



May 29, 2019

The Honorable Doug Ducey
Governor of Arizona
1700 W. Washington
Phoenix, Arizona 85007

Governor Ducey,

We serve as the County Attorneys for Pima and Maricopa Counties, representing approximately three-quarters of Arizona's population, and we strongly urge you to veto SB 1334. The legislation does not address any objectively identified issue with Arizona's prison population or sentencing structure. Instead, it arbitrarily limits the ability for courts to impose proportionate sentences for the most prolific of offenders in our communities.

This legislation is problematic for several specific reasons and creates a number of significant unintended consequences that adversely affect the public safety of Arizona citizens. Currently, under existing law and Arizona's sentencing statutes, non-violent first offenders are probation eligible, and chronic habitual offenders, those who engage in repeat criminal activity, but who manage to elude immediate apprehension and arrest, face mandatory prison time when caught and indicted for an extended crime spree. SB 1334 completely changes this.

SB 1334 creates a strong incentive for repeat offenders to commit as many offenses as they can before being caught because regardless of the number of people or businesses they victimize, whether two or twenty, SB 1334 requires them to be sentenced as a first-time offender for each count.

Arizona's sentencing scheme as it currently is written protects the public safety of our communities. It recognizes that someone who broke the law once and repeats his criminal conduct is more likely to do it again after being set free. Arizona's current sentencing laws tell us those who commit multiple crimes over a period of time have victimized numerous people. Arizona's sentencing laws identify who should be incarcerated and who is safe to place back in the community. Changing the repetitive sentencing law has numerous unintended consequences and puts the safety of our communities at much higher risk.

This legislation also ignores the reality that crime must be investigated, evidence collected and analyzed, before a prosecution commences. It benefits the offender who takes steps to conceal his or her identity, as it will take longer for law enforcement to complete their investigation while the offender continues to victimize our

community. It creates an inconsistency in the statute, since those offenders whom the State is successful in consolidating their offenses for trial pursuant to A.R.S section 13-703(A) will be sentenced as repetitive offenders; and actual first-time felony offenders will be subject to the same sentence as offenders with multiple offenses committed on separate occasions.

Consider this scenario. Under SB 1334, a thief who belongs to an organized retail theft ring who commits multiple thefts over a period of months of a store such as Target/Walmart. This thief would be treated similarly to someone apprehended for shoplifting for the first time. The damage to Arizona's retail businesses from organized retail theft is simply enormous. One busy Walmart store in Tucson suffers more than \$1million losses annually from theft, primarily due to organized retail theft. Mandatory sentencing under our current law is the primary tool for deterrence. Taking that away with SB 1334 creates a great financial harm to the business community and to its customers.

The argument that this change in the sentencing law is needed to reduce "mass incarceration" is a misplaced and erroneous argument. Arizona's prison population has fallen year over year for the last two years and in six out of the last ten years. The rate of growth has also slowed dramatically over the same time frame. To place this in perspective, Arizona's prison population grew in the ten years from 1999 to 2009 by 54%. However, from 2009 to 2018, the growth was just 4% and, as mentioned, the prison population has fallen each of the last two years representing a 2% decline from 2016.

Over similar timeframes, from 1999 to 2009 and 2009 to 2017, Arizona's total crime rate as reported in the FBI's Uniform Crime Report fell 28% to 15%, respectively. In fact, Arizona's 2017 overall crime rate of 3,423 offenses per 100,000 is the lowest it has been since 1963.

Proponents for indiscriminate changes to Arizona's sentencing laws would make the observation that with crime rates at historic lows, why do we have the prison population that we do? It is due in no small part to incarcerating the right offenders using Arizona's measured and targeted sentencing statutes.

Four different times in the last decade Arizona's prosecutors have surveyed Arizona's prison population to review the criminal histories of those incarcerated and, without exception, each time we have found ***that the prison population consists of over 94% of inmates with violent and or repetitive felony convictions.*** The most recent Corrections at a glance report identifies over 74% of inmates have a current or past conviction for a violent offense. By incarcerating the right offenders, we should expect to see an impact on crime rates.

We believe that any review of our State's sentencing statutes should be driven by a forthright review of objective data to clearly define issues with criminal justice system outcomes. There is no need for us to needlessly jeopardize public safety or incentivize serial offenders. Again, we respectfully ask you to veto SB 1334.

Sincerely,



Barbara LaWall
Pima County Attorney



Bill Montgomery
Maricopa County Attorney