



MEMORANDUM

Date: August 5, 2020

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **Criminal Justice System Reform**

Please see the attached July 30, 2020 memorandum from Assistant County Administrator Wendy Petersen. The memorandum summarizes recommendations related to criminal justice reform from County stakeholders. These recommendations are narrowing in on a group of actions that will likely result in reduced Pima County Adult Detention Complex (PCADC) occupancy.

Since the beginning of the COVID-19 pandemic, the PCADC population has decreased from a nearly 2,000 daily population to as low as 1,300. PCADC's population is slowly beginning to increase and stands at approximately 1,500 today.

A number of these initiatives that will be pursued are designed to reduce PCADC population, particularly for non-violent crimes. These proposals were recently discussed at a Criminal Justice Reform Advisory Commission on July 31, 2020. A summary of the Commission's recommendations will be made available in the near future. Many of these reforms may require legislative action and will be included in the next Legislative Agenda for Board of Supervisors consideration.

CHH/anc

Attachment

c: Wendy Petersen, Assistant County Administrator for Justice and Law Enforcement



MEMORANDUM

County Administration
Justice and Law

Date: July 30, 2020

To: C.H. Huckelberry
County Administrator

From: Wendy Petersen
Assistant County Administrator
Justice and Law Enforcement

Re: **Recommendations for Criminal Justice Reform from Pima County Stakeholders**

At our January 16, 2020, regular meeting, the County Administrator asked me to gather recommendations from all of our criminal justice reform stakeholders to present to the Criminal Justice Reform Advisory Commission ("CJRAC" or "Advisory Commission"). Our last Advisory Commission took place on January 27, 2020.

At that meeting we had presentations with specific recommendations made by Public Defense Services, Adult Probation and the County Attorney's Office.

Our next CJRAC meeting is scheduled for Friday, July 31, 2020.

I. Pima County Attorney's Office – Barbara LaWall (January 27, 2020)

Ms. Barbara LaWall responded promptly to this request and included her memoranda from 2017 and 2018 (Attachments 1, 2 and 3) to similar questions. I am attaching that previous memoranda along with Ms. LaWall's comprehensive January 27, 2020, memo outlining in detail her recommendations.

I will summarize her top three recommendations from January 2020 here:

A. Improve Treatment Alternatives for Drug Possessors and Drivers Under the Influence of Drugs and Alcohol.

1. Sequential Intercept mapping (SIM) reveals the need to fill gaps in the continuum with the following:
 - a. Expand Law Enforcement Assisted Deflection;
 - b. Implement a new Pre-Indictment Drug Diversion;

C.H. Huckelberry, County Administrator

Re: **Recommendations for Criminal Justice Reform from Pima County Stakeholders**

July 30, 2020

Page 2

c. Coordinate under one Superior Court Judge, all Felony drug possession cases;

2. Establish new specialist DUI Court;
3. Ensure that all clinically necessary treatment for substance use disorder is available immediately;
4. Ensure that all necessary wraparound recovery support services are available immediately for participants in the drug and DUI courts;
5. Reform the manner in which bail is used in Pima County.

B. Expedite Disposition of Felony Cases in Superior Court

1. Provide sufficient funding for all positions necessary for the County Attorney's Office to immediately complete redaction for all digital evidence;
2. Provide sufficient funding for all positions necessary for the County Attorney's Office and public defense attorneys to evaluate and negotiate plea agreement within 30 days;
3. Explore legislation to permit disclosure of digital evidence to defense counsel for attorneys' eyes only without redaction.

C. Expand and Improve Victim Services

1. Ensure all necessary victim services are available immediately and ongoing as needed for all crime victims;
2. Better coordinated services for all victims of sex assault, sex trafficking and stalking.

II. Recommendation from Public Defense Services (Jan 27, 2020) - Dean Brault and Joel Feinman:

A. Create a comprehensive map of community services available within Pima County:

There are lots of Federal, State, and local programs and resources available, both public and private. PDS proposes that we get representatives responsible for mapping services in their area of expertise together to create a master map of all services impacting the people of Pima County so that we can get a comprehensive view of all services that will help solve problems before they start and to find solutions to problems with how our criminal justice system currently works. This mapping process would address issues like food, housing, employment, education, transportation, childcare, medical, dental, substance abuse, mental health, and all aspects of the criminal justice system including the jail, prison, probation, pretrial, victims, and restitution. Such a mapping project may

C.H. Huckelberry, County Administrator

Re: **Recommendations for Criminal Justice Reform from Pima County Stakeholders**

July 30, 2020

Page 3

lead to more efficient uses of resources and more comprehensive solutions to problems, both in the public and private sectors.

- B. Provide room for expansion of the STEPS (Supportive Treatment and innovation Programs) and other diversion programs by getting the Arizona Legislature to eliminate the statutory restrictions on when diversion can be offered.
- C. Eliminate the mandatory minimum of four (4) months in the Arizona Department of Corrections as a precondition of being placed on probation.
- D. Expect the Arizona Department of Corrections to live up to their new name that includes rehabilitation by funding and providing real rehabilitative services to inmates in areas such as substance abuse and mental health counseling and services.

III. From Adult Probation Office – Chief David Sanders

- A. Elimination of money bail (No bail or release);
- B. Increase the pace of case flow management (shorten time to disposition);
- C. Release from Arizona Department of Corrections after serving 50% of the time rather than 85%, so long as program goals are accomplished (not necessarily all cases);
- D. Greater judicial discretion in sentencing;
- E. Lower fines;
- F. Probation fees of \$30 per month rather than \$65, to be increased by the court only for noncompliance (incentive for compliance, sanction for noncompliance);
- G. More terminal sentences (e.g., fine) for those who do not need probation, jail or prison.

Chief Sanders recommended the following articles (Attachment 4 and link: <https://files.texaspolicy.com/uploads/2019/05/17151137/Levin-Improving-Probation.pdf>) about which he states, "There are some good ideas in the [attached] articles, many of which we already do."

From May 2019, Center for Effective Justice, **RIGHT On CRIME**, an initiative of Texas Public Policy Probation, *Ten tips for Policymakers for Improving Probation*

1. Reduce criminalization and incentivize and expand use of police and pretrial diversion;

C.H. Huckelberry, County Administrator

Re: **Recommendations for Criminal Justice Reform from Pima County Stakeholders**

July 30, 2020

Page 4

2. Assess risk and criminogenic needs of each person placed on probation. Tie conditions to the assessment, regularly reevaluate based on progress, and account for special populations;
3. Ensure probation conditions are the least restrictive necessary to protect public safety;
4. Adopt performance-based probation terms that allow individuals to earn their way off probation;
5. Change probation funding to frontload resources, avoid incentivizing higher volumes, and consider risk-needs level of caseload;
6. Tie probation funding to performance and outcomes;
7. Curtail probation fees and related fines and court costs, and require ability-to-pay determination up front;
8. Implement a system of graduated sanctions and incentives;
9. Cap or end technical revocations in most cases; and
10. Engage community rather than "fortress probation," including leveraging nonprofits, employers, and peer mentors.

Chief Sanders also suggested reviewing, *Promoting Success on Probation and Parole*, **Arnold Ventures** (Attachment 5 and link:

https://craftmediabucket.s3.amazonaws.com/uploads/AV_Community-Supervision-2-Page_FINAL.pdf)

IV. Recommendations from Pre Trial Services

Pretrial Services Director, Domingo Corona, focused his recommendations of reform based on his areas of expertise, the pre-adjudication phase of the justice system. He is most familiar with the legal and evidence-based practices surrounding pretrial release and bail conditions, including release mechanisms pre- and post-booking.

Mr. Corona's recommended focus areas for enhancing the justice system follow, with brief descriptions following the general recommendations.

1. Bail Reform
2. Expansion of Diversion Options
3. Exploring the Use of Technology to Improve Pretrial Supervision Outcomes

a. Bail Reform

A review of current state laws and rules regarding bail/release options for judges should be conducted to determine how to best minimize the use of money bail. The National Association of Pretrial Services Agencies National Standards on Pretrial Release and American Bar Association Pretrial Release Standards discuss the prohibition of financial conditions (Standard 1.5) and that a financial condition should not be imposed which “results in the pretrial detention of the defendant solely due to an inability to pay” (Standard 10-5.3), respectively. To move closer to these standards, it is Mr. Corona’s recommendation that judges setting bail conditions should have more release options available which help mitigate risks for nonappearance and re-arrest during the pretrial period. Alongside improved release options, a review of state rules and laws should inform on the use of preventative detention for those limited number of cases which present an unmanageable risk to the safety of the community.

Example 1: The Jail Population Review Committee has been utilizing expanded services for high risk and needs cases. Thorough examination of cases through this committee has either revealed or developed strategies for defendants who may pose a greater risk for pretrial failure due to housing issues, substance use issues or behavioral health concerns.

Example 2: A potential area of interest may be pre-IA screening for felony cases eligible for diversionary programs (such as the STEPS program described below). With pre-existing agreements on program qualification, delegated release practices may further reduce an individual’s time in detention and also allow initial appearance judges to spend more time reviewing more complex or dangerous cases at the initial appearance hearing.

b. Expansion of Diversion Options

The stakeholder support around the development of the STEPS Drug Diversion program is reflective of wide-ranging support for specialty programming geared at addressing the needs of the pre-adjudicated population. These types of programs have the potential for steering individuals away from the typical court process, which hopefully leads to reductions in recidivism. The STEPS program outcomes should reveal whether this approach is effective. If it is, PTS would recommend utilizing this model with other charge or case types, mainly those of a non-violent nature.

c. Exploring the Use of Technology to Improve Pretrial Supervision Outcomes

Pretrial Services Officers should use the least onerous strategies to help increase court appearance potential or re-arrest (court date reminders, connectivity to services, etc.). However, no-cost-to-defendant technologies may be employed to better increase communication in these areas. An example of technologies which may benefit community supervision are temporarily assigned cellular phones for those individuals

C.H. Huckelberry, County Administrator

Re: **Recommendations for Criminal Justice Reform from Pima County Stakeholders**

July 30, 2020

Page 6

who have no direct contact methods available, smart phone breath analysis devices, and improved supervision software.

Conclusion

These recommendations come from the criminal justice stakeholders in Pima County.

Some of these recommendations, if accepted, would require legislative changes and many would also require an infusion of money.

I am hopeful we can review all of these proposals at our Friday, July 31, 2020, Criminal Justice Reform Advisory Commission meeting.

Attachments

WP/dr

c: Members, Criminal Justice Reform Advisory Commission
Criminal Justice Reform Unit