



County Attorneys:

The Elected Officials with the Power to Fix Arizona's Imprisonment Crisis

A toolkit for engagement in 2020 County Attorney Races
Produced by: The ACLU of Arizona Campaign for Smart Justice



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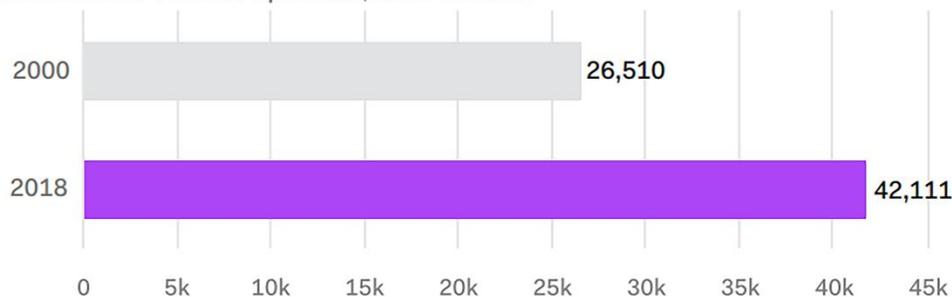


Arizona’s imprisonment crisis

Arizona stands out among other states for its overreliance on prison¹, unhealthy and unsafe prison conditions², and lack of opportunities for people to access diversion or treatment programs³. The state prison population has grown by 60 percent since 2000⁴. Arizona incarcerates Black and brown people disproportionately with the highest rate of incarcerated Latinos in the country and the sixth highest rate of incarcerated Black people in the country.⁵ In Arizona, people stay in prison significantly longer than they would if they’d been found guilty of the same crime in a different state.⁶ Taxpayers pay more than \$1 billion a year to maintain the prison system — more than they spend on higher education⁷.

Since 2000, Arizona’s prison population has grown by more than 15,000 people — a 60 percent increase.

Arizona State Prison Population, 2000 vs. 2018



Sources: Bureau of Justice Statistics, National Prisoners Statistics series; Arizona Department of Corrections FY2018 Inmate Population Fact Sheet

“Since 2000, the state population has grown by 33 percent while the prison population has grown by 60 percent — nearly twice as fast.”

-Fwd.Us, Arizona’s Imprisonment Crisis: The High Price of Prison Growth.

¹ According to the Bureau of Justice Statistics Prisoners in 2017 report, Arizona has the fifth-highest imprisonment rate in the country.

² The ACLU National Prison Project and the Prison Law Office sued the Arizona Department of Corrections in 2012 over human rights abuses related to prison health care. More information on the case can be found at www.acluaz.org/en/cases/parsons-v-ryan.

³ The number of people sent to prison on their first felony conviction in Arizona has tripled since 2000, according to Fwd.Us.

⁴ Source: Fwd.Us, Arizona’s Imprisonment Crisis: The High Price of Prison Growth, page 2.

⁵ Source: ACLU, Blueprint for Smart Justice Arizona, page 8.

⁶ Source: Fwd.Us, Arizona’s Imprisonment Crisis: The High Price of Prison Growth, page 14.

⁷ Source: Fwd.Us, Arizona’s Imprisonment Crisis: The High Price of Prison Growth, page 4.



“Prosecutors demand sentences with **no consideration** for rehabilitation.”

How did we get here?

When a person is accused of a crime, it is a prosecutor, not the police, who decides whether that person will be charged with a criminal offense and the severity of the charges.

In Arizona, elected county attorneys are their respective county’s chief prosecutors. For years, Arizona’s county attorney’s offices have been rife with misconduct, corruption, and scandal⁸.

Prominent Arizona prosecutors have been found guilty of serious misconduct, including former elected county attorney Andrew Thomas who was disbarred after filing baseless criminal charges against political enemies⁹.

County attorney’s offices in Arizona embrace a punitive culture, one that values winning convictions over seeking justice.



Carmen Hreniuć’s son Tommy is serving a seven-year prison sentence. He suffers from a substance abuse disorder.

Prosecutors chose to charge him with trafficking in stolen property after he sold a laptop he obtained on Craigslist with no knowledge that it had been stolen.

What does a county attorney do?

- Prosecutes all felonies that occur in the county and all misdemeanors that occur in unincorporated areas.
- Serves as legal counsel for the county Board of Supervisors and all county departments.
- Sets internal policies related directly to charging decisions.
- Investigates allegations of police misconduct.
- Influences what laws gets passed at the state Capitol.
- Controls public information related to the criminal legal system.

⁸ Read more about Arizona’s history of rampant prosecutorial misconduct here:

<https://www.acluaz.org/en/news/we-are-fighting-maricopa-countys-rampant-prosecutorial-misconduct>.

⁹ Read more about Thomas’ disbarment here: https://www.huffpost.com/entry/andrew-thomas-disbarred-phoenix-prosecutor_n_1415815

Elected county attorneys also use their power to influence state lawmakers to pass ineffective, “tough-on-crime” laws – like mandatory minimum sentences, harsh repetitive offender statutes, and unnecessary sentencing enhancements – while rejecting laws that would bring safe, reliable, and meaningful criminal justice reform to Arizona¹⁰.

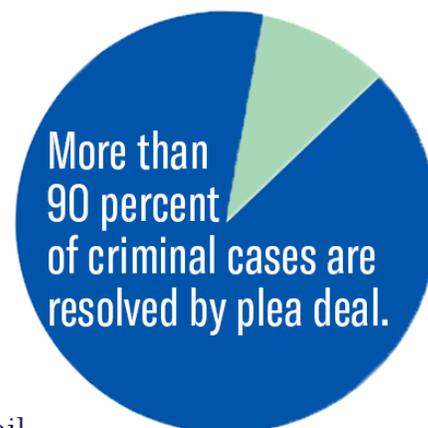
Worse, prosecutors then use these harsh, yet ineffective laws to pressure almost everyone accused of a crime to take a plea deal, eviscerating the right to a fair trial.

These are just a few of the tactics prosecutors might use to pressure someone into taking a plea deal.

The trial penalty: Telling someone if they exercise their right to a fair trial, they will likely face a much longer sentence than what the prosecutor is offering.

Overcharging: Charging a more serious crime, like trafficking in stolen property, unless the accused person agrees to plead guilty to a lesser crime, like theft.

Unaffordable cash bail: Asking a judge to set an unaffordable bail to keep the accused person locked up and offering a plea deal as the only easy way for them to get out of jail.



¹⁰ Read more about how county attorneys influence criminal justice reform legislation here: <https://azcapitoltimes.com/news/2019/06/14/prosecutors-honor-questioned-as-criminal-justice-measures-die/>.



How do we solve it?

Across the country, there is a movement to hold county attorneys accountable to the public and to reverse the decades of damage they have caused to communities. County attorneys have the power to drastically reform the way their offices prosecute and have an extremely influential platform from which to be vocal advocates for criminal justice reform. In Arizona, county attorneys are elected to serve four-year terms. County attorneys often run unopposed, making them even less accountable to the public they are supposed to serve. It is therefore critical for voters to become more aware of the importance of these races.

The next primary election is Aug. 4, 2020, and the general election is Nov. 3, 2020.

What changes can an elected county attorney make?

A county attorney can immediately bring about changes within their offices by considering the implementation of the following ACLU of Arizona Smart Justice values.

- 1. A county attorney can commit to a specific decarceration goal and lay out a plan to get there.**

Years of overzealous prosecution and the use of harsh punishment led Arizona to have one of the top five highest incarceration rates in the nation. A county attorney should commit to safely and effectively downsizing Arizona's bloated prison population. County attorneys can create policies within their office to send less people to prison and make alternatives to incarceration, like drug treatment or mental health treatment, the first option. Committing to such policies can save taxpayer money.

When county attorneys value convictions over justice, people pay the price.

Khalil Rushdan spent more than 15 years in prison on a wrongful conviction.

Prosecutors rarely face consequences when they commit this kind of misconduct.



“I would have never been convicted of a murder if the prosecutor did not lie to get the conviction.”

2. A county attorney can commit to be a visible champion for criminal justice reform at the state Legislature.

A county attorney can work with lawmakers at the state Capitol to achieve bipartisan, evidence-based criminal justice reform by advocating on behalf of legislation that will safely and effectively reduce the prison population and combat racial disparities within the criminal legal system.

3. A county attorney can commit to challenging racism within the criminal legal system.

County attorneys can start assessing racial disparities within the sentencing practices of their own offices. They can make this internal data easily accessible to the public. County attorneys can commit to reducing practices that are proven to have a disparate and unjust impact on people of color, like the use of cash bail and the death penalty.

4. A county attorney can commit to restoring trust between law enforcement and the community.

A county attorney can begin restoring trust between law enforcement and the community by rooting out corruption within their office and appropriately disciplining prosecutors who are found guilty of misconduct. A county attorney can set policies to ensure any investigation of police misconduct is handled fairly and independently. A county attorney can assign special prosecutors to investigate issues of police misconduct. A county attorney can also institute a “no-call” list to prevent police officers who’ve been found to have committed misconduct or racially-biased policing from testifying in court.



5. A county attorney can keep families together.

The actions of prosecutors can trigger deportation proceedings and tear families of mixed immigration status apart. Instead, a county attorney can require their prosecutors to consider immigration consequences when deciding which charges to file and intentionally avoid charges that trigger deportation, thereby keeping families together.

6. A county attorney can commit to being transparent with the public.

A county attorney can make information about their office policies and sentencing practices easily accessible on their website. A county attorney can quickly and adequately respond to public records requests filed by reporters, advocacy organizations, and the public. A county attorney can make themselves readily available to the community through town halls and meetings with residents to address concerns and to solicit feedback.



What should I ask of county attorney candidates?

Whether you are a voter, a resident, a reporter, an endorsement body, a prosecutor, a public defender, or an advocacy organization, it is important to determine where each county attorney candidate stands on issues that matter to your community as they seek one of the most powerful elected positions in the state.

The ACLU of Arizona Campaign for Smart Justice compiled a list of sample questions to be used as a resource. This questionnaire utilizes a decarceration and racial justice lens.

Sample County Attorney Candidate Questionnaire

Contact Information

Please provide constituents with your campaign contact information.

Name, as listed on the ballot:

Phone number:

E-mail:

Website:

Facebook URL:

Twitter handle:

Instagram:

Other:

Mission and Vision

1. Why do you want to be the next Maricopa County Attorney?
2. What would you most like to change about Arizona's current criminal legal system?



Mass Incarceration

3. If elected, what would you immediately change about Arizona’s current criminal legal system through the power of your position as county attorney?
4. Contact with the criminal legal system – however brief – can have negative and long-lasting psychological and employment consequences, while often failing to address the underlying causes of crime. Will you work to expand diversionary programs? If so, please explain in what circumstances you would offer diversion or deferred prosecution. Explain how you would fund such programs for indigent defendants.
5. Do you have a specific decarceration goal? Please give a definitive “Yes” or “No” and a clear explanation of the goal and what specific policies you will enact to help you achieve it.

Racism in the criminal legal system

6. Do you believe the current criminal legal system targets Black and brown people more than white people? If so, how do you plan to combat racism within the criminal legal system? Please give a definitive “Yes” or “No” and a clear explanation.

Legislation

7. If you are elected, what role do you see yourself playing at the state Legislature as it relates to criminal legal reform?
8. Do you support legislative efforts to increase the amount of time people can earn off their prison sentence? Please give a definitive “Yes” or “No” and a clear explanation.



Prosecutorial Practices

9. Will you limit requests for money bail and pledge to recommend, for all legally permissible cases, presumptive release of defendants without financial conditions? Please give a definitive “Yes” or “No” and a clear explanation.
10. Will you commit to not prosecuting either a doctor performing or a patient seeking an abortion should either or both ever become illegal in Arizona? Please give a definitive “Yes” or “No” and a clear explanation.
11. Please clearly articulate your stance on the death penalty. Do you believe it is ever appropriate to seek the death penalty? If so, when?

Immigration

12. Will you pledge to adopt a written policy and institute adequate training for your Office that encourages prosecutors to consider the immigration-related consequences of prosecutorial decisions at all stages of a case and to use their discretion to achieve dispositions that do not negatively affect noncitizens? Please give a definitive “Yes” or “No” and a clear explanation.

Transparency and Accountability

13. Will you pledge to gather and post online quarterly statistical information disaggregated by race and gender on felony and misdemeanor charging decisions, convictions, declinations, and diversion program placements? Please give a definitive “Yes” or “No” and a clear explanation.
14. Will you pledge to publish on the Office website all policies, protocols, and MOUs regarding prosecution guidelines, police-involved incidents, bail recommendations, fines and fees, diversion programs, plea bargains, civil asset forfeiture proceedings, immigration considerations, and indigency determinations? Please give a definitive “Yes” or “No” and a clear explanation.



15. Will you pledge to develop and implement a plan to personally, regularly and meaningfully engage and communicate with the community in the county you represent, including communities of color, the immigrant community, community-based organizations, and criminal justice reform advocates, and involve them in the project of determining the priorities of your office within the first 100 days of your term? Please give a definitive “Yes” or “No” and a clear explanation.
16. Will you pledge to create an independent Conviction Integrity Unit? Please give a definitive “Yes” or “No” and a clear explanation of how you would establish such a unit.
17. Will you pledge to assign special prosecutors to investigate and prosecute police killings of civilians, use-of-force cases, sexual assault by law enforcement officers and other cases of police misconduct? Please give a definitive “Yes” or “No” and a clear explanation.

Discovery

18. Will you commit to implementing a policy of open file discovery through which defendants or their attorneys have access to the prosecutor’s entire file? Please give a definitive “Yes” or ”No” and a clear explanation.
 19. Regardless of your answer above, will you implement and require *Brady* training for your prosecutors which specifically addresses evidence considered exculpatory, or that otherwise qualifies as *Brady* materials? Please give a clear “Yes” or “No” and any explanation.
 20. Will you commit to implementing a policy that mandates the disclosure of any and all evidence in your Office’s possession that could potentially be used for impeachment purposes by a defendant? Please give a clear “Yes” or “No” and any explanation.
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This toolkit is available online at bit.ly/mycountyattorney2020

For questions about this toolkit, please contact:

Analise Ortiz

Campaign Strategist

ACLU of Arizona

aortiz@acluaz.org