

**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 111<sup>th</sup> 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 111<sup>th</sup> 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 111<sup>th</sup> 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 community participation through non-profits, community partners and outreach programs; and

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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.

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 111<sup>th</sup> 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 legislator 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.