

Indian School Corridor - Citywide Association  
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April 14, 2009

City of Phoenix Municipal Court  
Courtroom #705  
Judge J. Leonard, Presiding

Statement on Behalf of the Indian School Corridor Citywide Association regarding the sentencing of: [REDACTED] DR #2009 [REDACTED] and Dr #2008 [REDACTED]

Presented by Ann Malone, President and Founder

Your Honor,

I am here today to speak on behalf of the Indian School Corridor Citywide Association, an organization which was formed in July of 2007 in response to the crimes that were being committed by career street criminals in the area of 32<sup>nd</sup> Street and Indian School Road. This organization has grown citywide to 200 businesses, 12 neighborhood associations representing 5,000 households, and N.A.I.L.E.M. an anti-crime lobbying group with 45,000 members statewide. We continue to grow each month because law abiding citizens are fed up with the anti-social choices made by career street criminals and the impact of the resulting consequences these choices have on the rest of us.

We define career street criminals as individuals who *choose* to sustain themselves by committing crime. These crimes can be felony in nature such as burglary, robbery, and shoplifting. Or they can be misdemeanor in nature such as trespassing, aggressive panhandling, urinating or defecating in public, drinking in public, and so on. And while at first glance these individuals may appear to be homeless, they are most definitely people who *choose* to sustain themselves with this lifestyle at the expense of the quality of life of those of us who are their victims.

And who are their victims? The truly homeless, the tax-paying business owners, their customers, and the families that live in the community they choose to prey upon. After a combination of 87 arrests and CLD's, and 35 convictions in the city of Phoenix can anyone really question that the defendant has made a choice to be a career street criminal?

Upon closer examination of the defendant's 35 convictions you can see that 89% of the time he has chosen to prey upon a specific 1 square mile of citizens. That one square mile is centered at 32nd Street and Indian School Road and is the heart of this organization.

My member businesses are being told by customers that they would rather shop on Camelback, or in Scottsdale or Glendale, anywhere they feel safer. In these other places the business owners

and customers don't have to step over drunks sleeping in their own urine to get into their shops in the morning. Often times, mine do. Their customers aren't harassed by aggressive panhandlers that seemingly come out of nowhere in parking lots to demand money. Often times, ours do. These are the same types of activities that the defendant has chosen to subject us to.

Your honor, trespassing is such a benign word. Yet the consequences to those who have been repeatedly trespassed is anything but benign. Phoenix homeowners don't feel as safe as we once did. We know there are career street criminals living in our alleys and wandering around the parking lots of our neighborhood strip malls because we see them, we are aggressively pan-handled and harassed by them. We have begun to shop elsewhere because of them. Those of us who saw the defendant passed out drunk in front of Food City clutching a kitchen butcher knife don't want to go there anymore.

We are beginning to think we made a mistake staying in the city to earn our living and raise our children. We fear for our children and the elderly because among other things, career street criminals drink to excess and urinate and defecate in our parks. In fact, upon closer examination of the defendant's 35 convictions you will notice that 32% of them were as the result of crimes committed at 2802. E. Devonshire. This address is a Senior Center and a public park. The defendant seems to have little concern for the fact that he is robbing the weakest in our community, our elderly and our children, of their right to recreate in peace and without fear of his negative erratic behavior while intoxicated.

Phoenix business owner's and their customers no longer feel safe either. The owner's are losing both physical and economic security. My members have suffered repeatedly by the anti-social criminal choices made by the defendant. I have this letter signed by several of them which I will submit to you. However, the story of what happened at Salsitas (DR#2009 [REDACTED]), needs to be told. The defendant had been warned by the owner himself literally dozens of times over the course of several months before the 17<sup>th</sup> of December when the defendant and two of his street companions ignored all previous warnings of the owner and trespassed again. The owner then ran out into the street to a police car that happened to be in the vicinity shouting in broken English, "These men bad, these men bad." This officer called a bilingual officer to the scene to interpret the following story: The owner told the officer the story of how on a previous day the defendant, and specifically the defendant, had insisted that the owner give him money or he would eat from the salad bar with his hands. When the owner refused, the defendant deliberately and maliciously put his hands in the salad bar and ate from it intimidating and revolting the customers and ultimately causing the owner to throw away all of the food in the salad bar due to contamination - food that he had worked hard to purchase and was expecting to make a profit on. This is one of the trespassing offenses you are here to sentence today. Such a benign word trespassing.

And how do the defendant's combination of 87 arrests and CLD's, and 35 convictions, the bulk of which are for trespassing, impact us as a city especially in these times of fiscal crisis?

The *real* cost begins with the opportunity cost of police, fire, and medical personnel's time and salaries in answering the same calls on the same criminal repeatedly; the opportunity costs of the prosecutor's, bailiffs, judges, and all their staff in prosecuting the same criminal time and again; the cost of the extra number of cases that must be charged and tried because the defendant hasn't been punished sufficiently to rethink his lifestyle choice; the cost of lost revenue from customers

who won't shop in their own neighborhoods because they are tired of being harassed in our parking lots and who tell us they are now choosing to shop anywhere else because they feel safer.

As our customers migrate to these other locations to spend their money, the real cost to us is the drop in business income which affects not just the business owner's family, but numerous other families in the city since the subsequent drop in sales tax revenue affects us all.

And what of the direct expense to the City of these 87 repeat arrests that resulted in 35 convictions and 97 days of total jail time for the defendant? For the purposes of this review, I have used an average cost of \$30 per hour for the arresting officer's salary cost and an average of 3 hours to book. Using Incarceration Costs provided to by the court and compiling information from public records of exact days sentenced, I estimate that the city of Phoenix has already spent \$12, 851.03 and that doesn't include the unquantifiable costs already mentioned.

For 35 convictions, this defendant has been sentenced to 97 days in jail. 54% of these 97 days were actually time served in custody. And time served is generally less than 12 hours. The remaining 46% of his time in jail puts the defendant at an average of 2.8 days in jail per conviction.

Clearly, the defendant, a career street criminal, is unimpressed with the punishments the court has meted out as he never changes his behavior and persists in his attack on the quality of life of those of us who are his victims.

In fact, we in the community feel even less safe when the police arrest these career street criminals living behind our homes and harassing our customers just to find them back on our doorsteps within a few days at most. It makes our police appear to be impotent, our prosecutors ineffective, and our judges indifferent. We have no choice but to conclude that our hard earned quality of life is under attack and it doesn't seem that anyone in the criminal justice system cares – after all, it's *just* a misdemeanor, it's *just* trespassing.

We need you to care, your Honor. We need you to take this opportunity to do what is right for the community. Knowing this defendant's history and that he clearly chooses to live this way because he realizes that the odds are in his favor that nothing of consequence will happen, it is time for you to enforce the maximum sentence and break his cycle of abuse against the community.

Isn't 35 convictions enough evidence to prove that this defendant deserves an aggravated sentence? The sentencing statutes are written to allow an opening for you to exercise your authority in just such a case as this, with just such a defendant as this. I ask you, on behalf of the numerous victims of this defendant, and on behalf of the community, to exercise that authority today.

[And for the record, your Honor, the defendant isn't in the courtroom because he was arrested this morning for trespassing at the Food City on the corner of 32<sup>nd</sup> Street and Indian School Rd.]