups, there is also strong evidence that non-White individuals tend to view the police much less favorably than Whites.<sup>23</sup> A 2006 national survey of nearly 1,800 adults found that 40 percent of African American respondents said they had been treated unfairly by police because of race, compared to just 2 percent of Whites. In surveys including Latino respondents, they tend to have less favorable perceptions than Whites, but often not as negative as African-Americans.<sup>24</sup>

Research suggests that individuals who see the police as more legitimate are more likely to report complying with the law and cooperating with police.<sup>25</sup> A recent study from Maricopa County suggests

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<sup>19</sup> <http://www.strategiesforpolicinginnovation.com/spi-sites/glendale-arizona-2011>

<sup>20</sup> Telep, C. W., Ready, J., & Bottema, A. J. (In press). Working towards intelligence-led policing: The Phoenix Police Department Intelligence Officer Program. *Policing: A Journal of Policy and Practice*.

<sup>21</sup> Tyler, T. R. (1990). *Why people obey the law?* New Haven, CT: Yale University Press.

<sup>22</sup> Tyler, T. R., & Huo, Y. J. (2002). *Trust in the law: Encouraging public cooperation with the police and courts*. New York: Russell Sage Foundation.

<sup>23</sup> Tyler, T. R. (2005). Policing in black and white: Ethnic group differences in trust and confidence in the police. *Police Quarterly*, 8(3), 322-342.

<sup>24</sup> Weitzer, R. (2014). The puzzling neglect of Hispanic Americans in research on police-citizen relations. *Ethnic and Racial Studies*, 37, 1995-2013.; Weitzer, R., & Tuch, S. A. (2006). *Race and policing in America: Conflict and reform*. New York: Cambridge University Press.

<sup>25</sup> Papachristos, A. V., Meares, T. L., & Fagan, J. (2012). Why do criminals obey the law? The influence of legitimacy and social networks on active gun offenders. *Journal of Criminal Law and Criminology*, 102, 397-440.

that procedural justice is important even for those who have been arrested. Arrestees who viewed the police as more procedurally just had more positive views of police legitimacy and were more willing to cooperate with police.<sup>26</sup> This has important implications for crime control. If increased legitimacy leads to increased compliance with the law, then using procedural justice to enhance perceptions of police legitimacy could reduce crime and reoffending in the long-term.

To date, there has been only limited research on efforts to increase procedural justice in police-citizen interactions. Evaluations of procedural justice training programs have typically been limited to assessments of officer attitudes, finding that officers are more supportive of procedural justice concepts following training.<sup>27</sup> A number of different training models currently exist, although most of these have not been rigorously evaluated.<sup>28</sup> A series of studies, all outside of the U.S., show mixed effects in using officer scripts integrating procedural justice into traffic stops.<sup>29</sup> An ongoing project in Tucson to examine the impact of procedural justice training for officers working in high-crime areas will provide new evidence on the impacts of training on officer behavior and citizen perceptions of police legitimacy.

Community policing programs also have been used extensively. Such programs vary dramatically across agencies, but emphasize some form of partnership and collaboration with residents to address community problems. Reviews of the evaluation literature suggest such programs have limited impacts on crime and fear of crime, but can be more effective in increasing satisfaction with the police and citizen perceptions of police legitimacy.<sup>30</sup>

### Current Issues in Policing

Space precludes a full review of all the key issues facing police today. The opioid crisis, marijuana legalization and homelessness are all major issues that law enforcement agencies have or will have to address. These issues share in common a need for police to partner with other state and local stakeholders both within and outside the criminal justice system. These issues often overlap: Many individuals facing homelessness also have unaddressed addiction or mental health problems. As one of the few 24/7 government agencies, police departments are often on the front lines of a host of community challenges.

### Disabled and Mentally Ill Suspects

There is little known about protocols for dealing with individuals with mental health problems or disabilities. A small number of studies in recent years have examined officer training focused on dealing with individuals in crisis. The Crisis Intervention Team (CIT) model was developed in Memphis, Tenn., in 1988 and includes 40 hours of training delivered by mental health professionals. Providing officers with skills on using words to de-escalate crises is a key component of training. CIT-trained officers are then deployed to scenes involving an individual who may be having a mental health crisis. The research to date on officer attitudes has been generally positive. For example, the training has been associated with

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<sup>26</sup> White M. D., Mulvey, P., & Dario, L. M. (2016). Arrestees' perceptions of the police: Exploring procedural justice, legitimacy, and willingness to cooperate with police across offender types. *Criminal Justice and Behavior*, 43, 343-364.

<sup>27</sup> Skogan, W. G., Van Craen, M., & Hennessy, C. (2015). Training police for procedural justice. *Journal of Experimental Criminology*, 11, 319-334.

<sup>28</sup> Examples of different training models: <https://trustandjustice.org> and <http://cebcp.org/evidence-based-policing/building-trust/education-and-training>

<sup>29</sup> Nagin, D. S., & Telep, C. W. (2017). Procedural justice and legal compliance. *Annual Review of Law and Social Science*, 13, 5-28

<sup>30</sup> Gill, C., Weisburd, D., Telep, C. W., Vitter, Z., & Bennett, T. (2014). *Community-oriented policing to reduce crime, disorder and fear and increase satisfaction and legitimacy among citizens: A systematic review*. *Journal of Experimental Criminology*, 10, 399-428 and <http://cebcp.org/evidence-based-policing/what-works-in-policing/research-evidence-review/community-policing>

increased knowledge about the causes of schizophrenia, and more favorable officer attitudes towards individuals with mental illness.<sup>31</sup> A review of CIT studies suggested that “the training component of the CIT model may have a positive effect on officers’ attitudes, beliefs and knowledge relevant to interactions with such individuals, and CIT-trained officers have reported feeling better prepared in handling calls involving individuals with mental illnesses.”<sup>32</sup>

Less is known, however, about the impact of training. A recent review of studies found no impact of CITs on the likelihood officers would make an arrest of an individual with mental illness or on whether officers used force in such interactions.<sup>33</sup> In contrast, a study examining actions taken by CIT-trained officers found they were more likely to refer mentally ill individuals to services or transport them to treatment, compared to non-trained officers. More research is needed, especially since CIT studies to date have relied on officers who volunteer to complete CIT training. A study that randomly assigned officers to training or a comparison group would provide further evidence on the impacts of training.

There is also no rigorous research on training programs for police on other types of disability. While most police academies provide some training on disability, this training tends to focus on mental health problems rather than learning disabilities or physical impairments, and there is no assessment of the impact of such training.<sup>34</sup> There are a number of media reports and anecdotal evidence depicting negative interactions between police and individuals with a disability, particularly those who are deaf and may have difficulty responding to police commands without an interpreter.<sup>35</sup>

### **The Impact of Body Worn Cameras on Officers and Suspects**

Perhaps no area in policing has seen more research in recent years than the effects of body-worn cameras. Many of these studies are ongoing, so this is an area where the evidence base is likely to expand substantially in the coming years. Many agencies have adopted body-worn cameras because of concerns about officer use of force and the inability to directly supervise officers in the field. Cameras are viewed as a way to provide greater accountability and transparency and ideally will improve police legitimacy. As of 2013, about one-third of agencies had adopted body-worn cameras, but that number has certainly increased in the last four years.<sup>36</sup>

Research to date has not been conclusive. Still, some preliminary conclusions can be drawn about the effects of body-worn cameras. Studies of officer attitudes suggest police are generally supportive. Evaluations have been fairly consistent in showing that officers wearing body-worn cameras are less likely to receive complaints.<sup>37</sup> It is believed that cameras may have a civilizing effect on police-citizen

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<sup>31</sup> Demir, B., Broussard, B., Goulding, S. M., & Compton, M. T. (2009). Beliefs about causes of schizophrenia among police officers before and after crisis intervention team training. *Community Mental Health Journal*, 45, 385-392.; Ellis, H. (2014). Effects of a crisis intervention team (CIT) training program upon police officers before and after crisis Intervention team training. *Archives of Psychiatric Nursing*, 28, 10-16.

<sup>32</sup> Compton, M. T., Bahora, M., Watson, A. C., & Oliva, J. R. (2008). A comprehensive review of extant research on crisis intervention team programs. *Journal of the American Academy of Psychiatry & the Law*, 36, 47-55.

<sup>33</sup> Taheri, S. A. (2016). Do crisis intervention teams reduce arrests and improve officer safety? A systematic review and meta-analysis. *Criminal Justice Policy Review*, 27, 76-96.

<sup>34</sup> McAfee, J. K., & Musso, S. L. (1995). Training police officers about persons with disabilities: A 50-state policy analysis. *Remedial and Special Education*, 16, 53-63.

<sup>35</sup> “When police officers don’t know about the ADA” in The Atlantic <https://www.theatlantic.com/politics/archive/2017/09/the-steadily-problematic-interactions-between-deaf-americans-and-police/541083/>

<sup>36</sup> Reaves, B. A. (2015). Local police departments, 2013: Equipment and technology. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice.



encounters, such that officers and citizens may be less likely to resort to behavior they know is being recorded. Additionally, cameras are likely to lead to fewer false complaints that citizens know are likely to be unfounded after a review of footage. Findings on officer use of force are less consistent. While some initial studies suggest officers wearing cameras were less likely to use force, other studies have shown no effects. It appears this relationship may vary based on agency policy. Body-worn cameras have shown more of an impact on reducing use of force in departments that do not allow officers discretion on when to use cameras (i.e., officers must keep cameras on at all times).<sup>38</sup>

Arizona was the site of two of the first rigorous studies of body-worn cameras. The Phoenix Police Department<sup>39</sup> and the Mesa Police Department implemented two of the first randomized trials on the effects of cameras, and another randomized trial was just completed in the Tempe Police Department. In line with other research, the Phoenix study found that officers wearing body cameras were less likely to receive citizen complaints. The Mesa findings suggested that officers wearing body cameras were more likely to make contacts with citizens but less likely to make arrests. This suggests that cameras might create more proactivity but without greater enforcement intrusiveness.<sup>40</sup>

Future research is needed on a number of key topics related to body-worn cameras. These include better understanding how they affect citizen perceptions of police legitimacy, as well as citizen willingness to report crime. More research is also needed on how camera footage is used for investigations and by prosecutors. There is also limited research to date on how body-worn cameras are used by supervisors for monitoring officers in the field. In addition, cameras are expensive to purchase and maintain and also require significant storage space for video files. Studies on some of these questions are currently underway.

### The “Militarization” of Police

While a great deal of news media and popular attention has focused on the concept of police “militarization,” there is limited empirical research focused on its impact. The use of military terminology and tactics is not new to policing. Indeed, policing has historically emulated the military rank structure, and many police academies use a paramilitary training model. The concern with militarization is that agencies will shift from a mindset of using force only as a last resort to an armed-forces model of using force as needed to destroy an enemy.<sup>41</sup>

One current challenge is how to define whether an agency is militarized. Scholars have pointed to measures including the physical materials an agency acquires, the cultural orientation of the organization, the operational strategies employed, and the organizational structure and management style. Physical

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<sup>37</sup> Ariel, B., Farrar, W. A., & Sutherland, A. (2015). The effect of police body worn cameras on use of force and citizens' complaints against the police: A randomized controlled trial. *Journal of Quantitative Criminology*, 31, 509-535.

<sup>38</sup> Lum, C., Koper, C. S., Merola, L. M., Scherer, A., & Reixou, A. (2015). Existing and ongoing body worn camera research: Knowledge gaps and opportunities. *Report for the Laura and John Arnold Foundation*. Fairfax, VA: Center for Evidence-Based Crime Policy, George Mason University.; Maskaly, J., Maskaly, J., Donner, C., Donner, C., Jennings, W. G., Jennings, W. G. & Sutherland, A. (2017). The effects of body-worn cameras (BWCs) on police and citizen outcomes: A state-of-the-art review. *Policing: An International Journal of Police Strategies & Management*, 40, 672-688.

<sup>39</sup> <http://www.strategiesforpolicinginnovation.com/spi-sites/phoenix-arizona-2011> and <http://www.strategiesforpolicinginnovation.com/spi-sites/phoenix-arizona-2015>

<sup>40</sup> Ready, J. T., & Young, J. T. (2015). The impact of on-officer video cameras on police-citizen contacts: findings from a controlled experiment in Mesa, AZ. *Journal of Experimental Criminology*, 11, 445-458.

<sup>41</sup> Kraska, P. B. (2007). Militarization and policing-Its relevance to 21st century police. *Policing: A Journal of Policy and Practice*, 1, 501-513.

materials, such as riot gear, are easiest to measure, but simply measuring whether an agency has such tools does not provide information on the extent of their use. The extent an agency uses its SWAT team (and whether an agency has a SWAT team) are sometimes used as measures, as well. There is evidence that SWAT usage has increased in recent years. However, there is debate over whether this reflects that agencies are becoming more militarized or whether it reflects agencies are handling dangerous situations more professionally using sounder tactics.<sup>42</sup>

Much of this debate has focused recently on the federal government's 1033 program, which began in 1997 and allows local police agencies to acquire surplus military equipment. Following concerns about police tactics in high-profile protests, President Obama significantly scaled back the program in May 2015. This executive order was rescinded and the program was fully reinstated by President Trump in May 2017. There is little research on the impacts of the 1033 program on crime, agency use of force or citizen perceptions of legitimacy. Future studies are needed to better understand how acquiring surplus military equipment affects how police agencies use force, and whether citizens perceive police agencies using such equipment more negatively.

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<sup>42</sup> Bieler, S., & Bieler, S. (2016). Police militarization in the USA: the state of the field. *Policing: An International Journal of Police Strategies & Management*, 39(4), 586-600; Radil, S. M., Dezzani, R. J., & McAden, L. D. (2017). Geographies of US Police Militarization and the Role of the 1033 Program. *The Professional Geographer*, 69(2), 203-213.

## ABOUT THE AUTHOR

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# BAIL, JAIL, FINES, AND FEES

By Dave Byers

Administrative Office of the Courts, Chair, Task Force on Fair Justice for All

## Key Points:

- Low-income people often have difficulty paying bail, forcing them to await trial in jail.
- Research indicates that bail does little to ensure that defendants return for trial.
- Fees are imposed upon those convicted in court support programs such as domestic violence shelters, but the criminal justice system may face lower funding as the crime rate continues to drop.
- Reforms are being implemented to make the imposition of bail more equitable and to reduce the population awaiting trial in jail.



Every year in Arizona, thousands of people are arrested and jailed but cannot afford to post bail. Although defendants accused of committing a crime and arrested are presumed to be innocent, if they lack access to money, they often remain in jail while awaiting trial.

The Arizona Constitution requires that, except in limited situations, a person must be bailable. That is, defendants are generally entitled to be released (bailable) from jail on their own recognizance or other conditions, while awaiting the disposition of their offenses. Research has shown that imposing money bail does not improve the chances that low-risk offenders will return to court, nor does it protect the public because many high-risk defendants have access to money and can post bail. Instead, it serves only to treat differently those who can and cannot access money.

Many Arizonans fall into the latter category. Arizona has the fourth-highest poverty rate in the United States. More than 21 percent, or 1.2 million of Arizonans, fall below the federal poverty line. Most of Arizona's poor are not the panhandlers on the highway off-ramps, but the "working poor"- that is, people who earn minimum wage and whose household incomes are less than 150 percent of the federal poverty level. Arizona's unemployment rates exceed the national average as well. People of all income levels, on occasion, may commit an infraction of the law. If justice in Arizona is to be administered fairly, the justice system must take into account the challenges that court-ordered sanctions pose for those living in poverty or otherwise struggling economically.

Arizona already has many statutes in place, rules and practices that enable judges to take into account economic hardship in making pretrial release determinations. This flexibility is not available in all types of cases, however, particularly with some of the more common offenses such as driving without insurance.

Several court rules have been revised to address many of the concerns surrounding bail. A revision to the right to counsel rule was made to provide indigent defendants with counsel if they are detained

pending trial after criminal charges are filed. This will allow those defendants who are unable to meet the conditions of release or afford to post a financial bond an opportunity for their case to be reviewed by an attorney who may assist in a bail review hearing.

The definitions of the various types of release have been updated and the court rule for imposing release conditions have been modified to provide a continuum of release options. The rule changes require the court to consider the least onerous type of bail conditions that are sufficient to protect the community and ensure the person returns to court.

A “deposit bond” type has been added, allowing a person to post a percentage of a financial bond with the Clerk of the Court, which would be returned to the defendant upon successful completion of the pretrial period. Currently, a person who uses the services of a commercial bondsmen is charged a non-refundable fee of about 10 percent.

For individuals arrested for certain serious offenses, such as homicide or sexual assault which are considered to pose a high risk to the community, new procedures have been added to allow the court to hold a hearing to determine if the person should be held without bail.

To assist judges in determining a person’s risk to the community at the time the court is setting release conditions, Arizona established a pretrial risk assessment tool that is completed by pretrial officers who evaluate a person’s criminal and court history. The statistically validated risk assessment tool used is the Public Safety Assessment (PSA), which was developed by the Laura and John Arnold Foundation and is considered to be the state-of-the-art for pretrial risk assessment.

This tool uses only criminal justice risk factors to determine a person’s risk of new criminal activity and likelihood of appearing for court. It is not based on any demographic factors or other factors that may have a built-in bias. This assessment is conducted on felony arrests statewide and for some misdemeanor cases. Efforts are underway to evaluate the feasibility of providing this assessment in other misdemeanor cases filed in limited jurisdiction courts.

Instructional materials have been provided to judges including “Bench Cards” to help guide judges when evaluating a person’s ability to afford a bond, or when imposing certain financial conditions at the time of sentencing, or during a hearing for persons who have fallen delinquent on court fees. Imposing incarceration is used only as a last resort and only when there has been a finding of willful non-compliance.

Following the shooting by police of an 18-year-old Black man in Ferguson, Missouri, a U.S. Department of Justice investigation found that the law enforcement practices in the city were largely shaped by the goal of raising revenue for city coffers. Ferguson has sparked a national dialogue, causing jurisdictions to examine their own practices of imposing and enforcing financial sanctions and the severe impact they can have on the poor and minority groups.

Those examining the Ferguson-type issues should note that those situations generally occur in local limited jurisdiction courts, not in courts that are under the supervision of a state supreme court. Arizona’s courts are structured differently. The Arizona Supreme Court has administrative oversight over all state courts – appellate, superior, justice and municipal courts. Oversight includes ensuring that courts perform their appropriate functions, which include educating, training and setting standards for when and on what conditions pretrial detainees are released from court.

Furthermore, the Administrative Office of the Courts (AOC) sets forth specifications for minimum accounting standards, operational reviews and training. The AOC also provides the structure for a proper relationship between municipal courts, municipal city councils and city managers.

Interference that impedes the court from carrying out the impartial administration of justice violates the distribution-of-powers provision of the Arizona Constitution and the fundamental principles of our constitutional form of government. The limited jurisdiction courts must continue to maintain independence from the executive and legislative branches so they can fairly decide cases. The vast majority of Arizona's limited jurisdiction courts operate in a high-quality manner. If a court severely fails to operate properly, administrative control of the court can be removed from the local judge and placed under the control of the county presiding judge until the problems are remedied.

These issues impact all courts in Arizona including judges, criminal justice stakeholders, victims, defendants and community members. The AOC has led this reform in Arizona with the assistance of task force members, committees, sub-committees and workgroups convened to address particular topics. These various groups included representation from all parts of the criminal justice system, victim community and other community groups. Some of these changes will require legislative remedies. Several legislative proposals are being considered.

For years now, Arizona's legislative bodies, like in many other states, have added a variety of surcharges and fees to the amount of a fine in order to fund numerous programs (e.g., DNA testing, domestic violence shelters, head injury fund). These programs depend on the stream of funding coming from those paying the costs of their citations.

However, for a variety of reasons, the overall number of citations is plummeting. For example, civil traffic citations have dropped from 1.8 million at its peak in FY 2008 to 1.2 million in FY 2015, a 34 percent decline. This downward trend is likely to continue in light of new safety-equipped cars and, eventually, driverless cars, plus law enforcement methods that use techniques to control traffic other than writing citations.

Seeing the drop in citations, the Arizona Criminal Justice Commission in July 2017 agreed to establish a task force to explore this issue further and to make recommendations for alternative funding sources. It is likely that the Legislature and city councils will need to re-examine the current dependency on revenue from citations to keep current programs funded. While the adoption of the recommendations the Task Force on Fair Justice report may result in some decreases in revenue, it could also have the opposite effect. If people who are not currently paying their sanctions at all are given sanctions based on their ability to pay, and more reasonable time payment plans, they may begin to pay, thereby increasing revenues.

A second specialized group that is brought to court involves individuals exhibiting mental health issues. A number of individuals appearing in limited jurisdiction courts have been arrested for "quality of life" crimes (i.e., shoplifting, urinating in public, trespassing and loitering) and appear to have mental health concerns. Under the current law, the process to determine the competency of a person charged with a misdemeanor or a felony is the same. The process is cumbersome and expensive.

Mesa and Glendale municipal courts have been piloting a streamlined process to handle these cases that shows promise, however, the process will not work for handling all municipal cases: It requires the superior court to appoint the limited jurisdiction court judges as superior court pro tempore judges,



as well as designating the city courthouses as satellite facilities of the superior court. Recent legislative changes modify the current mental health competency proceeding statutes for handling misdemeanor cases.

The handling of cases involving individuals with mental health issues is a challenge for all parts of the criminal justice system. Protocols for best handling these cases need to be adopted locally, since resources will vary from jurisdiction to jurisdiction. The presiding judge of each county and of each large municipal court should bring the criminal justice stakeholders in their jurisdictions together to develop protocols that will be used to better handle these cases. Such an effort is currently under way in Yavapai County.

Many of the defendants brought to jail who exhibit mental health issues have previously received services from local Regional Behavioral Health Authorities (RBHAs). In Maricopa County, the RBHA works with the pretrial services agency to identify defendants who have previously received mental health services. This allows for the coordination of necessary services while defendants, who are diagnosed as seriously mentally ill, are in custody or upon their release. Implementation of procedures like this in jurisdictions throughout Arizona is recommended.

### Personal Insight

While many Arizona officials are supporting a Supreme Court initiative to make bail more affordable to suspects sitting in jail, Kathy Waters wants Arizonans to know that this is not about letting criminals off easy.

“Money bail still exists,” she says, “but we’re trying to move to a risk-based system that will increase public safety while enabling low-income suspects to get out of jail while awaiting trial. They’ll still be held accountable.”

Waters, director of Adult Probation Services for the AOC, says a more flexible bail program would also benefit the public at large, in part by reducing the burden borne by taxpayers who must pay for jails to needlessly house defendants - who meanwhile can lose their jobs and housing.

But do we really have to care that someone who’s arrested can’t make bail?

In response, Waters notes the issues of fairness and public finance and cites perhaps an even more persuasive point:

“If it happens to them or a family member,” she says, “they’ll care.”

The Phoenix Municipal Court has recently implemented a Compliance Assistance Program (CAP) that permits defendants who have had their driver’s licenses suspended to come to court, arrange a new and affordable time payment program and make down payments on their outstanding fines. In exchange, the court will provide a clearance letter for the Motor Vehicle Department so the individual’s driver’s license may be reinstated. Since its inception in January 2016, more than 21,000 individuals have taken advantage of this program. Through October 2017, the City of Phoenix recovered nearly \$12 million in outstanding fines, with a low non-compliance rate.

In May 2015, Pima County was awarded \$150,000 from the John D. and Catherine T. MacArthur Foundation for an initiative to reduce over-incarceration by changing how America thinks about and uses jails. The initiative is a competition to help jurisdictions create fairer, more effective local justice systems through bold innovation.

During Phase 1, Pima County developed a plan to reduce the jail population by 15 percent to 19 percent, and to reduce racial and ethnic disparities. Pima County was awarded an additional \$1.5 million to move forward with Phase 2, which involves creating an implementation plan for broad system change. Planning and policy teams included decision-makers from the county administration, jail, superior court, limited jurisdiction courts, law enforcement, prosecution, defense and community organizations.

Proposed court system innovations and treatment alternatives include extending evidence-based risk screening to all defendants; adding a behavioral health screen prior to initial appearance and expanding pretrial supervision capacity; training criminal justice system partners (including the judiciary) on implicit bias and the use of money bail; reducing the incidence of failure to appear by implementing reminder systems, and offering more accessibility to courts through periodic weekend warrant resolution courts; and expanding the use of home detention and electronic monitoring. If successful, these innovations are expected to reduce the jail population by 20 percent, which would potentially allow the closure of six 64-person pods at the jail, resulting in an estimated cost savings of \$2.7 million per year and improvement of pretrial justice in Arizona.

Arizona is not alone in addressing these issues. Throughout the United States, reform of bail procedures and the changes surrounding the imposition of court ordered financial obligations for indigent persons are underway. In some jurisdictions, legal challenges to the current procedures have occurred, resulting in forced change in some communities. Arizona's efforts have been proactive and not as a result of litigation.

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# CHARGING

By Marc L. Miller J.D.<sup>1</sup>

Dean, James E. Rogers College of Law, University of Arizona

## Key Points:

- Prosecutors have wide discretion in deciding what charges to press against a defendant.
- The decision not to charge may be the most powerful tool of the prosecutor.
- Although the initial charges filed may not be the ones that are eventually brought to trial, they influence key decisions on bail, plea bargains, and sentencing.
- The development of charging guidelines could reduce seemingly arbitrary charges.



## External Regulation of Charging

A key fact concerning charging decisions by prosecutors is that there is vanishingly little law governing them. This observation that charging is essentially unregulated is sometimes met with the response that neither police nor prosecutors can act without a legal basis for doing so. Thus, the argument goes, suggestions of lawlessness in charging (or arrest, or adjudication or sentencing) are overstated.

As a corollary, observers note that if police or prosecutors exceed their legal authority, their actions are subject to reversal by courts, and in extreme cases they can be administratively or legally sanctioned.

This response is true as far as it goes. The problem is that the criminal codes in most states, including Arizona and the federal criminal code, are so wide-ranging. There are so many overlapping offenses, crimes with broad definitions and huge authorized sentencing ranges that for many behaviors the criminal code provides few practical limits on prosecutorial decision-making.<sup>2</sup>

Equally important, antiquated criminal codes invite significant variation in how similar behavior is treated by the same (and different) prosecutors in the same jurisdiction and over time.

The second problem with looking to criminal codes to restrain police and prosecutorial behavior in charging decisions is that the applicable standard to justify arrest and charging decisions is a low one: “probable cause.” This standard – a “reasonable belief” that a crime was committed – is well short of the familiar legal standards of “preponderance of the evidence (51 percent certainty, used for civil cases)” and certainty shy of “beyond a reasonable doubt” (for determining guilt or innocence in criminal cases).

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<sup>1</sup> Dean & Ralph W. Bilby Professor, University of Arizona James E. Rogers College of Law. Special thanks go to Ron Wright for comments on a draft of this essay.

<sup>2</sup> Barkow, 2005

Every once in a while, high profile cases – including a few in Arizona – feature prosecutors or police officials who lose their licenses or are sanctioned for abuse of arrest and charging powers. These exceptions, however, do not change the occurrence. There are more law review articles on the topic of selective prosecution than actual cases finding selective prosecution. And the standards to prove a selective prosecution claim – or even to get evidence to assess a claim – are astronomically high.<sup>3</sup>

In other words, the fact that a legal system sometimes responds to cases of extreme abuse is not a remedy for systemic issues of misuse or inconsistent application of government powers.

Some of the most important choices in the world of criminal justice take place beyond the boundaries of traditional conceptions of law. The best examples of such lawless territory are declination decisions – decisions by a prosecuting authority not to charge an individual, even in the face of evidence that surpasses the “beyond a reasonable doubt” standard.

Scholarship suggests that declination rates in some systems can be quite high. In a famous moment in American criminal justice, federal prosecuting authorities were called to task by Congress to explain the high declination rates in charging decisions among U.S. Attorneys (federal prosecutors).<sup>4</sup> That moment passed. And some good occasional scholarship notwithstanding, this enormous exercise of prosecutorial power takes place off the radar of government and private observers.<sup>5</sup>

The power to charge in a variety of ways -- choosing different crimes and determining the number of different counts, along with the virtually absolute power to decline to charge at all – provides enormous power to American prosecutors.

Could charging and closely connected decisions be more closely regulated by legislatures and courts? Sure. But the far more important path now, and the far more plausible path going forward, is to examine the internal regulation of power by prosecutors such as the standards and procedures they place on their own decision-making.

### **Internal (Executive) Regulation**

For many years, scholars have had little to say about the internal (executive) regulation of executive branch agencies. The best known examples are the policies that control federal prosecutors, published in the United States Attorneys Manual. Scholarship has brought internal regulation of executive branch agencies into the scholarly light.<sup>6</sup> It has also fitted it into the literature on social norms - informal rules and behaviors that operate outside the compelling force of the law. Sometimes these social norms are the sole constraint on individual behavior.<sup>7</sup>

Elected prosecutors, managers and police chiefs didn't need scholars to tell them that, if they wanted to control their offices, they needed to hire, train and manage with care. Mid- and large-sized offices especially needed to develop internal rules, standards procedures and guidelines. The most sophisticated prosecutors also implement internal data systems. But internal policies and procedures are only sometimes written and rarely visible to those outside the office.

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<sup>3</sup> Poulin, 1997; Miller & Wright, 2015

<sup>4</sup> Miller & Wright, 2015

<sup>5</sup> O'Neill, 2003

<sup>6</sup> Wright & Miller, 2002; Miller & Wright, 2008

<sup>7</sup> Ellickson, 1991

Some state courts have mandated the development of prosecutorial guidelines, most notably in New Jersey.<sup>8</sup> Some state prosecutors have started to share their charging (and related plea and sentencing) guidelines. A good example of this is in Kitsap County in Washington State.<sup>9</sup>

When combined with procedures to train new prosecutors and to enforce internal standards, along with data systems to assess and report on the application of the standards, such systems have the possibility of achieving equality and justice that are at best a distant hope in traditional systems.

### **Charging As Part of Multi-Layered Criminal Justice Decision-Making**

The charging decision is not a single decision and it does not exist at a single point in time. Initial charges can be dismissed, charges can often be re-filed, new charges can be added and charges can be modified. Modifications can occur as a result of further investigation, or for strategic reasons – such as part of a plea bargain – or in response to offers of assistance (information and/or testimony) to prosecutors in cases against other defendants.

Thus, initial charges in most systems should often be considered just that - preliminary and contingent. Yet those early charges, and decisions made later in the process, connect directly to such issues as bail and release decisions, plea bargaining, trial, sentencing and collateral consequences.

When initial charges are fluid, the importance of the charge might not be transparent to defendants, their lawyers, judges or other observers. There are alternatives to fluid charging. For example, some prosecutors, as part of their internal processes and guidelines, frontload the investigative process, and mandate that only charges that the prosecutor believes can be proved at trial (at the higher trial standard) should be filed.<sup>10</sup>

Prosecutors committed to reinvigorating the disappearing criminal trial can commit to limit plea bargains to the most serious charge or charges. This would potentially reduce the sentencing benefit (or plea discount) obtained by entering a guilty plea. But whether prosecutors are committed to making trial (and especially jury trial) a viable option, resources invested in screening can make the charging decision a more real and substantial reflection of the prosecutor's intent and the public's needs.<sup>11</sup>

### **Perspectives on Charging**

Where different observers and actors sit can tell us a lot about what they believe about prosecutorial charging power. Legal scholars have long noted the substantial discretion in prosecutorial charging, even in settings (like offenses with mandatory minimum sentences) that appear on their face to constrain prosecutorial and judicial discretion.<sup>12</sup> Defense attorneys frequently make strong claims about the abuse of those highly discretionary prosecutorial powers, including undue pressure on defendants (including some innocent defendants), and inconsistency in application.<sup>13</sup>

Prosecutors, on the whole, reject the claim that they have vast discretion in many settings, or that they abuse their powers. Instead, prosecutors emphasize their allegiance to the law, and their commitment

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<sup>8</sup> Wright, 2005

<sup>9</sup> <https://spf.kitsapgov.com/pros/Pages/ChargingSentencingStandards.aspx> ; Miller & Wright, 2012; Wright & Miller, 2010

<sup>10</sup> Wright & Miller, 2002

<sup>11</sup> Pfaff, 2017

<sup>12</sup> Remington, 1993; Miller, 2004

<sup>13</sup> Davis, 2007



to protect the citizens who typically elect the lead prosecutor in most U.S. prosecutors' offices.<sup>14</sup> Yet prosecutors will often acknowledge that they do not have the systematic information to put their case decisions or office policies into larger policy contexts. It is hard for prosecutors to see for themselves what they are doing with their discretionary powers.<sup>15</sup>

The different perspectives of scholars, defense attorneys and prosecutors can largely be squared. Scholars flag choices prosecutors could make; defense attorneys feel the bite of actual choices with their individual clients, and (with incomplete information) may see inconsistent decisions across prosecutors. Most prosecutors believe in good faith that they are applying the law in a consistent fashion. Their subjective view considers the abstract discussions of discretion and the lack of review of decisions (such as declination) as just that – abstract, and not reflective of decisions in practice.

Without data, it is hard to resolve the different perspectives about prosecutorial decision-making, most emphatically including charging decisions. The lack of external standards (at least standards with any bite) or procedures that allow any external review of some decisions means that many U.S. jurisdictions will simply leave the issues unresolved.

But there are alternatives. Development of prosecutorial guidelines, combined with transparency about their application, is one rare but intriguing option. Especially for large offices with many line prosecutors, high turnover and high case volume, data and reports may be the only ways internally or externally to know if systematic charging and prosecutorial justice are being done.

A better political and journalistic dialogue about prosecutorial powers also could contribute to a more just system. For example, to the extent a legislature valued initial charging decisions that have a significant basis in fact and reflect the most serious provable charges, it might require prosecutors to regularly report the percentage of plea bargains that include the most serious charge. And to the extent a legislature cares about the continuing vitality of the criminal jury trial, it might require regular reports on trial rates. A relatively short amount of information could provide the basis for a more engaged and serious social and political dialogue about the fairness, consistency and efficacy of the criminal justice system and its most powerful actor – the prosecutor.

Reports with some standard elements would allow for comparisons and norming across different offices and different chief prosecutors. But the single reform most likely to bring significant transparency, consistency and discipline to prosecutorial decision-making would be the creation of an expert sentencing commission and the development of sentencing guidelines.

Many states with a wide range of political cultures have demonstrated that a good sentencing system can impose significant order and transparency, and the hope for more equality of treatment on otherwise unregulated and messy criminal justice systems.

Well-drafted, evidence-based sentencing guidelines become, in effect, a simplified and more logical and coherent criminal code, and sentences may become more predictable.<sup>16</sup> Sentencing guidelines provide a vehicle to consider the extent to which convictions (including the charges on which they are based) fit the facts of the case and align with similar cases.

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<sup>14</sup> Miller & Caplinger 2012

<sup>15</sup> Wright 2017

<sup>16</sup> Berman, 2017; Tonry, 1998

The determination of what is relevant – what makes a case similar or different – is an inquiry structured by the guidelines. There are many successful variations in the structure, flexibility, values and details of different systems, and now decades of positive experience across many states.

The success of guideline systems turns on the legislative charge to the sentencing agency and the quality of its work. A good agency will have reasonably broad representation on the commission, a capable staff, resources to collect and assess data, and a mandate both to design and review the guidelines over time. The success of guideline systems also turns on the collective desire to bring more of the fundamental goals of justice, equality, due process and efficiency to the criminal justice system, which remains, in any case, a critical and expensive function of government.

### **Maricopa County Attorney Bill Montgomery – Personal Insight**

Over time as a prosecutor, I have felt the pain of loss suffered by family members of a homicide victim in holding the murderer accountable and I have felt the joy of a recovering addict who took advantage of a second chance and is now on their way to being the person they were created to be in the first place. Because prosecutors do not get to choose who commits what type of crime against which kind of victim, some days are more filled with pain than joy.

I still vividly recall the mentally challenged mother facing a charge in a Justice Court for Truancy. It was easy to see in the first couple of minutes that her child did not want to go to school because they were being teased about their mom's difficulties that were on display whenever she dropped them off. Deferring prosecution until she could make a different educational arrangement was an easy call.

At the other end of the spectrum was the trial of a defendant whose drinking and driving not only made him a threat on the road, it made him a killer. By the time his car came to a rest in the opposite lane of traffic on its roof, four people were dead or dying, including a small child and her parents. Others were seriously hurt. The time spent with the maternal grandparents of the small child during the trial was among the most difficult, explaining criminal procedure, answering questions that sought understanding about terms and next steps, and offering encouragement during their very real walk through the valley of the shadow of death.

Regardless of the cases, as each day closes, I've always felt confident that our community has been protected and justice served.

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# SENTENCING AND INCARCERATION

By Cassia Spohn, Ph.D.

Foundation Professor and Director, School of Criminology and Criminal Justice, Arizona State University

## Key Points:

- Most jurisdictions now have some sort of “determinate sentencing,” including mandatory minimum sentences and “three-strikes-and-you’re-out” rules.
- This has resulted in a transfer of power from judges to prosecutors, as the charges filed by the prosecutor now largely determine the sentence.
- Sentencing guidelines are based on whether or not the conviction is for a dangerous or non-dangerous felony and the offender’s prior criminal record.
- The rate of imprisonment in the U.S. has increased from 96 per 100,000 population in 1975 to 500 per 100,000 today.
- This increase is the result of changes in sentencing policy, not changes in crime rates.
- Arizona has the fourth-highest incarceration rate in the country at 585 per 100,000 population.
- Minimum sentencing laws have modified in some states recently, indicating a shift away from determinate sentencing.



## The Sentencing Reform Movement

Three decades of experimentation and reform have transformed sentencing policies and practices in the United States.

Thirty years ago, indeterminate sentencing, based on the philosophy of rehabilitation, was the norm. Judges had substantial discretion to determine the sentence range, and parole boards decided how long offenders would actually serve. Judges considered the facts and circumstances of the case and the characteristics of the offender and tried to tailor sentences that fit both. With few exceptions, judges were not required to impose specific sentences on particular types of offenders.

Times change. Concerns about disparity and discrimination in sentencing - coupled with widespread disillusionment with rehabilitation and a belief that more punitive sentences were both necessary and just - led to a series of reforms that revolutionized the sentencing process. Sentencing policies and practices today are much more complex and substantially more fragmented than they were in the past.

Some jurisdictions retained indeterminate sentencing; others replaced it with more tightly structured determinate sentencing or sentencing guidelines. Mandatory minimum sentencing statutes that eliminated judicial discretion and targeted violent offenders, drug offenders and career criminals proliferated. More than half of the states adopted “three-strikes-and-you’re-out” laws. Most jurisdictions enacted “truth-in-sentencing” laws designed to ensure that offenders served a larger portion of their ordered sentence. As a result, sentencing today is less discretionary, less individualized and more mechanical.

The situation is further complicated by a series of U.S. Supreme Court decisions<sup>1</sup> handed down since 2000. These decisions enhanced the role of the prosecutor and the jury in sentencing in jurisdictions with determinate sentencing or mandatory sentencing guidelines. They also made the federal sentencing guidelines advisory rather than mandatory. Although it is too early to tell whether these decisions will undo the reforms enacted of past three decades, it is clear that we have entered a new era in sentencing policies and practices.

### Personal Insight

When it comes to sentencing defendants, at least some Arizona judges would like more room to judge.

As in many states, the past several decades have seen a decrease in Arizona's judges' ability to choose who goes to prison and for how long, noted retired Maricopa County Superior Court Judge Ronald Reinstein.

Laws requiring judges to follow certain sentencing guidelines means that judges today have little choice but to accept or refuse a plea bargain offered by a prosecutor, he said. Refusals are rare, Reinstein added, in part because the prosecutor can always seek approval from another judge.

Reinstein, who is a consultant to the Arizona Supreme Court, noted: "Another problem lots of judges see is not simply that people are sent to prison - (prosecutors) say 'the right people are in prison' and they're probably right. The problem is often in the length of sentences imposed, even for non-violent crimes like drug offenses."

### Sentencing Reform and Mass Incarceration

In 1971, David Rothman, one of the foremost authorities on the history and development of the prison system, wrote: "We have been gradually emerging from institutional responses, and one can foresee the period when incarceration will be used still more rarely than it is today."<sup>2</sup> Two years later, the National Advisory Commission on Criminal Justice Standards and Goals concluded that "the prison, the reformatory and the jail have achieved only a shocking record of failure."<sup>3</sup> It recommended that "no new institutions for adults should be built and existing institutions for juveniles should be closed."<sup>4</sup>

It is clear that Rothman's prediction did not come true, and that the commission's recommendations were not followed. Their calls for reductions in the use of incarceration, which were voiced at a time when the inmate population was just over 300,000, fell on deaf ears.

Rather than declining, America's imprisonment rate, which had fluctuated around a relatively steady mean of 110 individuals per 100,000 for most of the 20th century, increased every year from 1975 to

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<sup>1</sup> *Apprendi v. New Jersey*, 530 U.S. 466 (2000); *Blakely v. Washington*, 542 U.S. 296 (2004); *U.S. v. Booker*, 543 U.S. 220 (2005); *Cunningham v. California*, 549 U.S. 270 (2007); *Gall v. U.S.*, 552 U.S. 38 (2007); *Kimbrough v. U.S.*, 552 U.S. 85 (2007); *Alleyne v. U.S.*, 133 S. Ct. 2151 (2013).

<sup>2</sup> Rothman, 1971, p. 295

<sup>3</sup> National Advisory Commission, 1973, p. 597

<sup>4</sup> National Advisory Commission, 1973, p. 358



2010. The total state and federal prison population increased just over 1.6 million. Stated another way, the incarceration rate increased from 96 persons incarcerated for every 100,000 persons in the population to 500 per 100,000. If inmates in local jails are included, the rate is even higher: 750 per 100,000.

Although the number of prison inmates has since declined slightly to about 1.5 million, the United States still has the highest incarceration rate in the world.<sup>5</sup> As these figures demonstrate, for the past 40 years, the United States “has been engaged in an unprecedented imprisonment binge.”<sup>6</sup> The question, of course, is whether these dramatic increases in the prison population are due to changes in crime rates or changes in sentencing policies and practices.

If there are more crimes today – or more serious violent crimes – we would expect the prison population to increase, irrespective of any new sentencing policies. If, on the other hand, the crime rate remained relatively stable, or even declined, as the incarceration rate skyrocketed, we could conclude that at least some of the increase in the prison population is due to the crackdown on crime and criminals.

Most criminologists believe that the escalating prison population cannot be attributed to increases in crime. Franklin Zimring of the University of California Berkeley School of Law suggests that the overall upward trend actually reflects three different patterns at three different time periods.<sup>7</sup> He contends that from 1973 to the mid-1980s, the imprisonment binge was fueled by “general increases in the commitment of marginal felons to prison.”<sup>8</sup> During this time period, in other words, judges were generally sending more borderline offenders convicted of felonies to prison rather than giving them probation.

The yearly increases from 1985 to 1992, on the other hand, reflected a greater likelihood of incarceration and longer sentences in one category: drug offenders. Zimring argues that during the most recent time period, which he characterizes as “the period of time when imprisonment rates defy gravity and continue to grow even as crime rates are dropping,” the emphasis shifted from “‘lock ‘em up’ to ‘throw away the key.’” During this period, he said, “The lengthening of sentences has begun . . . to play a much larger role in sustaining the growth of [the] prison population.”<sup>9</sup>

Other scholars similarly contend that changes in sentencing policy - and not changes in crime - fueled the growing use of imprisonment in the United States. David Garland, for example, maintains that “America did not collectively decide to get into the business of mass imprisonment.”<sup>10</sup> Instead, mass imprisonment arose as the outcome of determinate sentencing structures, the war against drugs, mandatory sentencing, “truth in sentencing,” the emergence of private corrections, and the political events and calculations that made everyone tough on crime. These developments built on one another and produced the flow of prisoners into custody.<sup>11</sup>

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<sup>5</sup> Bureau of Justice Statistics, 2016; Garland, 2001, p. 5

<sup>6</sup> Austin and Irwin, 2001 p. 1

<sup>7</sup> Zimring, 2001

<sup>8</sup> Zimring, 2001, p. 162

<sup>9</sup> Zimring, 2001, p. 162

<sup>10</sup> Garland, 2001, p. 6

<sup>11</sup> Garland, 2001, p. 6

<sup>12</sup> Mauer, 2001, p. 11

Marc Mauer of The Sentencing Project asserts that “the impact of these sentencing changes on prison populations has been dramatic, and far outweighs any change in crime rates as a contributing factor.”<sup>12</sup> This was confirmed by a methodologically rigorous analysis of growth in the prison population from 1980 to 1996. Al Blumstein and Allen Beck (1999) concluded that 88 percent of the tripling of the prison population could be explained by changes in the imposition of punishment: 51 percent of that increase was due to a greater likelihood of incarceration following conviction and 37 percent could be attributed to longer prison sentences. By contrast, changes in the crime rate explained only 12 percent of the growth in the prison population during this time period.

The United States Sentencing Commission reached the same conclusion regarding the growth of the federal prison population. The commission noted: “The changes in sentencing policy occurring since the mid-1980s – both the increasing proportion of offenders receiving prison time and the average length of time served – have been a dominant factor contributing to the growth in the federal prison population.”<sup>13</sup>

Advocates of earlier sentencing reforms had believed that sentencing guidelines, mandatory minimum sentences, “three-strikes,” and “truth-in-sentencing” laws would result in more punitive, more effective and fairer sentencing outcomes. Although the evidence is mixed, it does appear that sentences are more punitive than they were in the past.

The movement away from indeterminate sentencing and the rehabilitative ideal to determinate sentencing and an emphasis on “just deserts” – coupled with laws mandating long prison terms – have resulted in harsher sentences. Thus offenders convicted of felonies face a greater likelihood of incarceration and longer prison sentences than they did in the “pre-reform” era. These changes, in turn, have led to dramatic increases in the nation’s prison population.

### **Sentencing and Incarceration in Arizona**

Judges in Arizona impose sentences using the Arizona sentencing guidelines, which base sentences on two factors: whether the offense is a dangerous or non-dangerous felony and whether the offender is a first or a repeat offender.

Dangerous felony charges are serious, violent or aggravated offenses including murder, manslaughter, aggravated assault, sexual assault, sexual conduct with a child under age 13, dangerous crimes against children, arson of an occupied structure, armed robbery, burglary in the first degree, kidnapping and child prostitution. Separate sentencing tables are provided for first offenders, offenders with one or two historical priors and offenders with prior convictions for one or more dangerous offenses. Each sentencing table includes a minimum, presumptive and maximum sentence (or, in the case of repeat dangerous offenders, a minimum, maximum and increased maximum sentence).

For example, a first offender convicted of a class 2 dangerous offense could face a minimum sentence of seven years, a presumptive sentence of 10.5 years, and a maximum sentence of 21 years. By contrast, an offender convicted of a class 2 dangerous offense who had previously been convicted of two or more class 2 dangerous offenses would be facing a minimum sentence of 21 years, a presumptive sentence of 28 years, and a maximum sentence of 35 years.

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<sup>13</sup> United States Sentencing Commission, 2004, p. 76

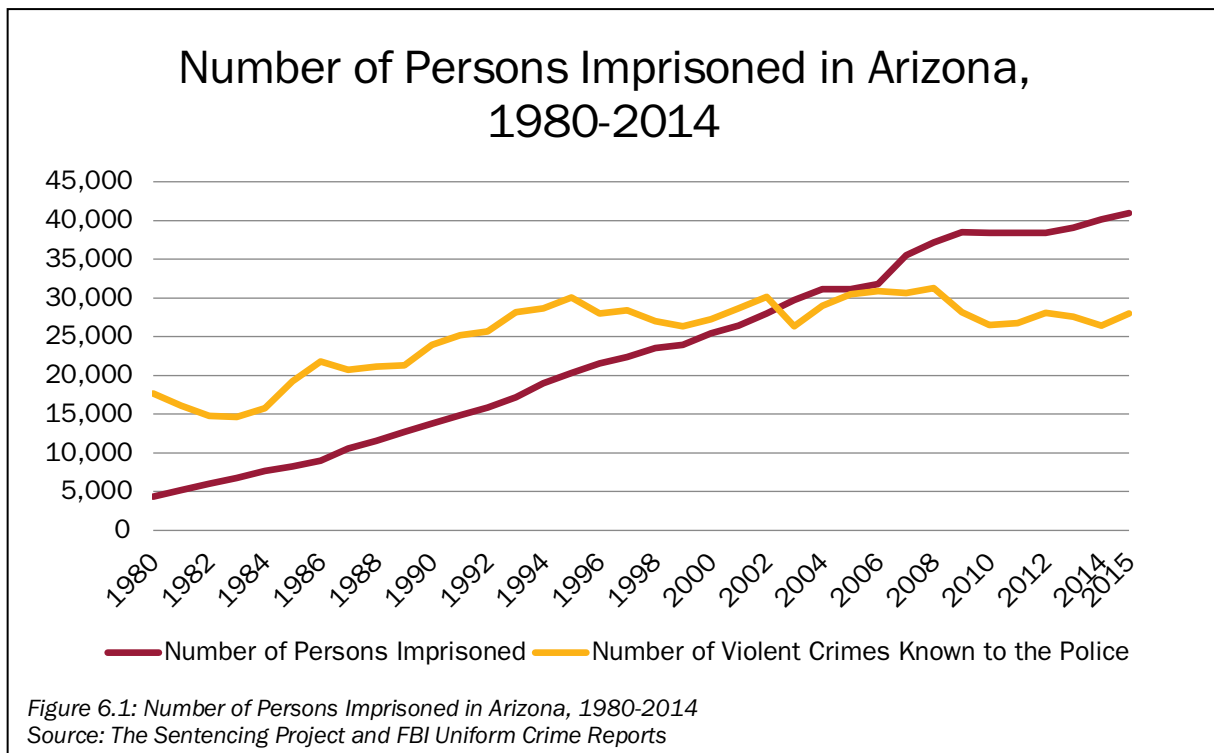
The sentencing procedures for offenders convicted of non-dangerous felonies are somewhat different. Although these offenses, like dangerous felonies, are categorized by the class of the offense and by the offender’s criminal history, the sentencing tables provide a mitigated and aggravated sentence in addition to the minimum, presumptive and maximum sentences.

As an example, a first offender convicted of a non-dangerous class 2 felony would be facing a minimum sentence of four years, a presumptive sentence of five years, and a maximum sentence of 10 years. If the judge finds that there are at least two mitigating circumstances (e.g., the defendant’s youth, the defendant played a minor role in the crime, the defendant’s capacity to understand that what he or she did was wrong, whether the defendant was under duress at the time of the crime), the sentence can be reduced below the minimum sentence.

Similarly, if there are at least two aggravating factors (e.g., the defendant had an accomplice, the defendant took or damaged property, the defendant used or threatened to use a deadly weapon, the crime was committed in a heinous, cruel or depraved manner), the judge can increase the sentence above the recommended maximum sentence. In addition, all first-time, non-dangerous felony offenders are eligible for probation.

Arizona has a “truth-in-sentencing” statute. Passed in 1993, the statute requires that offenders serve 85 percent of the sentence imposed by the judge before being eligible for discretionary release.

According to The Sentencing Project, Arizona’s incarceration rate is the forth-highest in the United States. In 2016 it was 585 per 100,000 population, compared to a rate of 450 per 100,000 for the United States as a whole. There were 40,952 persons imprisoned in Arizona in 2015, including 1,685 (3.9 percent of the prison population) who were serving life sentences and 504 (1.2 percent of the prison population) who were serving life sentences with no possibility of parole.



The incarceration rate varied by race/ethnicity. The rate was 444 for Whites, 842 for Hispanics, and 2,126 for African Americans. The ratio of the Hispanic rate to the White rate was 1.9:1 and the ratio of the African American rate to the White rate was 4.8:1. Stated another way, the incarceration rate for Hispanics was about twice the rate for Whites and the incarceration rate for African Americans was almost five times the rate for Whites.

As shown in Figure 6.1, the number of persons imprisoned in Arizona increased dramatically in the past three and half decades; the number increased from 4,360 in 1980 to 40,952 in 2015, an increase of more than 900 percent. In 2015, there also were 76,005 persons on probation in Arizona. Figure 6.1 also displays the number of violent crimes (i.e., murder/manslaughter, rape, robbery and assault) known to the police during the relevant time period. As these data demonstrate, although the number of violent crimes has been relatively stable since 1990, the number of persons incarcerated has continued to increase.

### 21st Century Backlash?

In 1996, Michael Tonry, a law professor at the University of Minnesota and a staunch critic of mandatory penalties, predicted that “sooner or later, the combination of chronic prison overcrowding, budgetary crises and a changed professional climate will make more public officials willing to pay attention to what we have long known about mandatory penalties.”<sup>14</sup> By the late 1990s, it appeared that Tonry was correct.

Prison populations continued to grow even as the crime rate declined, and mandatory minimum sentencing statutes came under increasing criticism. In July 1998, Michigan Governor John Engler signed a law reforming Michigan’s “650 Lifer Law.” Under the old law, anyone convicted of possessing, delivering or intending to deliver more than 650 grams of cocaine or heroin received a mandatory life sentence without the possibility of parole. The new law requires a sentence of “life or any term of years, not less than 20” for future offenders. A companion bill made the change applicable to offenders sentenced under the old law.

In February 1999, DeJonna Young became the first person released from prison as a result of the legal changes. She had been sentenced to life in prison without parole in 1979 after she and her boyfriend were stopped by the police, who found 3 pounds of heroin in her car. Young, who was 24 at the time of her arrest, maintained that she didn’t know the drugs were in her car.

New York’s draconian Rockefeller Drug Laws also came under attack. In early 2001, New York Governor George Pataki recommended shorter mandatory terms, treatment instead of incarceration in some cases, and enhanced sentencing discretion for judges. Although state legislators were generally supportive of the governor’s recommendations, the New York State District Attorneys Association came out against the changes. The president of the association stated, “We can’t live with a system that takes out of prosecutors’ hands the right to send predatory drug dealers to prison.”<sup>15</sup>

Notwithstanding such opposition, in 2004 Governor Pataki signed the Drug Law Reform Act, which replaced the indeterminate sentences required by the Rockefeller Drug Laws with determinate sentences, reduced mandatory minimum sentences for non-violent drug offenders and for first-time offenders convicted of the most serious drug charges. The statute also allowed offenders serving life sentences to apply for re-sentencing.

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<sup>14</sup> Tonry, 1996, p.135

<sup>15</sup> Who’s Defending Rockefeller Drug Laws, 2001

These attacks on mandatory minimums, coupled with the spread of drug courts and the increasing emphasis on drug treatment rather than incarceration, suggest that state and federal officials are willing to rethink mandatory minimum sentencing statutes, particularly for nonviolent, low-level drug offenders. Although it is unlikely that mandatory penalties and truth-in-sentencing laws will be repealed, there appears to be growing consensus that reform is needed.

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# VULNERABLE POPULATIONS

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## Key Points:

- 1 in 10 prisoners in Arizona is considered elderly.
- Inmates begin to face the problems of the elderly at an earlier age than the general population.
- More than a quarter of inmates suffer from mental illness.
- Many mentally ill inmates do not receive treatment while in prison.
- Evidence suggest that LGBT people are much more likely to be incarcerated than the general population.
- LGBT inmates are more likely to be victimized while in prison.
- Ninety percent of female inmates experienced physical or sexual violence prior to prison.
- Offenders with developmental disabilities, chronic illnesses, and substance abuse issues present special difficulties both while in prison and when making the transition back to society upon release.

Most Arizonans are unlikely to feel much sympathy for prison inmates. At the same time, few would deny that prison is an unhealthy, oppressive and often dangerous place for virtually all inmates. But what may be less apparent to outsiders is that certain groups within general prison population face even greater challenges. These include a greater risk of assault, theft, extortion and neglect of serious medical needs. Any of these factors can severely damage – or further damage – an inmate’s mental, emotional or physical well-being. This can have a long-lasting impact on all of society since some 95 percent of all prison inmates eventually return to the community – currently 1,000 a month in Arizona – after serving an average of only two years behind bars.

## Elderly Offenders

In Arizona, 1 in 10 prisoners are elderly.<sup>1</sup> Among non-incarcerated populations, 65 and older is considered elderly. However, among incarcerated populations, 55 and older is considered elderly, due to prisoners’ higher incidence of poor health because of various socioeconomic and risk factors.<sup>2</sup> Elderly prisoners are more expensive to house, are more likely to be victimized by other prisoners, and tend to struggle with daily activities in prison due to physical or cognitive limitations, making them vulnerable to increased punishment by prison staff.

When prisons and jails across the United States were designed, the potential needs of elderly prisoners were not taken into consideration. Since prisons also were not designed to accommodate inmates with mobility issues, elderly prisoners may struggle with daily activities like climbing to a top bunk or going up and down stairs that lack handrails – making them prone to falls and injury.<sup>3,4</sup>

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<sup>1</sup> Arizona Department of Corrections. (August 2017). *Corrections at a Glance*. Retrieved from: <https://corrections.az.gov/sites/default/files/REPORTS/CAG/2017/cagaug17.pdf>

<sup>2</sup> Ollove, M. (2016, March 17). Elderly Inmates Burden State Prisons. *The Pew Charitable Trusts*. Retrieved from: <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/03/17/elderly-inmates-burden-state-prisons>

Many elderly prisoners also have cognitive disorders. A study of Texas prisoners found that 40 percent of prisoners over 55 suffered from a cognitive disorder.<sup>5</sup> When an inmate suffers from a cognitive disorder or has mobility issues, they often have difficulty in “prison activities of daily living,” which include being able to drop to the floor for alarms or stand for headcounts by prison staff.<sup>6</sup> When an inmate fails to obey a prison procedure due to a physical or cognitive ailment, it can be misunderstood by prison staff as insubordination. Few prison staff receive training on how to recognize and deal with conditions such as cognitive disorders.<sup>7</sup> Without training, prison staff can view those with a cognitive disorders or physical ailments as breaking prison rules, leaving prisoners vulnerable to additional punishment.<sup>8</sup>

Elderly prisoners and those with dementia are also vulnerable to being assaulted by other inmates.<sup>9</sup> As a result, they will sometimes end up segregated from the rest of the population,<sup>10</sup> which itself can cause further stress for a prisoner with a cognitive disorder.

Some states have created facilities within prisons to accommodate their elderly prisoners. For example, the Texas Department of Criminal Justice has designated geriatric units within some of their prisons, giving inmates additional time to dress, eat, and shower.<sup>11</sup> The Missouri Department of Corrections has a unit for elderly prisoners, with no top bunks and special assistance with meals.<sup>12</sup> But such units within prisons are rare. Some states have instead contracted with private nursing homes to care for elderly inmates, who are housed outside the walls but remain in state custody.<sup>13</sup> Such arrangements, however, can drive up the costs of housing the elderly, chiefly due to the need for additional staff to meet elderly prisoners’ needs.<sup>14</sup> A 2012 ACLU report found that it cost \$34,135 per year to house an average prisoner, but \$68,270 per year to house a prisoner aged 50 and older.<sup>15</sup>

## Mentally Ill Offenders

Mental disorders are common in most prisons. In Arizona, 27 percent of prisoners have a moderate to high level of mental illness.<sup>16</sup> In a 2009 study in Texas, the state with the largest prison population, 15 percent

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<sup>3</sup> Human Rights Watch. (2012, January 27). *Old Behind Bars: The Aging Prison Population in the United States*. Retrieved from: <https://www.hrw.org/report/2012/01/27/old-behind-bars/aging-prison-population-united-states>

<sup>4</sup> Williams, B. A., Goodwin, J. S., Baillargeon, J., Ahalt, C., & Walter, L. C. (2012). Addressing the Aging Crisis in U.S. Criminal Justice Healthcare. *Journal of the American Geriatrics Society*, 60(6), 1150-1156. <http://doi.org/10.1111/j.1532-5415.2012.03962.x>

<sup>5</sup> Williams, B. A., Baillargeon, J. G., Lindquist, K., Walter, L. C., Covinsky, K. E., Whitson, H. E., & Steinman, M. A. (2010). Medication Prescribing Practices for Older Prisoners in the Texas Prison System. *American Journal of Public Health*, 100(4), 756-761. <http://doi.org/10.2105/AJPH.2008.154591>

<sup>6</sup> Williams, B., Lindquist, K., Sudore, R., Strupp, H., Willmott, D., & Walter, L. (2006). Being Old and Doing Time: Functional Impairment and Adverse Experiences of Geriatric Female Prisoners. *Journal of the American Geriatrics Society*, 54(4), 702-707.

<sup>7</sup> American Civil Liberties Union. (June 2012). At America’s Expense: The Mass Incarceration of the Elderly. Retrieved from: [https://www.aclu.org/files/assets/elderlyprisonreport\\_20120613\\_1.pdf](https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf)

<sup>8</sup> Maschi, T., Kwak, J., Ko, E., & Morrissey, M. (2012). Forget Me Not: Dementia in Prison. *The Gerontologist*, 52(4), 441-451.

<sup>9</sup> Williams, B., Lindquist, K., Sudore, R., Strupp, H., Willmott, D., & Walter, L. (2006). Being Old and Doing Time: Functional Impairment and Adverse Experiences of Geriatric Female Prisoners. *Journal of the American Geriatrics Society*, 54(4), 702-707.

<sup>10</sup> Human Rights Watch. (2012, January 27). *Old Behind Bars: The Aging Prison Population in the United States*. Retrieved from: <https://www.hrw.org/report/2012/01/27/old-behind-bars/aging-prison-population-united-states>

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Ollove, M. (2016, March 17). Elderly Inmates Burden State Prisons. *The Pew Charitable Trusts*. Retrieved from:

<http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/03/17/elderly-inmates-burden-state-prisons>

<sup>14</sup> American Civil Liberties Union. (June 2012). At America’s Expense: The Mass Incarceration of the Elderly. Retrieved from: [https://www.aclu.org/files/assets/elderlyprisonreport\\_20120613\\_1.pdf](https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf)

<sup>15</sup> *Id.*

of incarcerated men and 31 percent of women were found to be mentally ill.<sup>17</sup> Like elderly populations, mentally ill inmates also have a higher risk of victimization in prison, and display behaviors that can make them more susceptible to punishment by prison staff.

The downsizing or closure of regular psychiatric hospitals has shrunk the overall number of available psychiatric beds, which can pressure remaining hospitals to discharge patients who have not received sufficient treatment. If a mentally ill individual is released but continues to display bizarre or aggressive behavior, he or she may be arrested. This can compound the problem by sending such individuals to jail or prison instead of to treatment.<sup>18</sup> While incarcerated, a substantial portion of prison inmates who need mental health treatment will not receive it.<sup>19</sup>

While imprisoned, mentally ill individuals, especially those not receiving adequate treatment, may continue to exhibit behavior perceived as disruptive or aggressive. This often leads to conflict with staff, resulting in the prisoner's punishment for rule violations.<sup>20</sup> This results in mentally ill prisoners being disproportionately represented among prisoners in segregation or solitary confinement for rule infractions. In some prisons, mentally ill prisoners can still be found guilty of a rule infraction, even if their offense is attributed to their mental illness.<sup>21</sup> Punishment can also include denial of therapy or other prison activities.<sup>22,23</sup>

### LGBT Offenders

Research on lesbian, gay, bisexual and transgender (LGBT) populations in the criminal justice system is relatively limited. However, there is evidence that an LGBT adult is three times more likely to be incarcerated than the general US adult population.<sup>24</sup> A national survey of inmates in 2012 found that 9 percent of men in prison and 6 percent of men in jail identified as LGBT, while 42 percent of women in prison and 36 percent of women in jail did so.<sup>25</sup>

Like elderly and mentally ill prisoners, LGBT populations are more likely to be victimized in prison. When compared with heterosexual inmates, LGBT adult inmates are twice as likely to be sexually victimized by other inmates.<sup>26</sup> As a result, safety concerns may cause them to forgo useful activities, such as therapy. Even LGBT inmates who want to access resources like therapy and education face prison managers who are often reluctant to let them go due to safety concerns.<sup>27</sup>

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<sup>16</sup> Arizona Department of Corrections. (August 2017). *Corrections at a Glance*. Retrieved from:

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<sup>17</sup> Steadman, H. J., Osher, F. C., Robbins, P. C., Case, B., & Samuels, S. (2009). Prevalence of serious mental illness among jail inmates. *Psychiatric services*, 60(6), 761-765.

<sup>18</sup> Lamb, H. R., & Weinberger, L. E. (2005). The shift of psychiatric inpatient care from hospitals to jails and prisons. *Journal of the American Academy of Psychiatry and the Law Online*, 33(4), 529-534.

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<sup>21</sup> Fellner, J. (2006). corrections quandary: Mental illness and prison rules. *Harvard Civil Rights-Civil Liberties Law Review*, 41(2), 391-412.

<sup>22</sup> *Id.*

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<sup>24</sup> Meyer, Ilan H. (2017). Incarceration Rates and Traits of Sexual Minorities in the United States: National Inmate Survey, 2011-2012. *American Journal of Public Health*, 107(2), 267-274.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

Like their adult counterparts, LGBT youth are more likely to be incarcerated than heterosexual or “straight” youth.<sup>28</sup> A study published in the *Journal of Adolescent Research* demonstrated the mechanism for how this can happen. LGBT youths are at a higher risk than straight youths for being victimized at school.<sup>29</sup> If LGBT youths defend themselves, it can lead to punishment that results in arrest or incarceration, suggesting LGBT youth are particularly vulnerable to the so-called “school to prison pipeline.”<sup>30</sup>

## Youth Offenders

Arizonans become legal adults at age 18; prisoners aged 18 to 24 make up 11 percent of the prison population.<sup>31</sup> These young prisoners in adult prisons can be seen as “easy” targets for victimization by other inmates.

In Arizona, offenders under 18 are dealt with by a separate system of courts, prisons and probation officers. Contrary to the trend among adult offenders, the number of incarcerated juveniles has steadily declined, decreasing from 446 in 2012 to 159 in 2016.<sup>32</sup> In Arizona and other states, there has been a shift from incarcerating juveniles to treating them in their communities. This shift has grown out of research showing how incarceration has a negative effect on young people’s development,<sup>33</sup> and increases their likelihood of being incarcerated as adults.<sup>34</sup>

Some advocates have suggested moving the “adult” incarceration age to 21, based on research demonstrating that young adult brains more closely resemble those of teenagers than adults.<sup>35</sup> Still, those incarcerated in juvenile facilities are more vulnerable to sexual victimization than adult inmates in adult prisons. In a national study conducted from 2011 to 2012, 9.5 percent of those incarcerated in juvenile facilities reported sexual victimization, while only 4 percent of adults in prisons and 3.2 percent in jail, did so.<sup>36</sup>

Youth who are also people of color are more likely than White youth to interact with the juvenile justice system. Students of color are more likely to be suspended, expelled and experience school-based arrests.<sup>37</sup> African American and Hispanic students make up 42 percent of students nationwide, but account for 72 percent of youth arrested for school-related offenses.<sup>38</sup> A study done in Arizona shows that Black, Latino and American Indian youth are more likely to be detained than White youth.<sup>39</sup>

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<sup>28</sup> Wilson, B., Jordan, S., Meyer, I., Flores, A., Stemple, L., & Herman, J. (2017). Disproportionality and Disparities among Sexual Minority Youth in Custody. *Journal of Youth and Adolescence*, 46(7), 1547-1561.

<sup>29</sup> Snapp, Shannon D., Hoenig, Jennifer M., Fields, Amanda, & Russell, Stephen T. (2015). Messy, Butch, and Queer: LGBTQ Youth and the School-to-Prison Pipeline. *Journal of Adolescent Research*, 30(1), 57-82.

<sup>30</sup> *Id.*

<sup>31</sup> Arizona Department of Corrections. (August 2017). *Corrections at a Glance*. Retrieved from: <https://corrections.az.gov/sites/default/files/REPORTS/CAG/2017/cagaug17.pdf>

<sup>32</sup> <https://adjc.az.gov/sites/default/files/media/annualreport16.pdf>

<sup>33</sup> Fazel, S., Doll, H., & Långström, N. (2008). Mental disorders among adolescents in juvenile detention and correctional facilities: a systematic review and metaregression analysis of 25 surveys. *Journal of the American Academy of Child & Adolescent Psychiatry*, 47(9), 1010-1019.

<sup>34</sup> Aizer, A., & Doyle Jr, J. J. (2015). Juvenile incarceration, human capital, and future crime: Evidence from randomly assigned judges. *The Quarterly Journal of Economics*, 130(2), 759-803.

<sup>35</sup> Somerville, L. (2016). Searching for Signatures of Brain Maturity: What Are We Searching For? *Neuron*, 92(6), 1164-1167.

<sup>36</sup> United States Department of Justice. (June 2017). *PREA Data Collection Activities*. Retrieved from: <https://www.bjs.gov/content/pub/pdf/pdca17.pdf>

<sup>37</sup> Mallett, Christopher A. “The school-to-prison pipeline: disproportionate impact on vulnerable children and adolescents.” *Education and urban society* 49.6 (2017): 563-592.

## Female Offenders

Women make up 10 percent of Arizona's prison population.<sup>40</sup> Nationally, women entering prison have higher rates of trauma, mental illness, domestic violence victimization, and sexual abuse than non-inmates. A 2012 study found that 90 percent of female inmates had experienced physical or sexual violence prior to entering prison.<sup>41</sup> Another study reported that 50 percent of incarcerated women reported being sexually or physically abused as children.<sup>42</sup> Due to this pathology, commonplace prison procedures like pat downs and searches can lead to women being re-traumatized.<sup>43</sup>

Due to such trauma – and to the fact that prisons are typically built to house men – women's needs are often overlooked. For example, women's reproductive and gynecological care often do not exist within the current prison model.<sup>44</sup> A 2017 study found that nearly a third (31 percent) of prisons do not have onsite OBGYN care.<sup>45</sup> This means many prisons must incur additional costs to send women offsite for care.<sup>46</sup>

Nor is treatment for women prisoners' mental health always available – even though they are twice as likely as male inmates to be mentally ill. Nearly a third of women prisoners (31 percent) are seriously mentally ill.<sup>47</sup>

## Offenders with Serious and Chronic Illness

Twelve percent of prisoners in Arizona have a serious or chronic illness.<sup>48</sup> Generally, chronically medical conditions are more prevalent among inmates than among non-incarcerated individuals.<sup>49</sup> For example, a 2010 study of Texas prisoners found that nearly a quarter of inmates had a chronic condition.<sup>50</sup>

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<sup>38</sup> Losen, D. L., Hewitt, D., & Toldson, I. (2014). Eliminating excessive and unfair discipline in schools: Policy recommendations for reducing disparities-Discipline disparities: A research-to-practice collaborative. Bloomington, IN: Center for Evaluation and Education Policy, The Equity Project at Indiana University

<sup>39</sup> Rodriguez, N. (2010). The Cumulative Effect of Race and Ethnicity in Juvenile Court Outcomes and Why Preadjudication Detention Matters. *The Journal of Research in Crime and Delinquency*, 47(3), 391-413.

<sup>40</sup> Arizona Department of Corrections. (August 2017). *Corrections at a Glance*. Retrieved from: <https://corrections.az.gov/sites/default/files/REPORTS/CAG/2017/cagaug17.pdf>

<sup>41</sup> Lynch, S. M., Fritch, A., & Heath, N. M. (2012). Looking beneath the surface: The nature of incarcerated women's experiences of interpersonal violence, treatment needs, and mental health. *Feminist Criminology*, 7(4), 381-400.

<sup>42</sup> McDaniels-Wilson, C., & Belknap, J. (2008). The Extensive Sexual Violation and Sexual Abuse Histories of Incarcerated Women. *Violence Against Women*, 14(10), 1090-1127.

<sup>43</sup> Moloney, Van Den Bergh, & Moller. (2009). Women in prison: The central issues of gender characteristics and trauma history. *Public Health*, 123(6), 426-430.

<sup>44</sup> *id.*

<sup>45</sup> Kelsey, C., Medel, M., Mullins, N., Dallaire, C., & Forestell, D. (2017). An Examination of Care Practices of Pregnant Women Incarcerated in Jail Facilities in the United States. *Maternal and Child Health Journal*, 21(6), 1260-1266.

<sup>46</sup> *id.*

<sup>47</sup> Steadman, H., Osher, F., Robbins, P., Case, B., & Samuels, S. (2009). Prevalence of serious mental illness among jail inmates. *Psychiatric Services (Washington, D.C.)*, 60(6), 761-5.

<sup>48</sup> Arizona Department of Corrections. (August 2017). *Corrections at a Glance*. Retrieved from: <https://corrections.az.gov/sites/default/files/REPORTS/CAG/2017/cagaug17.pdf>

<sup>49</sup> Binswanger, I., Krueger, P., & Steiner, J. (2009). Prevalence of chronic medical conditions among jail and prison inmates in the USA compared with the general population. *Journal of Epidemiology and Community Health*, 63(11), 912.

<sup>50</sup> Harzke, A., Baillargeon, J., Pruitt, J., Pulvino, G., Paar, S., & Kelley, L. (2010). Prevalence of Chronic Medical Conditions among Inmates in the Texas Prison System. *Journal of Urban Health*, 87(3), 486-503.



Those with serious and chronic illnesses are additionally vulnerable because many inmates do not receive a medical exam after intake. A national study done by the American Journal of Public Health reported that 68 percent of local jail inmates, and 20 percent of state prison inmates do not receive a medical exam while incarcerated.<sup>51</sup> Another barrier to medical care is the cost to inmates. In 35 states, including Arizona, state prisoners can be charged for each medical visit they make.<sup>52</sup> Payment can prove challenging for inmates who rely only on the small amount of money they make from their prison job.

### **Offenders with Substance Abuse Issues**

In Arizona, 78 percent of state prisoners have a moderate to intense need for substance abuse treatment.<sup>53</sup> Nationally, prisoners are 12 times more likely than adults in the general population to abuse substances or have a drug dependency.<sup>54</sup>

Once detained, such individuals may reveal their vulnerability even before they are charged with a crime. For example, someone addicted to opiates such as heroin can begin withdrawal symptoms within 6 to 8 hours and can experience the physical and mental pain of withdrawal while in jail, only to be released without charge.<sup>55</sup> Research shows that half of jails fail to use the recommended detoxification protocols like methadone or clonidine.<sup>56</sup>

Once incarcerated, prisoners with a history of substance abuse have limited options to get help. The most common form of treatment offered is drug and alcohol education, which is available in 74 percent of prisons. Fifty-five percent of prisons offer group counseling for substance abuse, but only up to 4 hours a week. Forty-six percent of prisons offer prisoners counseling for more than 5 hours a week.<sup>57</sup> Of the prisons that offered drug treatment services, 85 percent of services lasted less than 90 days.<sup>58</sup>

### **Offenders with Developmental Disability**

Developmental disabilities are defined by the Centers for Disease Control and Prevention as “a group of conditions due to an impairment in physical, learning, language, or behavior areas. These conditions which begin during the developmental period, may impact day-to-day functioning and usually last throughout a person’s lifetime.”

Nationally, nearly a third of the prison population in 2012 (32 percent) had at least one disability, compared to 11 percent of the general population.<sup>59</sup> Intellectual disabilities are also prevalent within prisons, comprising an estimated 4 percent to 10 percent of the national prison population, while making up 2 percent to 3 percent of the non-prison population.<sup>60</sup>

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<sup>51</sup> Wilper, A., Woolhandler, S., Boyd, J., Lasser, K., McCormick, D., Bor, D., & Himmelstein, D. (2009). The health and health care of US prisoners: Results of a nationwide survey. *American Journal of Public Health*, 99(4), 666-72.

<sup>52</sup> <https://www.brennancenter.org/states-pay-stay-charges>

<sup>53</sup> Arizona Department of Corrections. (2016). *Admissions, Releases, Confined Population Fact Sheet*. Retrieved from: [https://corrections.az.gov/sites/default/files/REPORTS/Inmate\\_Population/inmatepopfactsheet2016\\_063016-formatted.pdf](https://corrections.az.gov/sites/default/files/REPORTS/Inmate_Population/inmatepopfactsheet2016_063016-formatted.pdf)

<sup>54</sup> United States Department of Justice. (June 2017). *Drug Use, Dependence, and Abuse Among State Prisoners, and Jail Inmates, 2007-2009*. Retrieved from <https://www.bjs.gov/content/pub/pdf/dudaspji0709.pdf>

<sup>55</sup> Fiscella, K., Moore, A., Engerman, J., & Meldrum, S. (2005). Management of Opiate Detoxification in Jails. *Journal of Addictive Diseases*, 24(1), 61-71.

<sup>56</sup> *Id.*

<sup>57</sup> Taxman, F. S., Perdoni, M. L., & Harrison, L. D. (2007). Drug treatment services for adult offenders: The state of the state. *Journal of substance abuse treatment*, 32(3), 239-254.

<sup>58</sup> *Id.*

<sup>59</sup> Bureau of Justice Statistics. (2015). *Disabilities Among Prison and Jail Inmates, 2011-12*.

<https://www.bjs.gov/content/pub/pdf/dpji1112.pdf>

Individuals with developmental disabilities can suffer from enhanced vulnerability from their first contact with the system. Many police officers, prosecutors, judges and other figures lack training in recognizing disabilities, rendering the disabled vulnerable to incarceration without officials considering their disability.<sup>61</sup>

For example, a person with an intellectual disability may be easily manipulated to commit a crime at the suggestion of others. They may also be more willing to give in to pressure during interrogation and confess to something they didn't do. The behavior of an individual with an intellectual disability also can make them vulnerable during their own prosecution, where they often have memory problems, are prone to suggestibility and have trouble understanding court procedures and legal consequences.<sup>62</sup>

Once incarcerated, inmates with developmental disabilities – similarly to those with mental illness – tend to have trouble with daily prison activities and following directions, which makes them vulnerable to punishment. Prisoners with intellectual disabilities also are vulnerable to losing life skills like the ability to communicate and maintain emotional stability.<sup>63</sup>

### Sex Offenders

Sex offenders, especially those convicted of offenses against children, form one of the most abhorred populations behind bars. They are thus vulnerable to manipulation by corrections officers, as well as other prisoners. They may use an inmate's sex offender status to pressure him into breaking rules or, conversely, to follow prison rules. Sex offenders may also be subject to extortion in exchange for others' silence about their status.<sup>64</sup> In some cases, officers have threatened to broadcast that an inmate was a sex offender – even if untrue – to get the prisoner to comply with their demands.<sup>65</sup>

Sex offenders themselves are well aware of their vulnerabilities. It has been noted that sex offenders will try to “cover” their criminal history, including changing their appearance to not appear like the “typical sex offender.” One researcher reported on a prisoner who attempted to look like a biker, instead of a middle aged man, to avert suspicion about why he was incarcerated.<sup>66</sup> Scheming to “pass” as a non-sex offender hangs over the heads of these prisoners throughout their sentence.

There are nine federal facilities across the nation, including one in Arizona, with designated sex offender-specific facilities. The Federal Bureau of Prisons recognizes sex offenders as a vulnerable population, and provides them specialized treatment.<sup>67</sup>

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<sup>60</sup> Petersilia, J (2000) Doing Justice? Criminal offenders with Developmental Disabilities. CPRC Brief. California Policy Research Center, University of California. Retrieved from: <https://files.eric.ed.gov/fulltext/ED465905.pdf>

<sup>61</sup> Close, D., & Walker, H. (2010). Navigating the Criminal Justice System for Youth and Adults with Developmental Disabilities: Role of the Forensic Special Educator. *The Journal of Behavior Analysis of Offender and Victim Treatment and Prevention*, 2(2), 74-103.

<sup>62</sup> Parton, Felicity, Day, Andrew, & White, Jack. (2004). An empirical study on the relationship between intellectual ability and an understanding of the legal process in male remand prisoners. *Psychiatry, Psychology and Law*, 11(1), 96-109.

<sup>63</sup> Reingle Gonzalez, J., Cannell, M., Jetelina, K., & Froehlich-Grobe, K. (2016). Disproportionate Prevalence Rate of Prisoners With Disabilities. *Journal of Disability Policy Studies*, 27(2), 106-115.

<sup>64</sup> Schwaebe, C. (2005). Learning to pass: Sex offenders' strategies for establishing a viable identity in the prison general population. *International Journal of Offender Therapy and Comparative Criminology*, 49(6), 614-625.

<sup>65</sup> Ricciardelli, R., & Spencer, D. (2014). Exposing 'Sex' Offenders. *British Journal Of Criminology*, 54(3), 428-448.

<sup>66</sup> *Id.*

## People of Color

As of 2017, 59 percent of Arizona's incarcerated population consisted of people of color. Forty percent of Arizona's prison population is Hispanic, 14 percent is African American, 5 percent is Native American, and 39 percent is White.<sup>68</sup>

Nationally, the prison population over-represents African American men.<sup>69</sup> In fact, one in every eight African American men between the ages of 25 and 34 are in prison.<sup>70</sup> Data from 2015 Justice Department data reports that 745 of every 100,000 Black adults are imprisoned.<sup>71</sup> Nationally, Hispanic men are also overrepresented within incarcerated populations<sup>72</sup> – 820 out of every 100,000 Hispanics are incarcerated, while 312 of every 100,000 Whites are behind bars.<sup>73</sup>

While incarcerated, people of color are more susceptible to victimization and assault by staff.<sup>74</sup> Prisoners of color, especially African Americans and Hispanics, are likely to have poorer health than their White counterparts. A national study of inmates found that African American inmates had higher rates of chronic health conditions than White inmates.<sup>75</sup> Black and Latino male inmates were twice as likely to have HIV, compared to White inmates. Incarcerated women of color were six times more likely to be HIV positive when compared to their White peers.<sup>76</sup>

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<sup>67</sup> Federal Bureau of Prisons. *Sex Offenders*. Retrieved from

[https://www.bop.gov/inmates/custody\\_and\\_care/sex\\_offenders.jsp](https://www.bop.gov/inmates/custody_and_care/sex_offenders.jsp)

<sup>68</sup> Arizona Department of Corrections. (August 2017). *Corrections at a Glance*. Retrieved from:

<https://corrections.az.gov/sites/default/files/REPORTS/CAG/2017/cagaug17.pdf>

<sup>69</sup> Alexander, M. 2010. *The New Jim Crow*, New York, NY: The New Press.

<sup>70</sup> Brewer, R., & Heitzeg, N. (2008). The Racialization of Crime and Punishment. *The American Behavioral Scientist*, 51(5), 625-644.

<sup>71</sup> Bureau of Justice Statistics. (2015.) *Prisoners in 2015*. Retrieved from: <https://www.bjs.gov/content/pub/pdf/p15.pdf>

<sup>72</sup> Shepherd, Jennifer L., Fandel, Johnna, Esposito, Rashaun, Pace, Elizabeth, Banks, Mekka, & Denious, Jean E. (2012). Multidimensionality Matters: An Effective HIV, Hepatitis C, and Substance-Use Prevention Program for Minority Parolees. *Journal of Offender Rehabilitation*, 51(4), 199-221.

<sup>73</sup> Bureau of Justice Statistics. (2015.) *Prisoners in 2015*. Retrieved from: <https://www.bjs.gov/content/pub/pdf/p15.pdf>

<sup>74</sup> Wolff, Nancy. (2009). Understanding Physical Victimization Inside Prisons: Factors that Predict Risk. *JQ: Justice Quarterly*, 26(3), 445-476.

<sup>75</sup> Harzke, A. J., Baillargeon, J. G., Pruitt, S. L., Pulvino, J. S., Paar, D. P., & Kelley, M. F. (2010). Prevalence of Chronic Medical Conditions among Inmates in the Texas Prison System. *Journal of Urban Health : Bulletin of the New York Academy of Medicine*, 87(3), 486-503. <http://doi.org/10.1007/s11524-010-9448-2>

<sup>76</sup> Maruschak, L. M. (2006). HIV in prisons, 2004 (NCJ 213897). Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

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# RE-ENTRY AND RECIDIVISM

By Kevin Wright, Ph.D.

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## Key Points:

- Eighteen percent of those released returned to prison within six months.
- Arizona's three-year recidivism rate of 39 percent is lower than the national average of 50 percent.
- Those returning to society after prison often lack the resources to establish themselves in the outside world.
- Access to transportation, employment and health care may help reduce recidivism.



Nearly everyone sent to prison will one day return to the community. This means that understanding recidivism is of critical importance to members of that community. At the most basic level, recidivism can be defined as “the reversion of an individual to criminal behavior after he or she has been convicted of a prior offense, sentenced, and (presumably) corrected”.<sup>1</sup> Recidivism therefore requires that some sort of involvement with the criminal justice system has taken place, and that then the individual again comes into contact with the system after additional transgressions. Recidivism, in other words, is officially detected, repeat unlawful behavior.

Multiple measures of this behavior exist, including re-arrest, reconviction, and reimprisonment. Recidivism can include technical violations – acts that are otherwise not viewed as criminal, such as entering an establishment that serves alcohol – that can constitute breaches of contract for individuals on probation or parole release. Other factors can also drive the frequency of recidivism. More intensive supervision of released individuals could mean more opportunities for violations and the detection of violation. A longer time spent within the community could also mean more opportunities to recidivate. (It is often said that at least three years since release provides a good understanding of recidivism).

Recidivism is complicated, featuring different definitions, the combination of unlawful behavior with technical violations, varying levels of supervision and different follow-up periods. Recidivism becomes “a complex measure of criminal behavior combined with formal and informal policy and procedure mechanisms.”<sup>2</sup>

These complexities of recidivism are not trivial. For example, in a national study of over 400,000 formerly incarcerated individuals released across multiple states in 2005, it was determined that 18 percent of those released had returned to prison within 6 months. In the same study, it was determined that 77 percent of

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<sup>1</sup> Maltz, 1984: 1

<sup>2</sup> Wilson, 2005: 494

those released had been rearrested within 5 years.<sup>3</sup> Both numbers are correct and both are valid indicators. But it is critically important to know exactly what is being measured (and what is not) to fully comprehend recidivism.<sup>4</sup>

What is the extent of recidivism in the United States? The national study cited above by the U.S. Bureau of Justice Statistics (BJS) documented 404,638 formerly incarcerated individuals from 30 states for a period of five years, from 2005-2010. Within that five years, over three-quarters (77 percent) of the released individuals had been rearrested and over half (55 percent) had a parole or probation violation or a new offense that resulted in reimprisonment.<sup>5</sup>

The United States Sentencing Commission (2016) produced a report on 25,431 incarcerated individuals released from the federal prison system in 2005 with a follow-up period of eight years. Nearly half were rearrested, nearly one-third were re-convicted, and nearly one-quarter were re-imprisoned during that period.

A critical difference between this study and the BJS study is that the former also included individuals who were previously sentenced to only probation. These individuals had a re-arrest rate of 35 percent, while individuals sentenced to prison had a re-arrest rate of 53 percent. Further data are contained in a 2011 Pew Center on the States report entitled "State of Recidivism: The Revolving Door of America's Prisons." This provided aggregate recidivism rates between 2004 and 2007 for 33 states. The overall three-year recidivism rate, measured as return-to-prison, was 43 percent. This rate masked wide variation among states, with six states reporting recidivism rates above 50 percent (led by Minnesota's 61 percent) and five states reporting recidivism rates under 30 percent (led by Oregon's 23 percent).

Criminologists have long focused on identifying and targeting risk factors that might increase an individual's likelihood of recidivism. These individual-level risks are classified into two categories: static and dynamic.<sup>6</sup>

*Static risk* factors are features of the person that cannot be changed, such as age, race or criminal record. Research has consistently found that younger individuals, males, minorities and those with a criminal history have a higher risk for recidivism.<sup>7</sup>

*Dynamic risk* factors, on the other hand, are characteristics that can be changed and therefore make appropriate targets for treatment. These include antisocial values, beliefs and behaviors, which sometimes are referred to as "criminogenic needs"<sup>8</sup> Consideration of static and dynamic risk factors can begin to suggest what programs are most appropriate for certain individuals in order to reduce recidivism. But to truly understand recidivism - and how to potentially reduce it - it must be learned why people recidivate.

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<sup>3</sup> Durose, Cooper, and Snyder, 2014

<sup>4</sup> See Wright and Khade, 2018 for more detailed discussion

<sup>5</sup> Durose et al., 2014

<sup>6</sup> Bonta and Andrews, 2017

<sup>7</sup> Benedict, Huff-Corzine, and Corzine 1998; Gainey, Payne, and O'Toole 2000; Gendreau, Little, and Goggin 1996; Hepburn and Albonetti, 1994; Listwan et al., 2003

<sup>8</sup> Andrews et al. 1990



## Why Do People Recidivate?

The reasons that people continue to engage in crime are as varied as the reasons people commit crimes in the first place. A criminology textbook may include everything from biological theories of crime to psychological theories to sociological theories; from individual theories of crime to neighborhood theories to nation-state theories; and from social bond theories to social disorganization theories to social learning, to social support theories. Then there are factors such as strain, labeling, poverty, genes, masculinity, self-control, inequality, personality - the list goes on. For the general public, the reason is usually simpler and perhaps a bit obvious: Criminals choose to engage in crime.

Most criminologists tend to be wary of any explanation that whittles criminal behavior down to a simple choice - a rational, cost/benefit analysis of whether to forge that check, inject that heroin, or beat up that former associate. Part of this reluctance is that rational-choice explanations of criminal behavior by themselves can lead to punitive policy prescriptions: All we need to do, this approach says, is make the costs of crime outweigh the benefits. Thus, increasing the likelihood of going to prison and for a longer time should dissuade most people from engaging in crime.

### Personal Insight

Ryan Nightenhelser has some firm opinions about the challenges facing inmates returning from Arizona prisons, and counts himself among the lucky ones.

"[Housing] support plays a major role in [a released inmate's] success," he said. "It's a huge thing if you have a friend or family member who will allow you to live with them for a while. Lucky for me, I did."

Nightenhelser noted that released inmates are given \$100 when they get out, "which pays for little more than your bus ticket." An ex-inmate who comes out with little or no money desperately needs housing. "At least if [released inmates] knew they had someplace to go when they first got out, they could focus on getting housing and a job."

Nightenhelser has both, and says he's determined to keep them. But the task is further complicated, he says, by the negative stereotypes of inmates held by the public. There certainly are people who deserve to be locked up, he says, but "what people don't know] is how small a percentage [of inmates] are violent or dangerous." Many, he says, are in on drug offenses ... "People think prisons are full of hard, tough guys just waiting to come out and commit more crimes," Nightenhelser says. "First-hand, I can tell you this isn't true."

But this line of thinking shows the limited value of the "crime as a choice" explanation. First, people who engage in crime do not always have the same set of legal, prosocial options available to them from which to choose. They often come from disadvantaged backgrounds marked by abuse and victimization, drug and alcohol addictions, and family instability. They have fewer opportunities for quality education, gainful employment or positive recreational outlets. They find themselves surrounded by crime and incarceration. Engaging in criminal behavior may be the easiest, most comfortable or only choice available to them.

The counter argument is that many people grow up in difficult situations yet refrain from criminal behavior. This is true, but leads to a second shortcoming of the "crime as choice" explanation: people who engage in crime do not always approach the decision-making process with a rational mindset.

A number of different factors can impact rationality, including mental illness, past victimization, and drug and alcohol addiction. More importantly, however, what is perceived as rational may be different for people who engage in crime as compared to those who do not. It may sound like a cliché, and perhaps a bit of a copout, but there is some truth to the idea that “crime is all they know.” If you surround yourself with family and friends who engage in criminal behavior, then you are likely to develop attitudes that support that behavior and “thinking errors” that prohibit you from considering the impact of your actions on yourself and others, as well as the potential legal ramifications of those actions.

Considering these two shortcomings together helps explain why prison is not much of a deterrent to people who engage in criminal behavior, and especially those who engage in repeat criminal behavior. It does not matter how long the prison sentence is or how vile the prison conditions may be, offenders give little consideration to the punishment aspects of a criminal act. To some, incarceration is a natural part of life, and to others it may even represent a badge of honor or rite of passage. Broadly speaking, people recidivate because 1) they have limited opportunities to obtain and sustain quality education, gainful employment, stable housing, as well as supportive professional and personal networks and relationships and, 2) they are rewarded for antisocial thinking and behavior instead of prosocial thinking and behavior, which may be influenced by prior victimization, mental illness or substance abuse.

A more direct approach to answering why people recidivate is to simply pose the question to people who are currently incarcerated. The challenge in doing this is that it may be difficult to establish the necessary rapport with incarcerated individuals that would allow for truthful responses to questions that pry at the most difficult aspects of their lives. To counter that obstacle, in the summer of 2017, researchers from Arizona State University (ASU) worked with incarcerated men to develop and implement a study that could overcome this critical obstacle. ASU faculty, graduate students and incarcerated men are part of a think tank called The Arizona Transformation Project (ATP),<sup>9</sup> which evolved out of the first Inside-Out Prison Exchange Program in Arizona in spring 2016.

The ATP developed interview questions in collaboration with the Governor’s Office Recidivism Reduction Project Team. Incarcerated members were trained in proper interviewing techniques and consent protocol, as required by ASU’s Institutional Review Board (IRB). The five incarcerated researchers completed 409 interviews in two months at the medium-security East Unit of the Arizona State Prison Complex at Florence. The report was shared with the Governor’s Office.<sup>10</sup> It is believed to be one of the first studies in the United States in which incarcerated men served as interviewers of other incarcerated men.

Early in the interview, the incarcerated men were asked: Why do you think most people come back to prison? Several themes emerged. The most prominent theme that emerged (44 percent of respondents) was that a lack of resources or programming contributed to recidivism. For example, one respondent said: *“Because they are not adequately prepared for reentry into society, because they have not made successful and dedicated transformation from their old lifestyle to one that would keep them out of prison.”*

A second theme was drug and alcohol use (27 percent of respondents), captured by the respondent who said: *“A lot of felons have serious drug addiction problems. ... When addicts get out, there aren’t any affordable quality treatment options.”*

The third most prominent theme among respondents was an inability to change thinking and behavior, or resorting to comfort. This was best captured by the respondent who said: *“Lack of education, skills, and a*

<sup>9</sup>See [www.a2transform.org](http://www.a2transform.org)

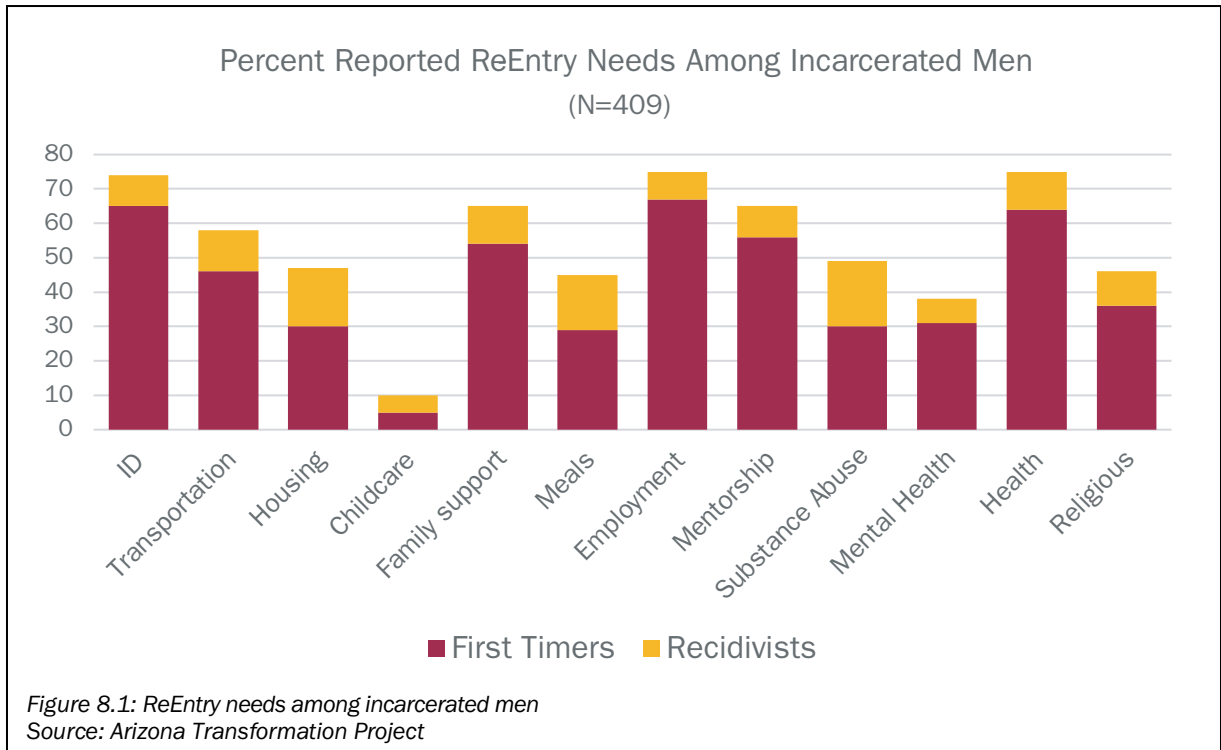
<sup>10</sup>Wright et al., 2017

*desire to succeed. They stay in here for a long time, get complacent and [there isn't] any real type of job training to teach them how to be successful. So, they revert back to crime (what they know) because they're unprepared for society. ... Prison isn't much of a deterrent anymore when someone isn't taught how to live."*

Other themes that emerged included lack of a support system/mentor (16 percent), lack of education (15 percent), money issues (14 percent), stigma (14 percent), and peers, neighborhood or family environment (12 percent).

Of the 409 men interviewed, 62 percent had been to prison before (recidivists). The men who had recidivated were different in important ways from those who had not. They were older (42 years versus 39 years), had more kids (2.5 versus 1.5), more minor kids (1.4 versus 0.8), fewer months served in prison (77 versus 123), fewer years still to serve in prison (4.8 versus 7.4), and had been employed on the outside for a shorter period of time (52 months versus 72 months). They also were more likely to have less than a GED (21 percent versus 17 percent) and to have been unemployed at time of arrest (48 percent versus 35 percent).

Importantly, they were also more likely to believe that they had a substance abuse problem (52 percent versus 35 percent) and were more likely to not know where they would live upon release (31 percent versus 17 percent). But most telling are their responses to questions that were asked regarding their perceived needs upon release. Recidivists were statistically significantly more likely to report needing assistance with obtaining identification, transportation, housing, childcare, family and friend support, meals, employment, mentorship, substance abuse, healthcare and religious services (see Figure 8.1).



Despite having served much longer sentences, and with much longer sentences still to serve, first-timers perceive their reentry needs to be less than that of recidivists. There are many plausible explanations for these differences. Given their experience, recidivists' perceptions of needs may be more rooted in reality. Should this be the case, prison first timers may be woefully underprepared for the challenges that lie ahead. It is also plausible that recidivists have been particularly negatively impacted by the experience of churning in and out of prison: Bridges have been burned, stigmas have been added and failures have accumulated.

Still other reasons could include the nature of the crime and the circumstances that led to their incarceration (whereas first timers may be in for longer sentences for violence that is not tied to deficits, need or addiction), substance abuse and mental illness, or challenges associated with criminal justice supervision. Whatever the reasons, recidivists seem to differ from non-recidivists. One recidivist summed his experience this way: *"Having a negative thought pattern from prison. Frustration and lack of opportunities. Not having the tools to deal with frustration of denials and roadblocks. So, all the negative thinking from prison kicked back in. And I go back to old ways. I started with [a] positive mind-set and that quickly faded away, leading to substance abuse. Substance abuse changes people so quickly, so you must avoid those frustrations and barriers."*

### Re-Entry and Recidivism in Arizona

How is Arizona doing when it comes to reentry and recidivism? The challenges here are similar to the challenges elsewhere, and significant strides have been made in the last few years to reduce recidivism in the state. As of November 2017, approximately 42,000 people were incarcerated in state prisons in Arizona.<sup>11</sup> At yearend 2015, Arizona had the fifth-highest incarceration rate in the nation (781 per 100,000 adults), behind only Louisiana, Oklahoma, Mississippi and Alabama. Approximately 14,000 people were released from Arizona prisons in 2015.<sup>12</sup>

Arizona's three year return-to-prison rate is 39.1 percent. This figure puts the state below the national average for the BJS cohort study reported above, 49.7 percent within 3 years,<sup>13</sup> and below the figure for the Pew state study reported above 43.3 percent within 3 years.<sup>14</sup> Although comparisons across states should always be done with caution, Arizona is decidedly average when it comes to recidivism – the Pew study puts Arizona between states like Minnesota (61.2 percent) and California (57.8 percent) and states like Wyoming (24.8 percent) and Oregon (22.8 percent). Importantly, however, approximately half of all of the people currently incarcerated in Arizona have served a prior term in prison (21,157).<sup>15</sup>

The reduction of recidivism has been a primary goal for Governor Doug Ducey's administration as represented by the Recidivism Reduction Project Breakthrough Team.<sup>16</sup> This project has the Arizona Department of Corrections (ADC) as the lead agency and includes additional agencies such as the Department of Economic Security, the Department of Housing, and the Department of Health Services. ADC has made a number of changes over the last few years with recidivism reduction in mind, including modifying conditions of confinement to make prisons less restrictive, training correctional officers on motivational interviewing techniques, and supplying cognitive behavioral therapy for high-risk individuals.

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<sup>11</sup> Ryan, 2017

<sup>12</sup> Carson and Anderson, 2016

<sup>13</sup> Durose et al., 2014

<sup>14</sup> Pew Center on the States, 2011

<sup>15</sup> Ryan, 2017

<sup>16</sup> See <https://ams.az.gov/protecting-our-communities>

ADC also has collaborated with some of the above agencies to introduce innovative approaches to recidivism reduction – most notably with the implementation of employment centers in three prisons. Prior to their release, eligible inmates can transfer to these units and receive assistance in employment searches from Department of Economic Security staff. Potential employers are invited to the centers for job fairs with the goal of having individuals released from prison with a job in hand.

Additional approaches to reducing recidivism include reentry centers to provide alternatives to re-incarceration, a partnership with Uber to provide transportation to released individuals, enrollment of incarcerated individuals within the Arizona Health Care Cost Containment System (AHCCCS), reentry coalitions designed to mobilize support for formerly incarcerated individuals within the community, and the development of new standards for halfway house quality. Each of these approaches will require evaluation to determine how well they reduce recidivism, but they are all steps in the right direction.

### **How to Reduce Recidivism**

Based on the above information, which is informed by scholars, currently incarcerated individuals, formerly incarcerated individuals, correctional administrators and staff, and other key stakeholders associated with recidivism reduction, the following elements could help to reduce recidivism.

#### **1. Replace the reward structure of incarcerated individuals**

Focus on rewarding good behavior rather than punishing bad behavior. Incentivize prosocial behavior on the inside that is expected on the outside: reward sobriety (e.g., clean UAs), and education, job, and programming performance (not only attendance or completion). Create bank accounts that allow people to save money toward their release and to visually see the savings.

#### **2. Create prosocial opportunities for formerly incarcerated individuals**

Time spent in legal activities means less time to spend in illegal activities. Work to increase education, employment, housing, and productive leisure opportunities. Do not just remove barriers (e.g., “Ban the Box”) – create pathways for formerly incarcerated individuals to be successful. Begin these processes while the individual is still incarcerated, and give special attention to the immediate transition period between prison and community re-entry.

#### **3. Distribute re-entry and recidivism efforts across multiple agencies and organizations**

Recidivism is not simply a problem for the Department of Corrections. Employment needs, health needs, mental health needs, substance abuse needs and housing needs all point to assistance required from other agencies and organizations.

#### **4. Recognize that people recidivate for a variety of reasons**

There never will be a magic-bullet program that works for everyone and reduces recidivism to a significant degree. Even the very best, gold standard cognitive behavioral therapy programs are difficult to scale up to reach a large population. Recidivism-reduction efforts should be multifaceted and address the many factors related to criminal behavior.

#### **5. Start re-entry on the first day of incarceration**

Re-entry programming often begins just a few months before re-entry and has to overcome the effects of years of incarceration. Instead, re-entry preparation should begin early, with individualized case plans from counselors and in-prison mentoring from those who have gone through the system.



## **6. Foster ties to the outside world within prison**

Nearly all prisoners are returning to society. Re-entry into society is a shock, and the unfamiliarity of interacting with people and institutions can promote recidivism. Opportunities for keeping prisoners connected to society, while still retaining the incapacitation effects of incarceration, include the Inside-Out Prison Exchange Program, parenting programs that allow family members into the institution so that skills can be practiced, work release, visitation with a focus on family reunification, mentorship programs, and job training.

## **7. Acknowledge victimization among people who are incarcerated**

The well-documented “victim/offender overlap” in criminology means that a significant portion of people who are incarcerated are also victims. They also often were children of incarcerated parents themselves. Women in prison in particular often have significant histories of abuse and victimization. Addressing these harms and traumas is critical toward successful re-entry.

## **8. Develop alternatives to re-incarceration**

Prison should be reserved for violent individuals who are a continued danger to themselves or society. Prison is more costly than community alternatives. It costs approximately \$24,300 to incarcerate one person per year in Arizona – \$66 a day. It costs approximately \$3,400 to supervise one person per year in the community in Arizona, or \$9 a day. Incarcerating older people is even more costly and their likelihood of reoffending declines significantly with age. Good quality transitional housing and reentry centers or increased supervision conditions may be better responses to recidivism.

## **9. Empower and reward correctional staff**

Correctional staff are often underpaid and overworked and, quite simply, undervalued. They are often expected to act as change agents to alter antisocial thinking and behaviors while simultaneously ensuring safety and security. Staff should be trained and provided the best resources available to accomplish these goals, and they should be incentivized to do their job well.

## **10. Anticipate setbacks**

Resist the urge to hold up individual examples as failures of the larger program or approach. High-profile negative instances can result in an otherwise successful program or policy being discarded.

The above list is certainly not exhaustive, and it generally avoids recommendations that would require significant legislative changes. It also does not explicitly address the especially pronounced impact of incarceration on the future prospects of youth, women, and racial and ethnic minorities. Arizona is making significant advancements in several of these areas, but it will take continued and additional support from community members to achieve sustained progress.

Nearly everyone in prison is coming back. It is time to acknowledge this fact and to give appropriate attention and resources to recidivism reduction in order to achieve public safety at a lower social and economic cost.

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# NATIVE AMERICAN CJS ISSUES

By Alexander Mallory  
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## Key Points:

- Crime on tribal lands involves a complex web of overlapping jurisdictions that changes with the severity of the crime and the nature of both victim and offender.
- In recent years, the Tribal Law and Order Act (TLOA) and the Violence Against Women Act (VAWA) have given tribes increased sentencing and jurisdiction over domestic violence.

## Background

Criminal matters arising in tribal lands can be especially complex and challenging. Three sovereigns (federal, state and tribal) share authority.<sup>1</sup> To determine jurisdiction, for example, a court must look to federal and tribal laws, treaties and U.S. Supreme Court cases.<sup>2</sup>

These jurisdictional challenges hinder effective law enforcement, which takes on added significance because Native Americans are victims of violent crime at least twice as often as other racial groups.<sup>3</sup> Seventy percent of these crimes are interracial, involving either a non-Indian perpetrator and an Indian victim or an Indian perpetrator and a non-Indian victim.<sup>4</sup> The current framework of criminal law in Indian Country developed as a result of several events in the late 1800s. In 1885, Congress enacted the Major Crimes Act (MCA) (18 U.S.C. 1153). This legislation authorized federal prosecutors to prosecute crimes committed by Indians that occurred on Indian lands. Since the enactment of the MCA, the federal government has been the primary law enforcement actor in Indian Country.

Congress enacted the MCA because of the Supreme Court's decision in *Ex Parte Crow Dog*. In *Crow Dog*, the Court held that the federal courts lacked jurisdiction over intra-Indian crimes. This outraged the non-Indians in the Dakota Territory. Although the dispute was resolved in a traditional Sioux fashion, the non-Indians viewed the resolution as a miscarriage of justice. Consequently, Congress enacted the MCA and conferred federal criminal jurisdiction to crimes committed by Indians on Indian lands. Specifically, the act mandated federal jurisdiction over seven crimes: murder, manslaughter, rape, assault with intent to kill, arson, burglary and larceny. The act has been amended numerous times and now covers more than 40 major crimes.

Although several laws confer federal jurisdiction over crimes on tribal lands, the most important ones are the Indian Country Crimes Act, extending federal law to interracial crimes in Indian country; the aforementioned Major Crimes Act, punishing Indian offenders for commission of several felonies in Indian Country; and the Assimilative Crimes Act, allowing federal prosecutions for state law violations.<sup>5</sup>

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<sup>1</sup> Robert N. Clinton, Criminal Jurisdiction Over Indian Lands: A Journey Through a Jurisdictional Maze, 18 ARIZ. L. REV. 503 (1976).

<sup>2</sup> Robert N. Clinton, Development of Criminal Jurisdiction over Indian Lands: The Historical Perspective, 17 ARIZ. L. REV. 951 (1975).

<sup>3</sup> Cohen's Handbook of Federal Indian Law 9.01, at 736 (Nell Jessup Newton ed., 2012).

<sup>4</sup> Id. at 736.

<sup>5</sup> Getches, D., Wilkinson, C., Williams, R., Fletcher, M. and Carpenter, K. (2017). Cases and materials on federal Indian law. 7th ed. St. Paul: West Academic Publishing, p.585.

Four additional laws are relevant to criminal jurisdiction in Indian country. First, the Indian Civil Rights Act of 1968 (ICRA) limits the punishment a tribal court can impose to no more than a \$5,000 fine and a year in jail.<sup>6</sup> The U.S. Constitution and Bill of Rights do not apply in tribal court. Therefore, ICRA also conferred individual rights to tribal members that are enforceable against actions of tribal governments.

Second, the Tribal Law and Order Act of 2010 amends ICRA to allow Indian tribes to sentence convicted criminals (all Indians) to up to three years in jail per offense, with the total punishment no greater than nine years and a fine limited to \$15,000.

Third, the 2013 Amendments to the Violence Against Women Act (VAWA) restore tribal jurisdiction over non-Indians who commit crimes of domestic violence against Indians while in Indian country. Finally, the *Duro Fix*, reaffirms the “inherent power of Indian tribes . . . to exercise criminal jurisdiction over all Indians.”

### Institutions and Players

Criminal jurisdiction in Indian country involves federal, state, and tribal jurisdictions. Jurisdiction differs based on the offender and the crime.

Tribes have inherent jurisdiction over any Indian who commits an offense in Indian Country. If an Indian

Offender	Victim	Crime	Jurisdiction
Indian	Indian	Major Crime	Federal/Tribal
Indian	Indian	Non-Major Crime	Tribal
Indian	Non-Indian	Major Crime	Federal/Tribal
Indian	Non-Indian	Non-Major Crimes	Tribal
Indian	Victimless		Tribal
Non-Indian	Indian	General Crime Assimilative Crimes	Federal
Non-Indian	Non-Indian	Any crimes	State
Non-Indian	Victimless		State

commits an offense not listed as a major crime, the tribe will have exclusive jurisdiction. If an Indian commits a major crime, the tribal and federal courts have concurrent jurisdiction. In *Wheeler*, the U.S. Supreme Court held that prosecuting an individual in tribal and federal court is not a violation of double jeopardy, because tribal sovereignty is inherent and not delegated from the federal government.

The federal government has exclusive jurisdiction to prosecute any general federal crime anywhere in the country, including Indian Country. If a non-Indian commits an offense against an Indian, then the federal government has exclusive jurisdiction. If the offense involves a non-Indian perpetrator and a non-Indian victim, the state will have exclusive jurisdiction. If a non-Indian commits a victimless crime, the state will have exclusive jurisdiction. Finally, in *Oliphant v. Suquamish Indian Tribe*, the court held that tribes lack inherent sovereign authority over non-Indian offenders except in a manner acceptable to Congress.

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<sup>6</sup> Double Jeopardy and Nonmember Indians in Indian Country, 82 NEB. L. REV. (2003).

## Progress Achieved

In recent years, Congress enacted the Tribal Law and Order Act (TLOA)<sup>7</sup> and the reauthorization of the Violence Against Women Act (VAWA). These two pieces of legislation provided tribes with enhanced sentencing and criminal jurisdiction over crimes of domestic violence.

The TLOA authorized Indian tribes to sentence convicted criminals (all Indians) to up to three years in jail. However, the tribal conviction must meet certain procedural requirements. The statute requires that the tribe must guarantee the following rights:

- 1) effective assistance of counsel;
- 2) for indigent defendants, a defense attorney licensed to practice law by any jurisdiction in the United States;
- 3) a judge who
  - a) has sufficient legal training to preside over criminal proceedings; and
  - b) is licensed to practice law by any jurisdiction in the United States;
- 4) publicly available criminal laws, rules of evidence, and rules of criminal procedure of the tribal government; and
- 5) a record of the criminal proceeding.
- 6) Several tribes in Arizona have opted into TLOA, including the Gila River Indian Community, Salt River Pima-Maricopa Indian Tribe, and the Hopi Tribe

The 2013 reauthorization of VAWA was the most significant recent achievement in Indian Country criminal matters. The reauthorization acknowledged the inherent authority of Indian tribes to prosecute non-Indian lawbreakers. The statute acknowledges tribal authority to prosecute “dating violence” and “domestic violence” perpetrated by non-Indians. But the statute does not affect all non-Indians. It authorizes tribes to prosecute non-Indians with “ties” to the tribal community, including residence, employment, or an intimate relationship with a tribal member or resident non-member Indian.

VAWA also requires participating tribes to guarantee all the protections of the original Indian Bill of Rights, the newer procedural requirements contained in TLOA, and new requirements on the composition of juries. Tribes prosecuting non-Indians are required to empanel juries that “reflect a fair cross section of the community, and do not systematically exclude any distinctive group in the community, including non-Indians.” The Pascua Yaqui Tribe is the first Arizona tribe to implement VAWA.

Although VAWA was a win for tribal communities, the statute has not escaped criticism. Tribal prosecutors for the original five pilot tribes<sup>8</sup> express frustration that their jurisdiction is limited.<sup>9</sup> Specifically, the prosecutors are not able to charge defendants for crimes related to abuse or endangerment of a child. Alfred Urbina, the former Attorney General for the Pascua Yaqui Tribe, reported that all 18 of the cases that have been prosecuted under VAWA included children as victims.<sup>10</sup> The reauthorization was a step toward greater sovereignty. Nevertheless, effective VAWA implementation will require additional Congressional action.

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<sup>7</sup> Getches, D., Wilkinson, C., Williams, R., Fletcher, M. and Carpenter, K. (2017). Cases and materials on federal Indian law. 7th ed. St. Paul: West Academic Publishing, p.585.

<sup>8</sup> The Pilot Project comprised of five tribes: the Confederated Tribes of the Umatilla Indian Reservation, Pascua Yaqui Tribe, Tulalip Tribes of Washington, Assiniboine and Sioux Tribes of Fort Peck, and the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation in North Dakota.

<sup>9</sup> Justice.gov. (2017). Violence Against Women Act (VAWA) Reauthorization 2013 | TRIBAL | Department of Justice.

<sup>10</sup> See Tribal VAWA: Much Remains Undone <https://www.youtube.com/watch?v=xydojLiNoTU>



## Conclusion

TLOA and VAWA were two significant pieces of legislation that helped restore and reaffirm tribal sovereignty. To date, no defendant has raised a constitutional challenge to his conviction under VAWA. A non-Indian will challenge his conviction; the only question that remains is when.

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53.	Oct. 1988	Civil Justice in Arizona/How Much? For Whom?			
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FAMILY SUPREME ANNUAL ENTERING PAROLE HELLS RIGHTS POSITIVE PRISON PROCESS MENTAL ENCOURAGE  
 COURT RESPECTFUL TRAUMA RE-ENTRY PRISON PROCESS MENTAL ENCOURAGE  
 BEHAVIORAL GETTING DISCRETION EDUCATION UPON RECOMMENDATIONS LINE  
 TOPIC RESTORING UTILIZE PEOPLE VOUCHERS  
 EMPLOYMENT BENCHMARKS TRAINING JUSTICE SERVICES UNDERSTAND PRODUCE  
 OFFENDER REGARD  
 HEALTH SYSTEM TOWN

ASSISTANCE PERKY ENABLE BETTER HOUSING COURT ASSIST SERVICE ENSURE PUBLIC CRIMES REDUCE REFORM OFFER COLLABORATING MONITORING  
 CAN BURDEN OPTION NEWLY LAWS STILL LIKE SUPPORT ABUSE JOBS BEST  
 GROUP POLICE INCARCERATION LIKE SUPPORT ABUSE JOBS BEST  
 RISK CALL CASE PRODUCTION CHILDHOOD FREE  
 FOCUS ALLOW WORKS SAFETY ADEQUATE ARIZONA GROUPS JOB GIVE HELD HALL SPECIFIC CRIME CHECK-INS STATEWIDE  
 EARLY WELL DRUG COURTS EX-OFFENDERS SUBSTANCE EXPAND ACROSS DIVERSION JUDGES VICTIMS  
 RANKING POST-TRIAL TOTAL ACTIVITY KEY REGION  
 TOOLS CREATE FUNDED RUNNING EDUCATE COMMITTEE STRATEGY INPATIENT SOLUTIONS YOUTH CONSIDER  
 RECEIVE CRISIS IDEAS DATA-DRIVEN ARIZONA'S FUNDING MAKE GREATER VICTIMS  
 APPLICATIONS CONVICTIONS

COORDINATE PROACTIVE OPPORTUNITIES ACCESS TREATMENT ACCOUNTABLE TERMINATE TRUST  
 ELECTRONIC JUSTICE FAMILIES ENSURE REHABILITATION DEFENSE VICTIM  
 DECISION PROBATION INDIVIDUALS  
 PRIOR EXPUNGEMENT STAKEHOLDERS GOALS



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