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?
Money bail is rarely useful, and its continued existence highlights the divide in the justice system for the rich and poor. I would end cash bail as County Attorney.

- Do you believe there are any problems with using money bail in most cases? If so, what?

Yes. Cash bail is yet another example of our broken system. Cash bail drives up jail populations, separates families, diminishes economic opportunity, and coerces unjust pleas. I am committed to ending cash bail in Maricopa County.

- 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?

I do believe the money bail system should be replaced. Working from a blank slate, I believe that pretrial release should be presumed, just as the accused is presumed innocent. If there are demonstrated safety concerns or flight risks, electronic monitoring and other technology is often available that can mitigate those risks. Moreover, in serious or violent cases, I am committed to seeking orders for detention, rather than asking for unattainable bail.

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

I don’t have concerns. Other states have implemented alternatives to money bail and have demonstrated that it reduces jail populations and helps the accused maintain employment and family contacts, while still ensuring public safety. This is a day one priority for me.

Yes/No
- 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.
• 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?

Yes.

• 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.

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

Yes.

• 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.

• 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?

Without limitation or exception: diversion should be available to everyone, regardless of financial status.

Yes/No

- Will you eliminate all fees, costs, and fines associated with pretrial diversion programs?

I cannot commit to this at this time. Given the current budget, the office bearing the entire cost of diversion might have the unintended consequence of fewer available programs. I will work to ensure robust diversion offerings and make them as free as possible or on a sliding scale.

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

Yes.

- 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.

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, a County Attorney does have a responsibility to ensure equitable treatment of all who interact with the criminal justice system. For me, this means that I would implement evidence-based leading practices from jurisdictions that have made the most progress on this front. This includes the non-prosecution of those laws that effectively prosecute homelessness,
creation of deflection programs, and ending the practice of imposing unattainable fees to resolve cases. These are all issues that, as a matter of policy, the County Attorney can change.

Moreover, as a County Attorney, I would be a voice for increased access and funding for public defenders. Year over year, the public defender’s office has experienced a legislative cut of funds that leave this office overburdened and under-resourced.

- What role, if any, should the repayment of fines, restitution, or court costs play in resolving of an individual’s criminal case?

Many people cannot afford to pay any amount, no matter how small, in order to resolve their case. Because I am committed to stopping the prosecution of poverty, I believe that payment of fines and fees should not be an obstacle to resolution. The payment of restitution should be made a priority so that the victim can be made whole.

- 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?

Absolutely not. Charging individuals with crimes of poverty is not a good use of scarce public resources. Moreover, a criminal conviction serves to make obtaining housing, jobs, or benefits more difficult for those experiencing homelessness.

- How should county attorneys handle such offenses?

They shouldn’t. This is not a shrewd use of resources. The County Attorney should champion the redirection of resources to interventions that can help those who want it.

Yes/No

- 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.

- 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.

- 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.

#2: THE PROSECUTION AND SENTENCING OF JUVENILES[1]

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?

Arizona prosecutors have some discretion in this area. In Arizona, a juvenile is mandatorily subject to prosecution in adult court when, after the age of fourteen, they commit murder, armed robbery, or one of the offenses in A.R.S. § 13-501. Moreover, this is a discretionary determination for juveniles who commit other offenses. I would be a voice of reform on this issue, as a belief that it is rarely appropriate to prosecute a juvenile as an adult.

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

Too severe. The goal of the juvenile justice system (and any adult justice system for that matter) should be rehabilitation. Our County Attorney should be a voice and advocate for increased funding to early intervention, wrap-around family services, and restorative justice programs that have been proven as evidence-based alternatives and additions to the juvenile justice system.
- 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?

The presumption should be against transfer to adult court. Only in those instances where the act charged is particularly heinous or part of pattern of illegal acts, the child is beyond the rehabilitation offered by the juvenile justice system, and charging the child in adult court is in the best interest of the community should a child be charged as a matter of discretion in adult court.

- Should a juvenile defendant ever be detained in custody pending trial or adjudicatory hearing? Under what circumstances?

Yes, detention is appropriate when that child presents a risk of flight, a danger to the community, or does not have a responsible parent or guardian. 90% of juveniles held pending adjudication have a dependency case pending as well. In my view, this highlights a clear foster-care-to-prison pipeline that can and should be addressed in our county.

- 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 and no. We know more about the human brain than ever before, and these sorts of sentences, particularly during a critical stage in development, are unjust.

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

No.

- 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?

It is a problem. It is why I support restorative justice programs, raise the age legislation, and greater counselor access in schools. Moreover, I am
committed to tracking uniform data and making that data de-identified and publicly available.

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

No. Time and time again, we have seen how these status offenses only serve to target already marginalized communities, while not achieving their stated goals like raising attendance or graduation rates, or ending school violence.

Yes/No
- 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?

Yes.

- 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.

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

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?

Yes, all people have the ability to change over time. I am supportive of every prosecutor visiting a prison to better understand the realities of the sentences they propose. I want every prosecutor to understand the collateral consequences of convictions and sentences as well as the cost to taxpayers. We know that after even a short time in prison, people begin to become institutionalized, and the devastating psychological effects of prison can be permanent and real. We also know that, while a conviction alone is not enough to lose parental rights, often the reality of a long sentence is a permanent separation from one’s children. My approach to sentencing is to bring dispositions more in line with the goals of rehabilitation and international norms to empower prosecutors to carefully weigh options and do real justice.

● What should be the goal of diversion programs?

The goal of a diversion program should be to provide effective and evidence-based services that help individuals avoid any further contact with the law enforcement system. I believe that all diversion programs should be evidence-based and should be evaluated based on effectiveness measures like recidivism/re-arrest rate.

● What are the biggest flaws in Maricopa County’s current diversion programs?
They are anemic in their offerings, expensive, and (sometimes) unnecessary. I believe that diversion does the most good in cases where the core issue is addiction. When elected, any personal use of prohibited substances will be diversion eligible and treatment will be a first option. I will eliminate user fees for those who would not otherwise be able to afford diversion. Lastly, I will eliminate the practice of placing people unnecessarily on diversion. In recent history, the County Attorney’s office has placed people who are using marijuana as a medicine but let their medical marijuana card lapse on diversion. These patients were told that they could continue to take their medicine, but that they could not tell others in diversion or during treatment classes that they were still using. In these cases, the right result is dismissal, rather than time intensive diversion.

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

Diversion should be robust and widely available for those who need it. There are certainly serious and violent offenses that should not be diverted, but for most personal possession drug cases and drug-motivated property crime, diversion should be a first option. Moreover, I am opposed to blanket requirements that people with previous criminal history should not be eligible. When it comes to addiction in particular, relapse is common and that incarceration is rarely an effective result.

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

In my administration, prosecutors will be empowered to evaluate every potential resolution to a case and will be asked to consider, consistent with leading practice and evidence-based policy, the appropriateness of a disposition, with special emphasis on community safety, fiscal costs, and victim input. Prior convictions can and should be weighed, especially if they are relevant to rehabilitation, patterns of offenses, and community safety. In particular, older convictions have the least relevance, and I am in support of efforts that limit the age of a conviction in determining habitual offender sentencing.

- When, if ever, is it appropriate to seek a “repetitive offender” enhancement or habitual offender sentencing?
Yes, see above. That being said, I am not supportive of the practice of using a prior conviction for both habitual offender status and enhancement.

- 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?

  This is never appropriate. I will develop an office policy to end this practice.

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


Yes/No

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

  Yes.

- 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, although this question is tricky because Truth in Sentencing eliminated parole in many cases.

#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?

Transparency and accountability are central to my campaign and how I plan to lead the office. I will continue the tradition I am building of coffee and conversation with anyone who wants to discuss the office. Moreover, I am also committed to the creation of an advisory board that includes communities of color, the immigrant community, community-based organizations, and criminal justice reform advocates, in addition to prosecutors, defense attorneys, formerly incarcerated individuals, victims organizations, and law enforcement. Stakeholders deserve a seat at the table, and I am committed to fostering connections among all groups impacted by the criminal justice system.

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

I believe that, as a public office, policies, practices and outcomes are all public information and should be made public without a FOIA request. Notwithstanding, this information will be deidentified so that the accused and the alleged victim maintain their privacy, and information that could compromise pending investigations is kept confidential.

Yes/No

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.

- Will you track racial information at all steps of the prosecution process and publicly report any significant racial disparities that arise?

Yes.

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

Yes.

- 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.

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?

Experience has shown that transparency and accountability are the most effective tools to combat cases of excessive use of force. Our system of prosecution relies on partnerships with law enforcement to investigate and prove cases. It presents a conflict of interest that prosecutors would be asked to simultaneously rely on and hold officers accountable, whether it be for use of force or any other misconduct. For this reason, I believe that the creation of a unit with actual independence to prosecute these referrals is a necessary first step.

- What prosecutors or prosecuting authority should investigate and prosecute these types of cases?

See above.

Yes/No
● 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.

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

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.

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 am committed to creating a conviction integrity unit that would review these kinds of cases. It would be staffed with attorneys who are committed to independent, good-faith review of previous convictions and claims of actual innocence and an external advisory board to oversee the process. The original prosecutor should not be involved.
Do you believe there are any problems created by relying on informant testimony to obtain a conviction? What are they?

Yes. The veracity and credibility of informant testimony is highly variable. It would be an intensive case-by-case inquiry.

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

Again, this is a highly variable, fact-intensive, case-by-case inquiry. It would be most appropriate to rely on this testimony when it is corroborated with additional evidence.

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?

This is an important question that could be a dissertation or law review article, rather than a paragraph. I believe that forensic science is evolving by the day, and methods that we consider reliable now will soon be replaced by better methods and understanding as the science evolves. When it comes to forensic evidence, Arizona follows Daubert, and I believe that all prosecutors need to understand how, under that framework, to evaluate evidence under that standard, particularly when it comes to testing, peer reviewed publications, and scientific consensus. In particular, I believe that it is essential that this office stay informed of the nationwide trends in this area, and preemptively avoid forensic evidence challenged in other jurisdictions, even if those rulings are not binding in Arizona.

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?

I believe in open-file discovery. There are several jurisdictions already practicing open-file and I believe that it speeds the resolution of the case, prevents “trial by surprise,” and saves the states money in possible appeals. Under such a system, a prosecutor’s file is disclosed (with the exception of confidential victim information) early in the process. Those states who have fared best under this system have implemented additional policies to ensure that the prosecutor’s file is complete, including: explicitly requiring police officers to provide all investigative materials to prosecutors; requiring
certain mandatory disclosures of particular items of central importance; and clearly defining the obligations of both parties in the discovery process.

Yes/No

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

  Yes.

- 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?

  Yes.

- 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?

  No, and if I were building a system from scratch, the criminal justice system would not be on the front lines of addiction intervention. That being said, the system as it exists routinely places addiction as one of the primary
reasons that some enter the criminal justice system. For this reason, I have been a vocal supporter of diversion programs that offer treatment as an alternative to incarceration.

- Do you believe prosecuting addicted persons increases or decreases their likelihood of recovery? Why?

It is irrelevant what I, or any candidate, believes; the science and best evidence show that prosecuting addicted persons under our current system increases the likelihood of overdose or relapse and does not increase the likelihood of recovery.

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

No. The “war on drugs” has only served to balloon prison budgets, while creating an underclass of primarily black, brown and marginalized persons who have been separated from their communities and even upon release, bear the permanent collateral consequences of conviction. As a society, we need to acknowledge that the war on drugs has failed and move on to evidence-based practices.

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

Creating diversion programs so those suffering from addiction do not become involved in the incarceration system.

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

I would divert the vast majority of personal possession and hand-to-hand sale cases. In these cases, the right move is treatment and not punishment.

- If treatment is offered in lieu of incarceration, should failed efforts at recovery or relapse trigger incarcerative sentences in the future?

No, the models that work best provide both accountability, coupled with more treatment. There is very limited evidence to suggest that incarceration in the event of failed recovery is effective.

- Do you believe seeking an incarcerative sentence is an appropriate response to drug sales? Why or why not?
Not in the instance of hand-to-hand sales and sales amongst users. Incarcerative sentences for sales of large amounts that implicate cartels, money laundering, and organized criminality are likely appropriate depending on the circumstances.

- 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?

Sometimes, but not always. Again, in looking at drug crime, I believe that the vast majority of people with addiction should be diverted from the criminal justice system and receive treatment, rather than face incarceration. Nevertheless, large amounts of drugs, coupled with evidence of involvement beyond mere transport, is relevant in determining danger to the community.

- 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.

Yes/No

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

Yes.

- Will you proactively vacate and expunge past marijuana convictions?

Yes. Although Arizona law does not provide for expungement, I will be a vocal proponent of set asides.

- 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?

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

Yes.

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

Yes.

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. Studies and lived experience have shown that treating opioids with the same failed measures as other types of controlled substances will result in the same failures. I am committed to diversion and treatment akin to the LEADS programs to more effectively address the opioid crisis. Please see https://gunnigle2020.com/editorial-opiod/

● 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?

No.

● Do you believe that opioid addiction is more difficult to overcome, and therefore requires more aggressive treatment interventions, than other forms of addiction?

This has proven to be true, and we know that many who are in recovery will require lifelong treatment in order to maintain sobriety. For this reason, this office should champion harm reduction efforts and addiction treatment expansion in our state.

Yes/No
• 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?
  Yes. I already have in my recent op/ed.

• 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.

#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?

The County Attorney should recognize that this so-called “broken windows” policing has only served to divide communities and build distrust of law enforcement, reducing the ability to investigate violent crimes, human trafficking, and crimes that target women, children, and our seniors. One of the reasons I am running is to restore the priorities of this office to these types of crimes.

• 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?

**Emphatically yes. I believe that criminal justice policy should only be evidence-based and congruent with nationwide leading practice. If those practices dramatically diverge from retribution, then there is a real opportunity to educate the public as to why just-desserts or retribution is an inappropriate response and how evidence-based practices can keep us safe and save us money.**

- 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 **promote and will continue to promote all evidence-based practices that increase public safety. It is one of the jobs of this office to advocate for these measures and to educate the public.**

- 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?

I **do not believe that retribution is a defensible rationale for punishment.**

- 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 role and obligation to the community is to be fair and just to victims who have suffered a monetary loss supporting a restitution order.

Yes/No

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

Yes.

- 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.

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

Yes.

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)?

I would use “reasonably believes can be substantiated by admissible evidence at trial” in accordance with national standards.

• 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?

I believe that our County Attorney ought to evaluate the evidence as objectively as possible. To this end, using a model other than a vertical prosecution model would produce better results, increase consultation with other attorneys, and minimize poor charging decisions.

• 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?

Yes, and in this environment of mandatory minimum sentences, our County Attorney should make charging decisions that take into account the wholistic circumstances to ensure that justice is done.
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?

Yes. The goal of the County Attorney should be to do justice. If racial groups are being targeted by a policing practice, it is the attorney’s duty to investigate and dispose of cases in the interest of justice.

Yes/No

- 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?

Yes.

- 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?

Over a century of studying criminal justice has shown that the length of sentence is not a significant deterrent and that even short sentences will break an individual's bond with their community, making reentry that much more difficult. A prosecutor should, among all of the factors in the National Prosecution Standards, most seriously consider the impact of the crime on the community, the impact of the crime on an alleged victim, and the availability of rehabilitation, and other options that would serve community safety.

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

We need to move away from retribution as a justification for punishment.

● 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?

There is overwhelming evidence that the sentence length in Maricopa County is far too long, outpacing many jurisdictions in the nation. Moreover, because of so-called “Truth in Sentencing,” there is no real opportunity to earn good time credits toward release.

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

Once in office, I would expand diversion and deflection programs to ensure that fewer individuals enter the criminal justice system. I would also decrease the use of probation tails and violations that send people back to prison after release. While I believe that the average length of sentence is disproportionate in Arizona, there is no mechanism for a prosecutor to unilaterally decrease a sentence or term. Nevertheless, I would continue to advocate on a legislative front for comprehensive sentencing reform (including retroactive sentencing and reconsideration) to address these concerns.
Yes/No

- 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?

  The purpose of probation should be both rehabilitation and community safety.

- 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?

  The best evidence on probation suggests that it is most effective when recidivism reduction is the goal. To this end, front-loading resources, earned discharge, and focused resources on high-risk offenders are all preferable to a high-surveillance model. In fact, the research has repeatedly shown that treatment in coordination with probation is more effective at
reducing recidivism than relying on monitoring alone, and that monitoring periods should be short to avoid unnecessary prison readmissions.

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

No. It is a mechanism for delivering services and resources to avoid recidivism.

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

Sending people back to prison for non-criminal violations of probation is unjust. Technical violations of probation should not be treated as a crime, and punishment for said violations should not interfere with the probationers’ reintegration into society.

- Do technical violations demonstrate that a person is incapable or unwilling to rehabilitate?

No. In fact, the best models of probation take into account that, when dealing with issues like mental health or addiction, relapse is expected, and help and services are available and evidence-based.

- Under what circumstances should a term of probation be revoked and an incarcercative sentence imposed?

Offenders should be re-incarcerated if another crime is committed while on probation and community safety is at risk. That being said, often the length of sentence for such a probation violation is, under the current system, not proportionate with the offense charged.

- 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?

I would propose eliminating the current blanket policy of no bail hold for probation violations and replacing it with an individualized determination based on the person’s history, alleged violation, and community safety. The
current policy is particularly unjust for those struggling with addiction or mental illness, for whom relapse is a possibility while completing probation and an individualized determination is warranted.

Yes/No

- Will you commit to only seeking probation where it serves a rehabilitative goal focused on a specific need of the individual?
  Yes.

- 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.

- Will you establish a policy limiting the length of most probation terms to 6 months for misdemeanors and 1 year for felonies?
  Yes.

- 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.

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

- Will you publicly support legislation to limit incarcerative responses to technical violations of probation?
  Yes.
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?

  The Supreme Court has been clear on this issue: the County Attorney does not enforce federal immigration law. Nevertheless, the consequences of federal enforcement are apparent in how this office prosecutes crime. The overt racial profiling that law enforcement has engaged in actively suppresses the immigrant community from reporting crimes and compromises everyone’s safety.

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

  I will adopt a policy that all prosecutors individually consider not just the immigration consequences, but also the collateral consequences of any conviction, including jobs, housing, and family circumstances, to ensure that justice is being done when the office recommends a disposition. So yes, but with this qualification: I do not believe in blanket policies that would charge someone differently based on immigration or any other status.

**Yes/No**

- 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?

  Yes.

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

  I will adopt a policy that all prosecutors individually consider not just the immigration consequences, but also the collateral consequences of any conviction, including jobs, housing, and family circumstances, to ensure that justice is being done when the office recommends a disposition. So yes,
but with this qualification: I do not believe in blanket policies that would charge someone differently based on immigration or any other status. (See above).

- 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.