The Maricopa County Attorney holds extraordinary power in Arizona’s criminal legal system. Maricopa County is the fourth-largest metropolitan area in the country and accounts for nearly half of Arizona’s population. In 2018, Maricopa County sent 8,796 people to prison, accounting for roughly 58% of all prison admissions. Accordingly, how this office exercises discretion at each stage of criminal proceedings—from initial charging decisions to the sentences they seek to impose—has a huge impact on the state and determines whether our system is fair and just.

With the nation’s fifth-highest imprisonment rate and a static prison population, Arizona’s overreliance on incarceration is both costly and ineffective: it exacts enormous financial, emotional, and social costs on communities while exacerbating racial disparities and wasting finite resources. And harsh punishment does not improve public safety—the threat of increased sentences simply does not deter crime, either among the general public or convicted persons, and, because the experience of imprisonment is criminogenic, the imposition of longer terms of incarceration may actually heighten the likelihood that incarcerated individuals will reoffend upon release. Incarceration also entirely fails to address underlying issues or needs that lead to criminal activity in the first instance.

Given the influence the Maricopa County Attorney wields as a policymaker and civic leader with the legislature, state and local officials, and other community stakeholders, this office should deploy its substantial power to advance justice through policy reforms. This questionnaire evaluates whether county attorney candidates are committed to implementing the principles that will end mass incarceration and build a safer and more just America.

1. Poverty and the Criminal Justice System
2. The Prosecution and Sentencing of Juveniles
3. Recognizing Capacity for Change
4. Transparency and Accountability to the Community
5. Addressing Addiction
6. Punishment and Public Safety
7. Immigration Considerations

#1: POVERTY AND THE CRIMINAL JUSTICE SYSTEM
Money Bail
Arizona’s Constitution contains a presumption of pretrial release with a few exceptions for more serious offenses. Nevertheless, money bail is set in most criminal cases in Arizona.

Short Answer

● Do you think money bail is useful? For what purposes?
  No, because it disproportionately affects minority communities and poor.

● Do you believe there are any problems with using money bail in most cases? If so, what?
  As mentioned above, cash bail disproportionately affects communities of color and working-class families. It perpetuates a two-tiered justice system that does nothing to make us safer.

  Also, the practice only enriches bail bond companies and their owners. Taxpayers pay the exorbitant freight for this antiquated system.

  The result of the bail bond system in Maricopa County is the coercion of guilty pleas from the poor and others who cannot afford to wait in jail for their trial.

  As County Attorney, I will curb the cash bail requirement in criminal cases to restore faith in our justice system and protect taxpayers.

● If you believe the money bail system should be replaced, and you had a blank canvas, what is your ideal system for determining pretrial release?

  As mentioned, we must alter or replace Arizona’s bail system. The Federal Bail Reform Act of 1984 is the model to guide change.

● What concerns do you have about possible alternatives to money bail?

  The key is to eliminate systems that coerce unfair plea agreements out of defendants because they cannot post bond. Any system must give
defendants reasonable opportunities to receive notice of their court dates and a reasonable means to make those dates.

- Will you adopt a written bail policy where your assistant county attorneys advocate for release on unsecured bail without conditions for all individuals unless there is clear and convincing evidence that the person has attempted to flee to evade prosecution or poses a clear and identifiable risk to another person?

  Yes. Whatever office policy, however, must conform to the Arizona statute and Constitution on this topic. I am committed to using all the influence of my office, as well as my over 30 years of professional experience, to fight for the needed legislative reform.

- If release on unsecured bail is insufficient to protect against willful flight or an identifiable risk, will you require that assistant county attorneys only seek the least restrictive conditions necessary to accomplish those goals?

  As County Attorney, I would recommend that my assistant attorneys seek bail that is relative to the defendant’s criminal history, county capacity and community concerns.

- Will you commit to only requesting GPS or electronic monitoring after a hearing where clear and convincing evidence reveals no other condition can protect the safety of others or ensure the person returns to court?

  Yes, as well as other alternatives to jail. This is key to not only fair treatment but also tax-payer relief. I am, however, much more careful about release for persons who may pose a danger to the community, including those who pose a danger to themselves.

- Will you advocate for a policy ensuring that costs associated with GPS or electronic monitoring are covered by the appropriate government entity?

  Yes. Given what the taxpayer will save in incarceration costs, this should be an easily policy to implement.

- Will you require that, if an assistant county attorney determines that pretrial detention is necessary to protect the physical safety of other persons, he or she will follow the constitutional process to obtain an order of detention, instead of simply asking for an unattainable monetary bail amount?
Yes. Judges should make this determination, not the prosecutor. If the evidence is there, a competent prosecutor will persuade a judge.

- Will you designate an attorney to serve as a bail supervisor to ensure that bail requests are made uniformly and that all prosecutors faithfully execute your policy?
  Yes

- Will you commit to regularly reviewing jail data to ensure that persons who have been ordered released or do not pose a risk to the physical safety of other persons in the community are not being unnecessarily detained?
  Yes.

- Will you agree not to use conditions of release or pretrial detention as a bargaining tool at any phase of the pretrial process?
  Yes.

Accessibility of Diversion Programs
Pretrial diversion creates opportunities for people accused of an offense to avoid the collateral consequences of a conviction, which can be detrimental to future employment, housing, citizenship, and education, and can lead to increases in recidivism. These programs require fees and often payment of restitution.

Short Answer
- Should an individual who is eligible for diversion, but unable to pay fines or restitution because of disability or poverty, be able to participate in pretrial diversion? Are there any limitations or exceptions to your answer?

  Yes. Again, poverty should never be the basis for disparate treatment under any just criminal justice system. Moreover, what the taxpayer will save on incarceration costs more than justify this policy.

- Will you eliminate all fees, costs, and fines associated with pretrial diversion programs?
Not for defendants that can pay these fees. But, again, poverty should never be an impediment to pretrial diversion. This is not only just, but it serves the interest of taxpayers.

- If fees cannot be eliminated in all cases, will you create a robust fee-waiver program?

  Yes. Again, this is something courts should be allowed to consider.

- Will you allow individuals who are unable to pay restitution because of disability or poverty to complete diversion, even where there is monetary loss suffered by a victim in the case?

  Yes, for the reasons stated above.

The Criminalization of Poverty
Criminal justice systems in Arizona disproportionately harm people living in poverty. Whether through the imposition of fines and fees as a condition to resolve cases or through laws that effectively criminalize homelessness, county attorneys have imposed a poverty penalty on many people within our communities.

Short Answer
- Does a county attorney have a responsibility to ensure that individuals are not treated differently in the criminal justice system based on their wealth or lack thereof? If so, what strategies would you implement to ameliorate existing inequities?

  Yes, the County Attorney must, at all costs, avoid the creation of a two-tiered justice system where poverty is treated like a crime.

To being, Maricopa County does not even keep the statistics on racial and economic composition regarding charging decisions and plea policy. Just counting the numbers would be a vast improvement. Having the numbers would allow us to face the problems. It would begin to tell us if there is
  ➢ racial and economic bias in charging decisions or plea offers,
  ➢ police bias in arresting,
  ➢ judicial bias in sentencing.
• What role, if any, should the repayment of fines, restitution, or court costs play in resolving of an individual’s criminal case?

Expanding restitution is a key selling point for criminal justice reform. Allowing people to stay out of prison and pay back their victims often amounts to double or triple taxpayer relief. (e.g., victim may not have to go on public assistance, defendant’s family may not have to go on public assistance, taxpayer does not have to pay for an expensive prison term). No one, however, should be imprisoned because they cannot pay restitution.

But we must draw a distinction between restitution and fines and court costs. For too long the criminal justice system has hidden from the taxpayer the true costs of “locked them up” policies. These costs are hidden by drastically increasing fines and court costs and even attaching “surcharges” to the very fines and court costs. This is a regressive tax on the poor, who are already overrepresented in the criminal justice system. This is bad policy in that it overburdens offenders trying to restart their lives as law-abiding citizens, it is unjust way to treat people, and hides from the taxpayer information about how the criminal justice system quietly burdens them.

• Is the County Attorney the most appropriate office for handling offenses that are committed because of poverty or homelessness, such as many cases of trespass, theft of necessities, panhandling, drinking in public, or open container violations? If not, who might be the best public or private actor?

Many of these cases are out of the purview of the County attorney and municipalities usually handle them. But, in the interests of protecting taxpayers, there are options to work through these cases. I will work with police and community leaders to find the best solutions starting from the premise that we should never criminalize homelessness or poverty.

I oppose private actors in the prosecution or incarceration of individuals.

• How should county attorneys handle such offenses?

See above.
• Will you adopt policies to assist individuals in resolving drivers’ license suspensions, and any resulting misdemeanor traffic offenses, originally imposed because of non-payment of fines or fees?

   **Yes, but again this is more often under city and town jurisdiction.**

• Will you decline to seek incarceration based upon a person’s failure to pay fines, fees, court costs, or restitution, including child support, unless there is clear and convincing evidence that the individual is able but willfully refuses to pay?

   **Yes, but always working from the premise we will not prosecute people for poverty.**

• Will you presumptively decline to prosecute misdemeanor offenses when they are the byproduct of an individual’s homelessness or poverty, such as public urination, open container violations, theft of necessities, and trespass?

   **Yes, but again this is generally not part of the caseload of the Maricopa County attorney.**
Established science has demonstrated that children’s brains are not fully developed until they reach the age of 25. As a result, juveniles possess a “lack of maturity and an underdeveloped sense of responsibility,” tend to be “more vulnerable or susceptible to negative influences and outside pressures, including peer pressure,” and are “more capable of change.” Yet, to support its efforts to maintain juvenile life without parole, the previous Maricopa County Attorney commissioned a report rejecting this science and arguing that the judgment and impulse control of teens is not “meaningfully different from adults.”

Short Answer

● When, if ever, do you believe a child should be prosecuted in adult court? What factors are most important to that determination?

Children should not be tried in an adult court. The only exception should be when a judge decides after a full, fair, and contested hearing to transfer the child to adult court.

The problem in Arizona is a statute that designates certain offenses as an “automatic” transfer of a child to adult court. I would seek for the repeal of the statute. In the short term, however, I would avoid using this automatic transfer provision.

● Do you believe that criminal consequences currently imposed on children in Maricopa County are too lenient or too severe? If so, why?

In my thirty plus years of experience in criminal cases, I know of many cases where the consequences are far beyond the scope of the crime or the understanding of the defendant as to its severity.

● Arizona law unilaterally affords county attorneys discretion to charge juveniles in adult court when a child is aged 14 or older for a wide range of felony offenses. How would you instruct your line attorneys to exercise that discretion?

See above.

● Should a juvenile defendant ever be detained in custody pending trial or adjudicatory hearing? Under what circumstances?
Only when there is a clear showing the juvenile is a danger to others or himself. We should never detain a child because of homelessness or poverty.

- Do you think it is appropriate to seek a sentence of life in prison without parole for a person under the age of 25? Under the age of 18? Why or why not?

No, in either circumstance. The United States Supreme Court has said so and I would follow this law.

An evaluation as to whether a person should spend the rest of their life in prison should happen after they have fully and psychologically matured. There are children who unfortunately we must imprison for life. But this decision should be made “at the back end” after the child has had the chance to grow and perhaps appreciate the wrongfulness of his conduct as a mature adult.

- Can youth be an aggravating factor in a case? Under what circumstances?

No. In no criminal justice system, such as ours, that insists that mental intent is an important factor in deciding guilt should youth be an aggravating factor rather than a mitigating factor.

- The term “school-to-prison pipeline” often refers to the disproportionate tendency of minors and young adults from disadvantaged backgrounds to become incarcerated, because of increasingly harsh school disciplinary action and prosecutorial practices. Do you believe the “school-to-prison pipeline” is a problem in your jurisdiction? If so, what steps, if any, would you take to alleviate it?

Yes. I have already worked with the Black Mothers’ Forum on this issue and donated hundreds of pro-bono hours for these kids.

School systems and criminal justice systems are disproportionately punishing Latino and African American kids. In fact, the County Attorney’s office, since Andy Thomas, have targeted these communities to create fear, division, and score political points.
As County Attorney, I will work to end this school to prison pipeline by working directly with our school districts, community leaders, police departments and our elected officials to end this problem with fair charging and diversionary programs.

- Do you believe children should be prosecuted for curfew violations, school fights, and for truancy? Why or why not?

No. These are often social problems and the criminal justice system is not the best vehicle to attend to them. If the behavior escalates to more serious assaults and delinquency, however, the criminal justice system may have to get involved and there is a role for prosecution.

- Will you presumptively decline to prosecute school disciplinary matters where there is no use or threat of force resulting in serious physical harm?

Yes.

- Will you commit to educating yourself and all members of your office who handle cases involving juveniles about the science relating to brain development and the many ways in which children are profoundly different from adults in their functioning, perception of risk and consequences, impulse control and ability to resist peer pressure?

Absolutely yes. In fact, my father is a counseling psychologist having written books on learning-disabled children and other childhood psychological problems.

- If you ever seek to transfer a juvenile to adult court, will you only do so in the rare case where there is clear and convincing proof that no substantial opportunity for the child's rehabilitation exists in the juvenile system, and transfer is necessary to protect the physical safety of members of the community?

Yes.

- Will you work with defense counsel and the Public Defender to identify reputable psychologists, developmental experts, and mental health professionals respected by all parties, and hire from that list of experts when the State requires psychological, competency or sanity evaluations in juvenile criminal cases?
Yes, no party is served by incompetent mental health “experts” only beholden to one side in the process.

- Will you consider, with an open mind, all mitigation materials discovered by or presented to your office in juvenile cases, including re-sentencings?

  Yes.

- Will you commit to never seek or defend a life sentence without parole eligibility for any juvenile, and to only seek a life sentence with parole eligibility in rare circumstances where the child has personally committed a premeditated first-degree murder characterized by significantly aggravated circumstances?

  Yes.

- Where a juvenile commits a homicide, where circumstances warrant is it appropriate to charge him or her with an alternate offense, such as manslaughter or attempted murder, to avoid mandatory sentencing provisions requiring a life term?

  Yes.

#3: RECOGNIZING CAPACITY FOR CHANGE

Short Answer

- Do all people who have committed crimes have the capacity to change over time? If not all, how do you determine who does have that capacity? How does that belief influence your approach to sentencing?

  All people do have the capacity to change over time – the only question is whether they will change for the better or worse and what we do to help the change.

  Recidivism is often a function of a prison system inadequately preparing former inmates for life after incarceration.

- What should be the goal of diversion programs?

  To break the cycle of criminal behavior, restore self-worth to individuals, help make victims whole, and reduce recidivism.
• What are the biggest flaws in Maricopa County’s current diversion programs?

The current County Attorney lacks a depth of commitment to bring actual resources for these critical programs. The drug court diversion program in Maricopa County is anemic and centered on collecting fines fees and surcharges. There is no mental health court and there is no veterans court.

• Should diversion be limited to people with no criminal history or people charged with certain crimes? Why or why not?

No. Diversion programs can be useful in driving down recidivism

• In general, what role should someone’s prior convictions play in the resolution of a pending case?

A person’s prior criminal history is always relevant to determining a case resolution. This is especially true if somebody has an escalating record of violent offenses. Indeed, the best predictor of future behavior is for past behavior.

But, a person should be made a prisoner mainly by virtue of his current offense, not solely his history.

• When, if ever, is it appropriate to seek a “repetitive offender” enhancement or habitual offender sentencing?

When a person is truly a repetitive offender or habitual denial. See below for more detail.

• When, if ever, is it appropriate to allege so-called “Hannah priors,” the practice of using offenses in the same indictment — even if they occurred hours apart, and even if the person has never before been convicted of a crime — to obtain a repetitive offender enhancement?

The Hannah priors are an inappropriate use of prosecutorial power.

The original premise that somebody with prior convictions for a same or similar offense should be punished more severely is sound. But, to
allow the practice of Hannah priors hijacks this policy and allows prosecutors to increase sentences without legislative input.

Too many statutes exist that criminalize the same behavior. Coupled with the Hannah prior mechanism, they create over incarceration. Hannah priors are also a key cause of the “trial tax” or “trial penalty” that punishes any defendant that asserts his right to trial.

- What role, if any, do you believe a prosecutor should play in advocating for parole?

**Little or none. Also, Arizona’s effectively done away with parole. It was all done to the Board of Clemency.**

- Will you expand the use of diversion programs by making pre-plea diversion available to individuals with prior arrests and convictions?

**Yes, but I would also create a policy evaluating the nature of priors. For example, someone with numerous violent priors would have limited actions to such programs.**

- Will you publicly support efforts to make expungement more broadly available and easier to seek?

**Yes.**

- Will you adopt a policy in which your office will presumptively not file any multiple bill or seek habitual offender sentencing, but instead only pursue enhanced penalties when a supervisor determines that the statutory ranges are demonstrably insufficient to protect other persons in the community from physical harm?

**Yes.**

- Will you publicly support legislation that repeals Arizona’s strict time served laws, which require individuals to serve 85% of all prison sentences regardless of their behavior and readiness for release, so that rehabilitated individuals can earn early release from prison?

**Yes.**
Will you develop policies so that prosecutors can advocate for parole eligibility for those who have shown promise while incarcerated and can be safely released?

Yes, on a case-by-case basis.

#4: TRANSPARENCY AND ACCOUNTABILITY TO THE COMMUNITY

Engage with the Community You Represent

Providing the community with information about arrest rates, charging decisions, and sentencing policies helps build and maintain trust between the office and the community it serves.

Short Answer

- How do you intend to ensure the community can hold you accountable for fulfilling your campaign promises?

  I will commit to monthly community meetings throughout Maricopa County to build new relationships and strengthen existing ones with law enforcement, community organizations, business leaders and elected officials.

- What information do you believe community members should have regarding office policies, practices, and outcomes? What, if anything, should be kept confidential?

  My job as County Attorney is to keep our communities safe, preserve victims’ rights, and ensure taxpayers are not fleeced.

- Will you track and regularly publish office data—the number and types of misdemeanor and felony cases filed each month, disposition statistics, pretrial incarceration rates and lengths of stay by offense category, and average bond for each class of offense—so that the community can determine the need for reform and the effectiveness of new policies?

  Yes. As I have answered above, this is one of my top priorities.
• Will you track racial information at all steps of the prosecution process and publicly report any significant racial disparities that arise?

Yes, again.

• Will you build a staff that reflects the diversity of the community the office serves?

Absolutely!

• Will you conduct open sessions with the community at least once every month and create other public channels for community members and organizations to engage with the office?

Yes, as County Attorney, I commit to ensure our justice system is fair and equitable.

Public Integrity Prosecutions
2018 saw the highest number of officer-involved shootings ever recorded in Phoenix, and in 2019 several incidents revealed racist or violent tendencies of some Phoenix police officers. Mayor Kate Gallego and Police Chief Jeri Williamson have pledged greater accountability and transparency for the police department, and have even fired officers at the center of the controversies. County attorneys must be committed to independently investigating and prosecuting all persons engaged in criminal activity, including police.

Short Answer
• What is the most effective way to address officer-involved shootings and officer misconduct?

As County Attorney, I will establish a Maricopa County Police Commission that includes law enforcement, prosecutors, community leaders, and elected officials. They will investigate and make recommendations to me on cases of officer involved shootings and misconduct.

• What prosecutors or prosecuting authority should investigate and prosecute these types of cases?
The County Attorney’s office with senior or (better yet respected and retired) prosecutors.

- Will you develop clear procedures and staff responsibilities for responding to officer-involved shootings, including a robust investigatory protocol and an independent investigatory team that has no regular contact with the law enforcement agency in question?

  Yes

- Will you authorize release of body-cam recordings, dash-cam recordings, and audio or video surveillance related to police-involved shootings within 30 days of any incident?

  Yes, unless there are good policy or fairness issues against release. But the default should always be transparency.

- Will you commit to a full investigation of any allegation involving police corruption or illegal activity?

  Without question, yes!

- Will you provide defense counsel with a list of law enforcement officials who are currently under investigation or who have committed misconduct in the course of their duties?

  Yes, a proper reading of *Brady v. Maryland* dictates this.

**Conviction Integrity Policies**

Law enforcement officials and county attorneys will inevitably make mistakes. The consequences of wrongful convictions are manifold: the innocent person spends years in prison for a crime they did not commit, justice continues to elude the victim’s family, and the public’s confidence in the criminal justice system is undermined. To date, there have been more than 2,000 exonerations in the United States, including only 23 in Arizona since 1989, and that only represents the cases that are known.

**Short Answer**
• If your office were presented with newly discovered evidence suggesting innocence, who should investigate it? What involvement should the original prosecutor, if he or she is still working at the office, have in the case?

   I would absolutely investigate it. I am always open to appointing an independent special counsel to investigate the entire process. Regarding the original prosecutor, I would determine if they had any part in the evidence being suppressed.

• Do you believe there are any problems created by relying on informant testimony to obtain a conviction? What are they?

   As numerous cases show, informant testimony is often unreliable. It should be used with care to avoid wrongful convictions.

• If there can be problems with informant testimony, under what circumstances do you believe it is appropriate to rely upon it?

   The reliability of informant should always be open to scrutiny and should never be “relied upon” solely to obtain convictions in criminal cases.

• What types of forensic evidence do you believe are sufficiently reliable to support a conviction? Are there any types of forensic evidence that should be excluded from a trial? What factors influence these determinations?

   DNA evidence, when properly tested, has become the “gold standard” for reliability. With a reputable lab and methodology, it is nearly irrefutable. We should evaluate all other forensic evidence and the science behind it with the reliability of DNA in mind.

   Good forensic evidence is critical to both convictions and exonerations.

• Will you take steps to ensure your line prosecutors disclose information that is helpful to the defense? If so, what will you do specifically? How will the scope of disclosure be defined?

   Yes. Rule 29 of the Arizona Rule of Criminal Procedure is very specific. All evidence from the prosecution must be turned over. I
will direct my line prosecutors to follow both the letter and the spirit of this law.

- Will you establish and fully staff a Conviction Integrity Unit (CIU) that examines post-conviction cases to identify and correct wrongful prosecutions?

**Yes, especially for cases outside the appeals process.**

- Will the CIU remain separate from the office’s appellate division and trial prosecution teams, to ensure that people who are considering undoing a conviction are kept separate from those who traditionally seek to obtain or uphold one?

  **Yes.**

- Will you prohibit staff from relying on discredited scientific techniques, such as bitemark analysis, burn patterns, and hair strand matching?

  **Absolutely.**

- Will you conduct regular *Brady* trainings, require assistant state attorneys to turn over all evidence that arguably falls within the *Brady* rule, and discipline assistant county attorneys who fail to comply with their *Brady* obligations?

  **Yes.**

### #5: ADDRESSING ADDICTION

*Years of experience with ineffective drug laws and the latest medical research on addiction suggest that treating problematic drug use as a public health issue, as opposed to a criminal justice issue, is a more effective approach to reducing harm. County attorneys should adopt policies or engage in actions to reduce the number of people in jails and prisons for drug-related offenses.*

**Short Answer**

- Do you think the criminal justice system is the appropriate place to address substance use disorders?

  **Unfortunately, it is usually the only place that addresses substance use disorders, especially for those without financial means. I am committed to diversion programs to mitigate these issues.**
Do you believe prosecuting addicted persons increases or decreases their likelihood of recovery? Why?

This depends on how the prosecution is used. Sometimes, the threat of prosecution or incarceration can promote treatment. Again, this is a case-by-case situation. It is predicated on the willingness of the individual to seek out and utilize available resources to break the cycle of addiction.

Do you think the “war on drugs” has been effective? Why or why not? If yes, in what ways?

No, it has been an unmitigated disaster for law enforcement and the community at large. Moreover, with so much of our efforts engage in prosecuting drug offenses, little is left to deal with the root causes of drug use.

What do you believe is the most effective way, if any, for county attorneys to address drug-related offenses?

First, the prosecution of low-level offenses for marijuana use etc must be done away with completely.

Second, we must reframe the argument to deal with the causality of drug use, focusing on prevention and working with law enforcement to prosecute drug suppliers to the fullest extent of law.

What punishment, if any, is appropriate for offenses involving the possession or purchase of drugs? What type of resolution would you most prefer?

As I mentioned repeatedly in this questionnaire, there is no “one size fits all” legal process for drug possession or purpose.

My first choice is to engage diversionary programs for first time offenders. Repeated offenders MUST engage in a form of recovery program that breaks the cycle of drug addiction.

If treatment is offered in lieu of incarceration, should failed efforts at recovery or relapse trigger incarcerative sentences in the future?
Unfortunately, there is often no alternative. But, all other avenues for treatment should be tried.

- Do you believe seeking an incarcerative sentence is an appropriate response to drug sales? Why or why not?

  For large traffickers, yes. For smaller level sellers it is usually only an outgrowth of addiction.

- Arizona law ties severity of charge to the amount of controlled substances involved in an offense. Do you believe the quantity of drugs involved or seized is an appropriate proxy for a person’s danger to the community or role in a drug organization or distribution network?

  No. Often low-level worker in a drug conspiracy are left “holding the bag” and the large traffickers go free. So poor defendant who is just part of the distribution process should not be punished the same as a large drug trafficker just because of his proximity to the contraband.

- Do you believe that evidence of a minor or insignificant role (such as a courier or mule) should be considered in determining whether to pursue increased charges based on the quantity of controlled substances recovered?

  Yes

- Will you presumptively decline to prosecute marijuana-related offenses?

  Yes. The state legislature must also act on this issue.

- Will you proactively vacate and expunge past marijuana convictions?

  Yes. The state legislature must also act on this issue.

- Will you publicly support legislation to legalize marijuana?

  Yes.
• Where dismissal is not possible, will you expand cite-and-release and diversion programs for drug offenses, including drug possession, possession of drug paraphernalia, and distribution of drugs?

For everything exception of distribution as explained above.

• Will you refrain from charging defendants with possession with intent to distribute a controlled substance based solely on drug quantity or packaging?

No

• Will you primarily seek non-incarcerative sentences for defendants charged with simple possession, possession with intent to distribute, and street-level sale?

For simple possession yes. For possession with intent to distribute and street-level sale, it will depend on quantity and participation. I would seek to divert offenders to diversion programs.

Responses to the Opioid Crisis

The opioid crisis claims tens of thousands of lives every year and has shown few signs of abating. County attorneys can play an important role in limiting the harm caused by this epidemic.

Short Answer

• Do you believe sellers of opioids should be treated differently or more harshly than sellers of other types of controlled substances? Why or why not?

No, given all we know about opioids, they should be treated no differently. As any public health or law enforcement worker will recognize, the worse drug in society is not an opioid but alcohol.

• Because of the potential danger of opioids, especially fentanyl, are there circumstances in which you believe that users of opioids should be incarcerated for their own protection?

As with other drug cases, opioid users must be given every opportunity to engage in diversion and treatment programs.

• Do you believe that opioid addiction is more difficult to overcome, and therefore requires more aggressive treatment interventions, than other forms of addiction?
No. All drug addiction is challenging to overcome. In fact, methamphetamine is probably more difficult to overcome.

- Will you adopt a policy stating that drug overdoses will not be prosecuted as homicides, except when there is sufficient evidence that the person purposefully caused the other's death?

  Yes

- Will you publicly support the creation of supervised injection sites?

  Not at this time unless I can see a clear criminal justice and public health benefit.

- Will you adopt a Good Samaritan policy stating that individuals who call emergency services in response to an overdose or to seek treatment for addiction will not be prosecuted?

  Yes

- Will you decline to file drug possession charges against any person who is found with controlled substances because he or she sought help for an overdose or addiction from a law enforcement officer or treatment provider?

  Yes, but we must make allowances for those who might abuse that law to avoid prosecution.

#6: PUNISHMENT AND PUBLIC SAFETY

When is punishment productive or necessary?
Research reveals that, for minor offenses, prosecution and punishment decreases rather than increases public safety. Even misdemeanor convictions, short jail terms, or brief probationary sentences can weaken social ties, cause job or housing losses, and interfere with prosocial activities, which are critical to preventing recidivism. These effects, therefore, actually increase the likelihood that the individual will commit future offenses.
Short Answer

- How should a county attorney respond to evidence showing that prosecuting and punishing individuals for minor offenses does not reduce offending among the public and actually increases, rather than decreases, the likelihood of reoffending among those prosecuted?

**Any County Attorney should use evidence to make our communities safer.**

- Criminal justice policy is often driven by the moral commitment to punishment, rather than evidence of its efficacy. Do you believe prosecutors should adopt evidence-based practices? What if those practices diverge dramatically from a policy grounded in just-desserts or retribution?

**Evidence-based practices are not only practical but give the taxpayer the best value.** I will not use a “moral commitment to punishment” as the basis for office policy. Justice is the goal and often punishment is just. But so called “just-desserts” and retribution practices do not always give the tax-payer value or make anyone safer from crime.

**Evidence and commitment to fair and ethical legal process is what prosecutors should always practice.**

- How would you respond to research demonstrating that existing punitive policies, in spite of their public appeal, are actually decreasing rather than increasing public safety?

**I would have expected this after having seen these practices in effect for over 30 years. Crime rates are unaffected by them and they have not made us safer.**

- What role should the moral commitment to punishment play in deciding which offenses to prosecute and what sentences to seek? Is it different for different types of offenses?

**The only commitment that the County Attorney’s office should have is the equal application of the law and commitment to keeping communities safe within that context.**
• Do you believe the county attorney has an obligation or duty to prosecute offenses and offer probationary plea agreements whenever crime victims have suffered monetary losses supporting a restitution order? Are there any other adequate means through which that money could be collected?

**The county attorney’s only obligation is the seek justice. Restitution is often part of that. But this should not be a mechanism for the rich to “buy out” of punishment.**

• Will you presumptively decline to prosecute low-level misdemeanors, where evidence shows prosecution actually decreases, rather than increases, public safety?

**Presumptively, yes. I will seek the best evidence and practices to enhance public safety and respect taxpayers.**

Will the existence of monetary losses conclusively determine whether an offense is prosecuted or whether a certain penalty is sought?

**No.**

• Will you presumptively decline to prosecute prostitution-related offenses and publicly support the decriminalization of sex work?

**Yes, with the exception that I will aggressively prosecute sex traffickers, especially traffickers of minors.**

• Where declination is not possible or appropriate, will you establish and offer expansive pre-charge or pre-plea diversion programs for misdemeanor offenses?

**Yes**

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**Restraint in Charging and Fair Plea Bargaining**

*County attorneys have nearly unchecked authority to set priorities and choose the criminal charges they file, with enormous leverage over guilty pleas and the final disposition of cases.*

**Short Answer**
• By law, county attorneys are permitted to file charges when there is probable cause to believe an individual has committed a crime. Do you believe this is the proper standard for filing? If not, what standard would you have your office utilize instead (i.e., evidence to support proof beyond a reasonable doubt)?

Yes, but also with a consideration of “the likelihood of a successful prosecution” as a part of the analysis. Also, policy considerations may mitigate against charges such as diversion programs.

• In filing charges, in what light should county attorneys view evidence? In the light most favorable to the State? The defense? Another standard? How would the choice affect charging outcomes?

The County Attorney should view evidence objectively and certainly not in the light “most favorable to the State.” The charging decision should be the same under any standard -- Does the evidence show that a defendant should be tried for a crime or not.

• Should a county attorney ever consider filing lesser charges than the evidence clearly supports because of circumstances unique to a particular defendant, such as mitigating information, lack of prior or recent criminal history, etc.? Why or why not?

If the evidence fits the charge, the law should be applied equally. Mitigating evidence such as motive for committing a crime may be relevant but often should be accounted for in the type of charge or plea resolution.

• Would you consider declining to file or pursue charges where particular law enforcement practices (like equipment stops, for example) or arrests lead to significant racial disparities? Why or why not?

As County Attorney, I will seek to ALWAYS apply the law fairly and equitably. I will ensure law enforcement practices that deliberately target communities due to race end immediately.

• Will you commit to only charging offenses where they are clearly supported by sufficient evidence to prove the defendant’s guilt beyond a reasonable doubt on each charge?
Of course, that is the basis of our legal system.

- Will you establish a policy against increasing or threatening to increase the number or severity of charges in order to secure more favorable plea dispositions or other waivers of rights?

  Yes

- Will you commit to never conditioning plea offers on the pursuit of pretrial motions to suppress premised on potential constitutional violations?

  Yes

- Will you limit the impact of the “trial tax” to the extent possible by only pegging a sentence to what is appropriate to protect public safety, and not to a sentence intended to punish a person for going to trial?

  Yes

- Will you commit to considering mitigating circumstances in each case and filing reduced charges when appropriate?

  Yes

**Lengthy Prison Sentences**

Research reveals that extremely lengthy prison sentences do not promote public safety. They do nothing to deter criminal conduct; even for those who have committed acts of violence, they often incapacitate people for much longer than necessary to prevent future danger, and they break down familial ties and other social bonds that hinder an individual’s ability to rebuild his or her life once released.

**Short Answer**

- What factors should a prosecutor consider in determining an appropriate sentence in a given case?

  The premise of this question is as fundamentally flawed as the current prosecutor driven system. Prosecutor should not determine the appropriate sentence, the judge should.
I will design charging and plea policies, to the extent current statutes allow, to once again give judges discretion in sentencing.

- What role should retribution play in determining the length of incarcerative sentences? Is it different for different types of offenses?

  Again, judges should decide this. Often, a prosecutor must argue retribution as a goal for sentencing. But the judge should make this decision based on all the information including the cost to the taxpayer.

- Do you believe the sentences imposed in Maricopa County currently are too long, too short, or fair? Is it different for different types of offenses? Or certain people?

  The sentences imposed by the County Attorney’s from Andy Thomas to Bill Montgomery to Allister Adel are often not appropriate for the crime or any just and smart sentencing considerations.

- If you believe that the sentences currently sought should be either shortened or lengthened, how would you implement those changes once in office?

  By creating clear and public charging and plea policies. Also, I would have a charging bureau of experience prosecutor’s to create uniformity in charging. Finally, I would give more mechanisms to line prosecutor’s and supervisors to seek justice in their plea offers in the right cases.

- Will you commit to not seeking incarcerative sentences longer than 15 years, unless there is clear evidence that public safety, rather than retributive concerns, requires it?

  Yes

- Do you commit to reviewing sentencing data, determining what offenses and practices are disproportionately driving incarceration, and then implementing plea guidelines in your office to address areas of concern?

  Yes

- Will you publicly oppose any proposed legislation that would create new mandatory minimum sentences, lengthen existing minimum sentences, or
restrict parole eligibility and support legislation aiming to reduce minimum sentences and increase opportunities for parole?

Yes

Mass Probation
Probation is a significant contributor to mass incarceration. Though it was originally intended to serve as an alternative to incarceration to help people stay in their communities while they engaged in rehabilitative interventions, it has transformed into a system geared towards surveillance. Probation has also skyrocketed since 1980: more people are being supervised, and they are being supervised for longer periods of time. Prison admissions because of probation violations have similarly ballooned.

Short Answer
• In your opinion, what should the purpose of probation be?

To allow offenders to reintegrate into society and to help them support their family and pay restitution to their victims.

• Do you believe the surveillance function of probation is important (i.e., requirements regarding reporting, curfews, consuming alcohol, obtaining permission to move or travel, limits on who probationers may associate with, etc.)? Why or why not?

Yes. The purpose of surveillance is to help offenders achieve the above goals.

• Is probation a form of “second chance” that a person should be penalized for squandering or wasting?

Yes, in some ways. But it is also a sound policy decision as to the best way to help people overcome their underlying problems and addictions. It will design probation system allows the offender to reintegrate into society, support their families, and pay restitution to their victims.

• How should courts address technical (non-criminal) violations of probation?

On a case-by-case basis.
• Do technical violations demonstrate that a person is incapable or unwilling to rehabilitate?
  Not in every case.

• Under what circumstances should a term of probation be revoked and an incarcerative sentence imposed?
  Again, this is dependent on circumstances under which the probation was violated and the law, as applied. If the offender keeps trying to make good faith efforts, we should continue to work with them to the extent possible.

• Is it ever appropriate to hold in jail someone who has been accused of a violation or is otherwise on a probation detainer? If so, when and why? If not, what changes would you advocate?
  Yes, if they show no desire to reintegrate into society. Also, upon the commission of new crimes.

• Will you commit to only seeking probation where it serves a rehabilitative goal focused on a specific need of the individual?
  Yes, with the understanding that part of this rehabilitative goal should be to make victims whole and support families.

• Will you request and offer limited probation conditions in each case and seek only conditions that relate directly to the rehabilitative goal of the supervision?
  Yes, as stated above.

• Will you establish a policy limiting the length of most probation terms to 6 months for misdemeanors and 1 year for felonies?
  No, the terms of probation should be made on a case-by-case basis.

• Will you liberally offer early termination at sentencing, and support probationer requests for discretionary early termination, when the rehabilitative goal of probation has been fulfilled?
  Yes
• Will you employ alternative sanctions for technical violations of probation, such as community service hours, additional treatment interventions, or temporary curfews, instead of seeking imprisonment time? 
  **Yes, depending on the probation violation.**

• Will you commit to seeking probation revocation only when the individual has committed a new felony offense or has continuously and willfully evaded supervision?

  **No, my office will seek revocation based on many more factors than the question has listed.**

• Will you publicly support legislation to limit incarcerative responses to technical violations of probation?

  **Yes**

#7: IMMIGRATION CONSIDERATIONS

Over the last few years, federal enforcement of immigration law has become increasingly strict. ICE policies not only allow for deportation because of minor allegations like possession of drugs, but they also can undermine community safety by discouraging immigrant victims from going to court or speaking to law enforcement.

**Short Answer**

• What, if any, is a county attorney’s role in the enforcement of federal immigration laws?

  **Virtually none. I will not waste county taxpayer money to do the federal government’s job. However, certain officers in the jail system that identify criminal aliens provide a useful function that helps protect the public.**

• Should county attorneys consider collateral immigration consequences in charging decisions and plea offers? What effect should those considerations have?

  **Yes, I am a published author and expert on the collateral immigration consequences of criminal convictions. I will provide extensive**
training to the prosecutor’s and the Maricopa County attorney’s office on this topic. This knowledge can help prosecutors resolve cases as well as lead to more just results for a defendant who may deserve to be punished but not banished for life.

- Will you publicly support local ordinances and statewide legislation that affirmatively limits law enforcement’s cooperation with ICE, and oppose any effort to enlist local law enforcement as federal immigration agents?

**Generally yes, but it depends on the specific legislation.**

- Will you implement a policy requiring county attorneys to consider immigration consequences in charging, plea, and sentencing decisions?

  Yes

- Will you expand pre-plea diversion programs that allow individuals to obtain dismissals of their charges without entering an admission or statement of guilt?

  Yes

- Will you affirmatively support post-conviction litigation from non-citizens who pleaded guilty without being advised of the potential immigration consequences of their pleas?

  Yes. In fact, the United States Supreme Court extensively quoted from my book *The Criminal Lawyers Guide Immigration Law* in the groundbreaking case on this topic of *Padilla v. Kentucky.*