

Indian School Corridor - Citywide Association
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White Paper

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*Presented on behalf of the Indian School Corridor Citywide
Business and Homeowner's Association*

Public Safety & Veterans Subcommittee

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Preface

Businesses are leaving Phoenix, and some studies put the rate as high as 3% per year. But those of us who have lived in the city for many years don't need studies. All we have to do is drive down Indian School Road and count the empty storefronts. And those businesses that are still here are feeling the pressure, not just from the general downturn in the economy, but from the increase in the cost of doing business in the city of Phoenix.

Our businesses are now routinely adding to the cost of doing business: the regular painting over of graffiti; putting added security cameras in our stores and parking lots for the safety of customers; and general loss of revenue because customers are telling us they would rather shop in Scottsdale or Glendale where they feel safer.

In these other cities the business owners don't have to step over drunks sleeping in their own urine to get into their shops in the morning. Often times, we 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. Let's be honest, we've become accustomed to these events in Phoenix. Yet, either of these events would quite literally stop traffic if they ever happened in Scottsdale.

Phoenix homeowners don't feel as safe as we once did. Taggers go about their business with shocking frequency and apparent lack of fear. They tag our businesses and now they tag our homes with increasing regularity. (*See photos – Appendix Item A*)

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 actually recognize them because we see them every day as we go about our lives and our business. We have learned to avoid them. We have begun to shop elsewhere because of them. We are beginning to think we made a mistake staying in the city to earn our living and raise our children.

We used to be afraid that our children would walk down the street and hear bad language or vulgar talk. Now we don't let them walk anywhere alone and are afraid they will be molested, or that we will be accosted in a parking lot. We don't feel safe anymore even during the daylight hours. We feel 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 day.

Our hard earned quality of life is suffering and it doesn't seem like anyone cares.

The Indian School Corridor Citywide Association of Business and Homeowners has brought together business and homeowners in the City of Phoenix as one voice that will no longer be separated. We are willing to fight to keep our homes and our businesses safe. We are not willing to be the fifth largest city in the country if we can't be in the top five for safety – the foundation of all quality of life.

We are only seven months old but already our membership consists of over 120 businesses; 10 homeowner's associations representing over 4,000 households; and 2 major activist groups - CMA and N.A.I.L.E.M., both well known in the city of Phoenix. (*See Membership Registration Form and Membership List - Appendix Items B and C*)

Preface

We stand together to insist that our City Manager, Mayor and City Council, our judges, prosecutors and police “Require the Prior” in all sentencing decisions that involve repeat misdemeanor crimes committed by the career street criminals who are living in our alleys and on our freeways; harassing the customers in our parking lots; affecting the safety of our customers, our employees, our neighborhoods, and our children.

With one voice we say, “No more!” to these career street criminals who are *posing* as homeless even as they choose to live on the streets and survive by repeat criminal activity against our families and our businesses. These career street criminals, more often than not, have multiple prior convictions, not only for misdemeanors but often times for violent crimes and burglaries as well. And yet, they are repeatedly arrested and returned to our doorsteps after only serving time in custody, an average of just 12 hours. This cannot continue.

With one voice the business and homeowners in this Association stand together and will no longer listen to the refrain that we can’t afford the cost of jailing these types of repeat offenders. We stand together to say that this city and her people can no longer afford *not* to jail them.

With one voice the business and homeowners in this Association stand together and will no longer listen to the refrain that we don’t understand: this is too complex a problem for a simple solution. Every member of this Association understands the complex problems of surviving economically all too well. The majority of us own our businesses – we are mom and pop shops.

We don’t have anyone paying us a salary or giving us benefits. If we don’t solve our complex problems quickly and efficiently we will not be able to put food on our tables or a roof over our children’s heads. We understand and are suffering from this problem of career street criminals more than anyone. Let’s look at what we see are the real costs of releasing these repeat offenders back onto our streets.

Identifying the Real Costs of Our Current Policy

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 criminals repeatedly; the opportunity costs of the prosecutor's, bailiffs, judges, and all their staff in prosecuting the same criminals time and again; the cost of lost revenue from our customers who can'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 in Scottsdale and Glendale where they feel safer.

As our customers migrate to these other cities 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. But how do we calculate the real cost of losing the businesses in all of those store fronts on Indian School Road? How do we quantify the loss of five of our original Association members to Scottsdale because the business owners could no longer justify doing business in Phoenix?

And what of the human cost? How do we put a dollar value on that? How do we reconcile the fact that a four year old little girl was attacked and raped by a man that was in city custody just one day before? William Speed, a man who after being convicted for kidnapping and sexual assault of a 7 year old girl in 1995, and having served nearly 12 years is released. Barely 1 month later, he is arrested again after admitting to smoking cocaine and running naked through the street. Even if you ignore the drug violation (which must surely be a violation of his parole) this last is indecent exposure and is a class one misdemeanor. With his history he could have been sentenced right then and there to the maximum of 6 months, sparing this little girl, her family, and the rest of the citizens of Phoenix the horror of this crime. Why wasn't he?

The members of this Association would like to ask what happened with this indecent exposure charge that Mr. Speed was arrested for on 11/07/07? Was the court aware of the probable cause and criminal record history on that misdemeanor arrest at the time of Mr. Speed's initial appearance? And if they did know of his criminal history, why was he put back on the street on his own recognizance after posting bond for this class 1 misdemeanor when he could have been sentenced to as much as 6 months in jail? And more than anything else, we want to know what the city is going to do so that this never happens again.

This is the unifying issue for our Association – to “Require the Prior” and sentence accordingly. If a person is arrested in the city of Phoenix we want them to know that our laws have teeth. That the police *will* discover their criminal history, the prosecutors *will* take this history seriously and prosecute vigorously, and the judges *will* sentence accordingly with the maximum penalty. This is the essence of what is known as *Broken Windows Policing and Prosecution* and it has worked in NYC and is being used in Los Angeles as well as several other major U.S. cities.

This proven method, Broken Windows Policing and Prosecution, pushes career criminals out of the cities where it is implemented. The criminals are not welcome and they know it. Not only by arresting, but perhaps more importantly, by forcefully prosecuting persons who repeatedly commit crimes that affect the quality of life of law abiding citizens. Crimes like: aggressive panhandling, trespassing, urinating or defecating in public, indecent exposure, living in alleys, drinking liquor in public, graffiti, and so on. When these career street criminals realize that they

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will go to jail for the maximum time allowed by law, each and every time they are arrested; they will find Phoenix a much less desirable place to live and they will move on.

A Broken Windows Policy releases communities from captivity. It retains businesses in communities, draws businesses to neighborhoods and increases property values by restoring the quality of life for people. Furthermore, Broken Windows Policing and Prosecution lowers rates of felony crimes like burglaries, robberies, homicide and sexual assault. For example, application of Broken Windows Policing and Prosecution in New York City reduced murders from 2,262 in 1990 down to 629 by 1998 and it has continued to drop to 488 in 2007 – numbers not seen since 1963. (*See article – Appendix Item D*)

The Indian School Corridor business and homeowners have already experienced the positive effects of a Broken Windows style of policing in the City of Phoenix's own pilot program known as the Street Crime Reduction Program. It was begun over 2½ years ago at the suggestion of his superiors, and was designed and implemented by Officer Rusty Stuart, with Officer Paul Dobson assisting, both of whom are from Squaw Peak Precinct. These two officers were working with a small group of businesses helping to clean up the area of 32nd Street and Indian School Rd., when an illegal "camper" who had been living behind the wall of a residence at 33rd Street and Indian School Rd. for nearly 4 months brought them into contact with the homeowner. When the illegal "camper" was finally arrested by Officer Stuart he was released and back living behind that family's wall in a matter of days. That family was mine.

We were stunned when we discovered that not only was this really happening, it is the norm in our city for repeat misdemeanor offenders, some with as many as 50 prior arrests, to be let go in an average of about 12 hours. It was incomprehensible to us that anyone would think this is acceptable never mind our city officials. That was the first time we heard the words, *but this is a budget issue, we can't afford to jail these people.*

Even after 50 arrests we can't afford it? I think we can all agree that 50 is too many. But how many prior arrests is okay with us? 20? 10? How about 5 strikes and you're out? Is 5 our limit on priors before we let a career street criminal know that we have had enough? For that little girl attacked in the University Heights Park, once was too many. When are we going to sit down and talk about the *real* costs of letting these repeat misdemeanor criminals back onto our streets?

This alliance of homeowners, businesses and police working together as we have on the Indian School Corridor, thru the city of Phoenix's Street Crime Reduction Program, is real community based policing and is a unifying partnership that needs to spread citywide.

Our Association has been very generously offered enhanced prosecution for crimes on the Indian School Corridor. We were also told that one of our member neighborhood associations may be eligible for city fight back funds next year (of course this was before the current budget crisis was revealed). But none of us, businesses or homeowners, want anything for our Corridor that isn't going to be offered to *every* Corridor and *every* neighborhood in the city. It would be like squeezing toothpaste from a tube: If you squeeze it in one spot, it will just ooze out from the other side. We are committed to getting our policing and prosecution policy uniform throughout the city in order to solve this problem, citywide, and be just for all. No more special programs, no more philosophy of the "squeaky wheel gets the grease." We are one city, one giant

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neighborhood, and we demand to be treated equally on this simple point: to “Require the Prior” and sentence accordingly whether it’s a misdemeanor or felony and no matter which neighborhood it happens in: rich or poor, black, brown, or white.

Therefore, the members of this Association stand together to tell the City of Phoenix that we want the Street Crime Reduction Program – The Broken Windows method of policing and prosecution, to not only continue on the Indian School Corridor, but to be expanded citywide so that every neighborhood will benefit. We specifically request that Officer Stuart, give a presentation on the Street Crime Reduction Program to all affected parties: police, prosecutors, judges, and council members. We ask you to hear about this style of policing from him, with facts and statistics he has gathered from right here in Phoenix.

And then we want the discussion to be brought to the full City Council. The voters deserve to have an honest, thorough debate of this matter. We the business and homeowners, the citizens of Phoenix, have the right to decide how we want our city to be policed and our criminals to be prosecuted. And we have the right to expect our elected officials to promote and encourage this discussion every step of the way. We are grateful to this sub-committee for taking the first step of many toward making this happen.

It is important for all parties to know that the Street Crime Reduction Program has nearly 3 years of statistics that prove 95% of these “trespassers” and others are actually career street criminals. Of these 95%, half have been to prison. Of these, half have done time for violent crimes. So if one in four of these career street criminals is actually a convicted criminal of violent crimes, how can the Broken Windows method of policing and prosecution be a bad thing? New York City has become one of the safest cities in the world since implementing Broken Windows Policing and Prosecution. Don’t we deserve the same?

The harm done by these criminals is in the deterioration of our quality of life: people being held captive by individual career criminals; lower property values; businesses fleeing to safer places; and worst of all, little children being attacked in their playgrounds. These are the real costs of putting these repeat misdemeanor offenders back onto our streets and into our backyards, and we stand together to say the cost of letting them go is too high!

The Indian School Corridor Citywide Business and Homeowners Association expects the support of all of our city officials in helping us to bring this issue to the forefront of discussion, implementation, and policy – and we expect them to let the people of the city of Phoenix decide what cost they are willing to pay to get it.

This White Paper is our contribution to bringing all of the necessary parties to the table to discuss how the citizens of the city of Phoenix choose to be policed and how we want the criminals in this city to be prosecuted. We don’t see any “bad guys” in this equation except the career street criminals. We do however see a systemic problem that affects us all, and it will take all of us working together without ego to fix it.

The Culture Now

Introduction

The following is a working definition of exactly who we are talking about when we say “career street criminal.” Once the current culture is explained, a synthesis of the remedies needed to correct the problems as a result of these individuals’ crimes will follow.

Career Street Criminal – for the purposes of this discussion is defined as individuals who sustain themselves by committing crime. These crimes can be felony in nature such as burglary, robbery, shoplifting; or misdemeanor in nature such as trespassing, urinating and defecating in public, aggressive panhandling, drinking in public, etc. But they are most definitely people who *choose* to sustain themselves with this lifestyle at the expense of the quality of life of those who are their victims.

The information presented in this paper is based upon my personal experience including but not limited to: having a career street criminal living behind my home for four months in spite of 3 contacts with the Phoenix Police Department; personally interviewing over 65 local business owners to discover how this problem is impacting them specifically, and more generally the culture of commerce in our city; research into public records and various academic studies to see how other major cities have been successful in overcoming these same crimes.

I have also had extensive conversations with 10 City of Phoenix beat officers, several high ranking City of Phoenix police officers including two Sergeants, a Community Action Officer, 1 Lieutenant, and 2 Commanders. I have had similar meetings and exchanges with individuals in the City Prosecutor’s and Judge’s offices, as well as with two City of Phoenix Council Persons. In addition, I have been to the City’s Initial Appearance Court to see the current process in action.

The following are the conclusions that these past 9 months of personal investigation and study as listed above have led me to. On behalf of our Association, I have tried to present each side without prejudice as fairly and accurately as possible. Again, there are no “bad guys” here other than the career street criminals. This is a systemic problem and we all play a part.

It is the hope of the Indian School Corridor Citywide Business and Homeowners Association that by presenting each side as it was told to me: homeowners, business owners, police, prosecutors, and judges, that together we can move forward to fix the system and improve the quality of life in Phoenix. To do so, we must begin with public safety – both physical and economic.

This paper should make clear why we can no longer afford *not* to get tough with career street criminals – citywide. Our membership numbers, continuing to grow daily, should demonstrate to all parties that this is an issue that the citizens of Phoenix, businesses and homeowners citywide, feel passionately about. And it is one that we want addressed.

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Police

Many police officers do not want to arrest career street criminals for these types of misdemeanor arrests: trespassing, urinating and defecating in public, aggressive panhandling, and so on, for the following reasons:

1. Because they believe the culture of the current system makes it a waste of their time. It can take up to four hours of a police officer's time to book any criminal, but for misdemeanors like these an officer could not be blamed for thinking, "For what?" From experience he knows that the guy is only going to get time served in custody, which is about 4-12 hours on average. Knowing his time will essentially be wasted, he makes the decision, consciously or not, that these criminals aren't worth arresting if he doesn't absolutely have to arrest them.

Example: A Business Owner from Sprout's Shopping Center called on a trespasser and the officer who responded just told him to move it along. When the owner asked the officer what the trespasser's name was she was told by the officer that she didn't need to know and that he had handled it. But she did need to know since she knew that by law, if he had already been warned, and she was fairly certain that this man had; the officer should have arrested him or ticketed him immediately. This group of business owners share a list of which street criminals have been warned for trespassing in their center so that they can better police their own shopping center. This shop owner was upset and disappointed that she was treated this way by the officer, and was extremely disheartened that while she and other owners have banded together to clean up their center, it wasn't important enough to the police to complete their efforts by responding to her simple request.

In their defense, even when an officer does arrest a career street criminal who is disrupting the ability of the business owner to serve his customers properly, more often than not, this same criminal is back within days, if not hours. When the courts do not back up the officer's decision to arrest by punishing the criminal, the officer's incentive to arrest diminishes considerably. The end result being that the citizen's confidence in police competency and potency suffers tremendously.

2. Many of these calls involve working with criminals who are drunk and/or stoned. As a result, there is a high degree of probability that the criminal will vomit, urinate, or defecate on himself to avoid arrest. (What officer would want to put such a person in their patrol car?) If it is one of the street criminals currently living on our streets and in our alleys, they will often times have open wounds or sores that more likely than not, are infected with resistant staph or worse. Each time the police officer engages one of these criminals he is risking exposure to any number of disgusting situations or diseases. In the latter case, if infected, he is also risking the health of his wife and children. Based upon his assumption in #1 above, there is a further decrease in any police officer wanting to involve himself in arresting these criminals rather than just shooing them along.

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Example: Over the course of four months, before the officers of the Street Crime Reduction Program arrived at my home in June '07, three separate officers came on three separate calls regarding the criminal(s) living behind my wall.

The first call was placed in February 2007 by my neighbor who discovered the “illegal campsite” originally. This first officer asked to come into my home and through my backyard to figure out how to get to the “illegal campsite” because it is not obvious from the street. He saw the camp by standing on my ladder, looking down over my wall, and told me that it did in fact appear that someone was living back there, and now that he knew how to get there, he would “take care of it.”

According to the call report, he saw no occupants. The report doesn't stipulate whether he actually did take the second look from the other side of my wall, or if he determined no one was “home” from my side of the wall. Assuming that he did take the second look from the alley as he said he would, I do know that he never returned even though he knew this illegal campsite was against the wall of a home with children, and within 100 yards of an apartment complex with numerous children.

For my part, I naively thought that because he was a police officer and he told me that he was going to “take care of it” that he actually would do whatever it took to make good on that promise. I didn't check up on him or “it.” Well he never did take care of it and the man, who I now know was a career street criminal with numerous misdemeanors and felony convictions in his past, continued to live behind the wall of my home within feet of my children for another four months.

I have recently discovered that several weeks later, March 2008, a second call was placed to the police by a worker in the office building 20 feet north and west of the wall of my home. This person could see the campsite and individuals coming and going from it from the office parking lot. I now know that the officer who took this second call did make contact with one Mr. Steven Eilers and a Ms. Beverly Tracy, both identified by him as transients. His field report described the situation as follows: “S1 and S2, living out of alley just east of parking lot of listed 20. This I S Property belonging to law offices per Mona employee. I told S1 and S2 they are 4 18T and need to leave. They also live under large tree in alleyway just south of alley.” This tree in the alley is behind my wall. (*See Public Records Document - Appendix Item E*)

If it was clear to him that these people were living under this tree as he reported, then it would also have to be abundantly clear to him that it was against the wall of a residential property and within 100 yards of an apartment complex with numerous children. Yet this second officer never returned to see if *his advice* to vacate was followed by Mr. Eilers and Ms. Tracy.

In addition, he obviously did not run Steven Eilers on PACE (the system police use to discover priors and warrants in the greater Phoenix area) or he would have discovered a “failure to appear warrant” on Steven Eilers and would have arrested him at that moment. This is what the officer who finally resolved the problem did and what he found. I have no idea what this second call officer would have found if he ran Beverly Tracy as she was not

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part of the situation in June when it was finally resolved, almost 4 months to the day of the first report and promise by the police to “take care of it.”

A third call was placed to the police by me in late May 2007, when an office worker at the law office who also lives in our neighborhood ran into me and asked if I knew, “that there were people living behind your wall.” I was shocked that the officer from the first call hadn’t done what he promised, and didn’t even know at that time that a second call had already been placed weeks after that, so I called again.

This 3rd officer arrived and had the same trouble as the first in figuring out how to get to the “campsite” from the alley since there is no normal access. He too had to come into my home and borrow my ladder to climb up and look over the wall to see the campsite. He too promised to take care of it. When I told him that that is what the first officer said to us, he assured me that, “I have people who take care of this sort of thing for me. I’ll send them by to break it down and clean it up.” I have no idea why he said this since I now know this is not the case. This was at the end of May. We never saw him or “the people that work for him” again.

Each of these officers essentially did nothing. And for four months Steven Eilers, a previously convicted felon, had the blessing of the City of Phoenix to continue living, and having others live with him, behind my home within feet of my children.

I have no doubt that it was the disgusting mattresses, clothes, shoes, and a natural aversion to these things, coupled with the knowledge that Eilers wouldn’t get any time anyway, that kept these officers from following up in any way whatsoever. The first and third officers looked, the trespasser(s) wasn’t “in,” and so they left. The second officer actually spoke to them but didn’t do the rudimentary background check that should have been done. He then never followed up to see if the transients living behind the wall of a family took his advice to move on. These career street criminals obviously knew from experience that this was just a suggestion, and decided to stay behind my home for several more months.

The police officers who finally did respond, did so at the request of a fellow officer who randomly heard about our plight at my birthday party on June 2, 2007. On June 6th, Officers Stuart and Dobson began to look into this situation at his request. I did not know about this request and naively assumed that Officers Dobson and Stuart were the people who “worked for” the other officer and were “going to clean it up for him.” (*See Public Records Calls for Service - Appendix Item F*)

Even though Steven Eilers and none of his friends were “home” when Officers Dobson and Stuart checked on the illegal campsite behind my home that was now cluttered with several months’ worth of filthy and disgusting personal effects, they kept coming back until they made contact with him. It was Officer Stuart who finally found him in his lair behind my wall and arrested him on the failure to appear warrant. While arresting him, Officer Stuart patted down this man I now know was a serious criminal, and an ice pick in Steven Eilers pocket punctured Officer Stuart’s hand. It was later discovered at the County Hospital that the man had staph. Both he and Officer Stuart had to be treated.

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I have come to learn that officers often times find ice picks and even plumbing washers on a long cord in the possession of these types of criminals. Both of these items are used by career street criminals to break into homes and businesses. The ice pick also makes a convenient weapon. Steven Eilers has a record of felony burglary.

Because of the staph infection and the open warrant for a failure to appear, this career street criminal was actually gone from behind my wall for nearly four days. We thought the ordeal was over. Then, on around the fifth day he moved back in to what he considered his home. My husband was so irate that he was going to go back there and “kick this guy out myself.” I begged him, literally pulling on his arm, not to do it and to please call the police again. I told him that if anything went wrong while he was tearing down this campsite, or if he ended up hitting this guy, he would end up being the one sent to jail or even sued by this man. He finally relented and called Officer Stuart to find out why this criminal was out and back behind our home again. Officer Stuart insisted that my husband stay away from this man and actually ordered him to do so. He asked my husband to trust him, and then gave his word that he would handle it, and that this time Steven Eilers wouldn’t be back.

Officer Stuart did accomplish what the City’s Court was incapable of doing – evicting this man once and for all. We don’t know what Officer Stuart said or did to solve the problem, but the man who had been living behind our wall for 4 months packed up within 24 hours and disappeared leaving some of his “home furnishings behind.” (*See photos – Appendix Item G*)

I then reported this illegal campsite and home furnishings behind my wall to the Board of Health three separate times within the week. I told them about the confirmed report of staph infection that would no doubt be on all three mattresses as well as the numerous personal effects left behind by Steven Eilers and asked them who would handle the removal of said items? I expected the City to take charge of this effort because of the infectious disease that was involved. Each time I was told someone would contact me. No one ever did in spite of the very clear direction in ARS 36-602 that requires the Board of Health to have the owner of the property remove it within 24 hours. It took repeated calls to Neighborhood Services before the property was finally cleared of the filth left behind by this criminal.

As a result of my involvement in this saga, I have come to learn how to check a criminal’s records through the internet and the Office of Public Records. The limited knowledge that I have gained about Steven Eilers, the man who three separate police officers allowed to live behind my family’s home for 4 months, is as follows: He has at least 2 Class 4 felony convictions for dangerous drug possession; at least 2 Class 6 felony convictions for drug paraphernalia; at least 1 conviction for 3rd degree burglary, which is a Class 4 felony; numerous parole violations; and has had a warrant for his arrest as recently as February 11th, 2008 and is scheduled for a preliminary hearing on this most recent charge (which I was not able to ascertain) on April 9th, 2008.

How is it that a housewife and mother of 7 children is able to find this information on Steven Eilers, limited as it is, and yet 3 separate police officers who have access to his complete history didn’t? Because they are bad men? Of course not! Every day they put themselves in the line of fire for the citizens of this city. Then why?

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Because the culture in the police department and the court system has taught them to overlook these types of career street criminals as benign and not worthy of their time for all the reasons I've stated above. I have no doubt that if this felon had harmed me, my husband, or one of our children, these same officers would have been devastated. Yet that is the risk they each unwittingly took when they never followed up on this illegal "campsite" and chose not to arrest Steven Eilers when they had the chance.

I also have no doubt that if these same 3 officers could be re-trained to understand the importance of knowing the complete background of every individual they are called upon to check out, and if they believed the courts would back them up when they did arrest, these three officers would never have allowed a 5 time felon to live against the backyard wall of a family for four months.

3. Many of the newer officers with no background in aggressive misdemeanor policing do not know that often these criminals who seem like "just" trespassers or drunks are actually criminals who are, yes, at this moment trespassing and drunk; but in fact have been arrested for many, many, previous misdemeanors and felonies and have a long history of criminal activity. Sexual crimes and violent assault type crimes are more often than not in their backgrounds.

Example 1: Clifford is a regular around 32nd Street and Indian School Rd and is well known to most of the merchants. He is routinely drunk and harasses and intimidates anyone who comes across his path. By their own admission, most of the other street criminals are afraid of him. He has bragged about having murdered someone in New Mexico in front of one of the shopkeepers and Officer Stuart when he responded to a call to arrest Clifford for trespassing.

That brag has been verified, along with a list of numerous other convictions for various crimes and yet Clifford is still picked up for trespassing and repeatedly released for time served in custody.

Example 2: William Speed was arrested in 1995 and sentenced to 12 years for kidnapping and sexual assault of a minor. He was released in October 2007. In November 2007 he was arrested by the Capitol Police for indecent exposure for running naked down the street behind a bar in the 1800 block of Van Buren at 10:30 pm on the evening of November 7th. According to court records, as reported by AZCentral.com, Speed told the arresting officer that, "he had just smoked cocaine and felt like taking off his pants and running." He was initially held on bond, and then according to court records (reported by AZCentral.com) he was released on December 11th on his own recognizance in spite of the fact that he is a Class 3 registered sex offender.

Less than 24 hours after his release, on the 12th of December, this known Class 3 sex offender who had been released on his own recognizance, raped a four year old girl in the University Heights Park. (See AZCentral.com article – Appendix Item H)

With his felony conviction history and the misdemeanor charge of indecent exposure, especially in light of his admission of smoking cocaine on the night of that arrest, he could

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have gotten 6 months in jail which would have spared this small child from a heinous crime she will have to live with for the rest of her life. As we have pointed out, this is a citywide problem that affects all police and all citizens. We would expect the Capitol Police and courts, as well as the City of Phoenix Police to “Require the Prior.”

4. Because the homeowners and merchants are reporting crimes that are very important to them and their quality of life, yet are perceiving that “nothing” is being done about it (police just shoo them along and they are back on our property often times within hours) the homeowners and merchants, justly or not, quickly conclude that their legitimate concerns as victims of misdemeanor street crimes must therefore not be important to the police.

When the culture of policing offers no upside to police to discover who the people living behind our businesses and homes are; when officers don’t follow up to see if their *advice* to move on is followed by these trespassers; and even when an officer does the hard thing and arrests the career street criminal and that criminal is released back into our lives often times within hours; the only possible result is exactly what is happening:

Our businesses, property values, and quality of life are suffering. Citizens are losing their trust and confidence in the potency of the police. We are feeling abandoned by the people who are supposed to protect us and have come to realize that we are at the mercy of the lifestyle choice of career street criminals.

5. The street criminals now know from experience that many police officers do not want to deal with them and that the courts will routinely let them off in a few hours with minor inconvenience to them. They have come to realize from *their* own personal experience that the police are now systemically powerless against their misdemeanor crimes.

This has emboldened them and they have been known to taunt the officer who is determined to go through the arresting process no matter how futile it may appear. “Awww, why are you bringing me in? You know I’m gonna be out in a couple a hours.” Yet, these same officers have experienced the difference when they run the criminal on PACE and discover a warrant on the misdemeanor criminal from another jurisdiction. These criminals have been known to fight with the officer to get out of the patrol car, and some even go to the extent of urinating or defecating on themselves to prevent the officer from putting him in the patrol car in the first place. Why? Because more likely than not the career street criminal knows he will get more than time served in custody in that other jurisdiction which is why he *chooses* to live in Phoenix. These types of criminals don’t want to risk receiving extended jail time because *they can’t do it*. If they go to jail for any kind of real time, they will detox and that would cause *them* too much pain.

6. Because the officer knows the misdemeanor career street criminal will more than likely be out in a few hours (and recall it may take them 4 hours to book any crime) and because of the now cultural habit of shooing them along for the reasons stated above, many officers have gotten out of the habit of running histories. Those who do may run the criminal through PACE, find he is clean, and stop there without knowing if this criminal has a history outside of Phoenix.

The Culture Now

It is important to remember the seasonal influence of the transient career street criminals in Phoenix. There are new criminals coming to town all the time, so of course they wouldn't have shown up on PACE yet. Unless they are run for priors outside of our city, we have no idea who the person really is, and yet we routinely let them go. The only way to do a complete criminal history is through both PACE and the NCIC-III system, known as Triple I. Currently this latter system can only be accessed from the precinct, the Main Station, or resource bureaus.

7. Even if the officer runs the misdemeanor career street criminal through PACE, when he comes up clean, the officer generally stops there rather than run the guy through the "Triple I" system. This is because the extra step cannot be done from the field (PACE and Triple I do not 'speak' to each other and must be run separately) and this extra step seems in the current culture to be more trouble than necessary for a "simple" misdemeanor.

Yet, many times when officers do take the time to follow up the PACE with Triple I, they discover outstanding criminal histories that are long and violent. Outstanding warrants for crimes and convictions in other states will show up. Having this knowledge enables the officer to keep this criminal from perpetrating those crimes on our community. He can then help return him to justice in another community. Some criminals who are wanted for felony crimes right now in other states, get a pass to move it along because the officer cannot access Triple I from the field even if he wanted to. And in our current culture, the criminal and his misdemeanor crime of trespassing, etc. doesn't seem bad enough to arrest, so the officer lets him go with a warning without ever really knowing who he is.

8. Once the priors are known they must be alleged and written up clearly and effectively in the Form-IV or there is no hope of proper sentencing. Many officers are unclear on the best way to write out the priors on Form-IV's to get the attention from the prosecutors and the judges as recognizing them as important.

Prosecutors

1. Prosecutors are overloaded with cases and from repeated experience, they do not expect to get anything more than time served in custody for class 2 and 3 misdemeanors (trespassing, urinating and defecating, aggressive panhandling, and so on) and if they do get more, then it is because they must request it specifically and urgently, or resort to programs of enhanced prosecution which only target particular areas of the city.

Enhanced prosecution is a tool that police and prosecutors use to rid a specific area of specific crimes and criminals. It works because the criminals in those areas begin to realize that they are being targeted with tough policing and prosecution, and so they flee the area making it a safer place to be. But where do they go? To the next easiest place for them to be; somewhere else in the city not defined by enhanced prosecution boundaries. Why does enhanced prosecution work? Because it combines tough policing and prosecution. Why does it fail? Because it pushes criminals into other neighborhoods giving everyone a false sense of security. Only Broken Windows Policing and Prosecution protects the entire city because no neighborhood and no criminal is treated any differently than another.

The Culture Now

2. To a lesser degree, the prosecutors do not always have all of the priors in front of them because, for the reasons stated above, many officers are not putting them on the Form IV's and so prosecutors don't have access to this information to get more than time served in custody. The result is that the misdemeanor career street criminal is pushed through the system and is back on the street in less than 24 hours – time served in custody.

Judges

1. Judges are also overloaded with cases and correctly perceive their time to be at a premium. I have been told that some of the misdemeanor career street criminal's faces are so well known to some judges that even if the prosecutor is ready with the priors some of these judges have been known to want to, "get this guy out of my court." It would appear that some of the judges may perceive these types of misdemeanor career street criminals as a nuisance to their courts, but not necessarily a problem otherwise. This can only be because they do not realize the impact these career criminals are having on our homes and businesses.

It seems that some judges, like so many of us, confuse these people for homeless individuals who are down on their luck. However, truly homeless people want a normal life and generally don't have a jacket full of priors, especially felony conviction priors. These career street criminals are essentially *posing* as homeless which our group considers a cultural crime against truly homeless people and a perception that needs to be eradicated.

2. The impression among many prosecutors and police, justly or not, is that often times judges and their clerks may not read the Form IV's, and even when they do, don't seem to perceive that what is listed on the Form IV's is worthy of extended sentencing.

This perceived dismissal of the information in the Form IV's seems to be enough of a problem that the prosecutor wanted to meet with our Association to try to work out a way that we, the business and homeowners, can go down to court for the misdemeanor career street criminal's Initial Appearance (IA) to "impress the judges" that sentencing based upon priors is really important to us.

3. The business and homeowners perception, justly or not, is that the judges have a revolving door and that they are ignoring these repeat career street criminals. What else can be concluded when we see the same career street criminals returned back to our homes and businesses generally within twenty-four hours, just to be victimized again.

This impression was further re-enforced by the prosecutor's request for our participation in "impressing the judges" at the IA's. Why should our presence at an IA be necessary? Why should a business owner who has already suffered loss of business that day have to lose further income to impress a judge that this criminal should be sentenced and not returned to his doorstep?

We believe that it could be in the minds of many judges that the IA may simply be to get the criminals in and out of their overburdened court, and that class 2 and 3 misdemeanors are an automatic out. If the judges really are too busy to read the form IV's, or are so unimpressed with them that they routinely give time served in custody, we need to find out why.

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It seems that the reason could be that the judges see other crimes as more pressing and worthy of serious sentencing no matter how many priors are listed on the Form IV's. (Remember our first example of Clifford who is routinely released for time served in custody.) The judges may think, as so many of us in the past thought, "Aren't these types of misdemeanor career street criminals just trespassers and drunks anyway?"

And since the judges are overloaded with cases and correctly perceive their time to be at a premium, these types of misdemeanor crimes would easily fall off their radar as truly important and worthy of attention.

Clearly, if the judges knew the havoc these career street criminals wreak on our homes and businesses, and that by releasing these career street criminals repeatedly, they are actually increasing the cycle of crime and burden of the courts, surely they would react differently and sentence accordingly. There is no other answer.

At this point the City of Phoenix has unwittingly, as a matter of cultural policy, surrendered her streets to the career street criminal and *he knows it.*

Now that *we* know it, what can we do to get our quality of life back?

How Can We Change the Culture?

Introduction

The suggestions on how to change the current culture presented below on behalf of the Indian School Corridor Citywide Business and Homeowners Association are based upon suggestions gathered from street cops, and individuals in the prosecutor's and judge's offices. In addition, I have spoken with numerous business owners and listened to their personal experience with this type of crime and criminal; reflected on my and other homeowners experiences; and have investigated this topic from various academic sources.

Per Officer Rusty Stuart's Street Crime Reduction Program study, as verbally presented during our Indian School Corridor meetings, it can be statistically proven that nearly 50% of all career street criminals arrested in the city of Phoenix have served sentences in the Department of Corrections. And half of these have served for violent crimes such as sexual assault, robbery, homicide and other felonies. My research into what is known as Broken Windows Policing and Prosecution shows that Officer Stuart's study mirrors every other Broken Windows Study. (*See Articles – Appendix Item I*)

The Indian School Corridor Citywide Business and Homeowners Association's commitment to this style of policing goes beyond the academic. We have experienced first hand through the Street Crime Reduction Program that when this style of Policing and Prosecution is implemented; crime went down in our area as did the costs associated with them – especially loss of customers and revenue to the businesses.

The Indian School Corridor Citywide Business and Homeowners Association specifically requests that the city of Phoenix follows the lead of other major metropolitan areas such as New York and Los Angeles and implements, *as City policy*, the Broken Windows Method of Policing and Prosecution as practiced in those cities and others.

The Indian School Corridor Citywide Business and Homeowners Association is requesting the support of all of our city officials in helping us to bring this issue to the forefront of discussion, implementation, and policy – and we expect them to let the people of the city of Phoenix decide what cost they are willing to pay to get it.

We also request to be an active part of the City's transitional process to Broken Windows so that our experience in the private sector of solving complex problems to keep our budgets in line and our customers happy may lead the way and encourage our peers in government. We believe the following suggestions will help facilitate this process.

How Can We Change the Culture?

Police

1. In order for this the transition to Broken Windows Policing and Prosecution to go smoothly and effectively, we must train and re-train all police officers to believe that these “low level” misdemeanor crimes *do* make a difference to all of us.

All police officers must consider it imperative to the safety of the community that they know the complete arrest history and major malfunction of each and every repeat misdemeanor street criminal that they come into contact with.

We need to also make the career street criminals know that our police are not impotent. We do this by guaranteeing them that when our police officers arrest *any* criminal for *any* level of crime; the criminal’s prior history will be required and will be taken into consideration for sentencing. We *will* require the prior and sentence accordingly.

In jurisdictions where Broken Windows Policing and Prosecution have been implemented violent offenses and property crimes *have* declined. Once released from months in jail, the career street criminals leave those jurisdictions.

The Indian School Corridor Citywide Business and Homeowners Association specifically requests that Officer Stuart give a department wide presentation on how this method of policing has taken place right here in Phoenix. It should also be a part of Police Academy training. Upon request, members of our Association would be willing to assist in this educational effort by telling the officers how this style of policing and prosecution has positively impacted us. We would clearly express, on the basis of personal experience, how grateful we are to the police for this style of policing. This would not only restore morale to the police, it would restore the confidence and trust the citizens want to give them. Police and citizens would be connected and unified in true community based policing.

2. In order to accomplish the task we set before them, the police need to be (re)educated on how to make observational arrests; how to use tickets to bump the count; how to do background checks for priors to build the jacket; and how to write the Form IV for maximum efficiency. This needs to become part of Police Academy training as well.

Form IV’s must be *required* to include a complete criminal record history. While always beneficial for the officers to know how to do these Form IV’s, it would also be acceptable to have employees other than the arresting officers be responsible for completing the Form IV’s. The important thing is that the Form IV be done as effectively as possible. The arresting officer must be assured that when the Form IV is presented, (no matter who is ultimately responsible for them) that the prosecutors and judges will take the quantity of prior convictions listed in the Form IV’s into serious consideration before accepting misdemeanor pleas.

In addition, regardless of where the career street criminal’s priors come from, whether committed in the state of Arizona or another state, our police officers must know that these will all be taken into consideration, so their time and effort would not have been in vain.

3. Phoenix is faced with many transient criminals who, though new to our city, may have felony crimes from outside of Arizona. If this is their first contact with police since arriving here

How Can We Change the Culture?

they wouldn't show up on PACE. Currently, the PACE system and the Triple I system (which tells the officer the criminal's history outside of the local Phoenix area) don't "speak" to each other. In fact, currently, Triple I can only be run from the precincts, the main police station, the resource bureaus and cannot be run from the field. For obvious reasons, this is a serious problem that needs to be fixed.

Triple I and PACE must be connected and accessible from the officer's patrol car. This is the only way an officer can learn the *complete* criminal history of an individual before he makes the decision to arrest, ticket, or let go. An inquiry for records in Triple I should be able to come to the officer's car by inserting a new command in the existing software, or by radioing in the request to the precinct. It will add to the time (from 1-10 minutes maximum) that an officer spends on the inquiry and subsequent reply, but that would be more than offset by the benefit of not letting a possible felon, who commits misdemeanors, go because we didn't know who he really was.

In any event, an officer could feel comfortable that should he not be able to wait for the Triple I results because of a need to respond to a higher priority call, that having been trained in how to use PACE and ticketing in the case of these types of crimes, he can use the ticket to "keep track" of the street criminal even as he responds to another call, and can get to the Triple I later since he has an open warrant that has now been issued via the ticket, allowing follow-up at a later time.

4. There must be a new system created for booking criminals that allows the officers to have a more efficient turn around time. Officers have confided that the length of time it takes to book, and the insufficiency in sentence length are always *the* major stumbling blocks to these officers wanting to make the types of Broken Window arrests we are asking them to make.

These same officers have told me they would be rigorous in making these arrests and would feel empowered to do so with the knowledge that these two stumbling blocks: extensive booking time and ineffectual sentencing were finally resolved. By streamlining the booking process in as time and cost effective way as possible, all officers will feel free and empowered to make the kinds of arrests we are asking for. (We will address the sentencing problem later in the prosecutor and judges section of this paper.)

As reported to me by these officers, there are several glitches that could be fixed. For example: Once determining the criminal's history, an officer could write the charges and a probable cause statement and then a civilian employee or an officer on light duty could enter the booking data into the computer rather than tying up the arresting officer any longer. If there are any questions, the arresting officer is only a phone call away. This is just one possible solution, to just one of the problems to be addressed.

We the members of the Indian School Corridor Citywide Business and Homeowner's Association ask the City of Phoenix to allow Officers Stuart or Dobson, along with other beat officers, rather than high ranking officials further removed from the day to day process, to address and correct the mechanical flaws of the current booking procedures.

Our Association offers our support in anyway it is needed to accomplish this. Especially in putting pressure on any County officials who may need to be involved in facilitating a time and cost efficient process for our Phoenix police to book more efficiently.

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We, as a city, must not underestimate the effect on the budget of the opportunity cost of an officer being tied up in booking any longer than he has to be. By making the solution of this major morale and budgetary problem a priority, and involving currently active street officers in this discussion, we could certainly streamline the process to efficiency while keeping an eye on the cost. This type of problem solving is done routinely in the private sector and we expect our government officials to follow our lead in understanding opportunity costs and how they impact the bottom line – ours and theirs.

5. Finally, and just as importantly, all officers must be trained how to work directly with the business owners as additional eyes and ears on the street. This is real community based policing and must be part of Police Academy training as well.

Prosecutors

1. The prosecutors must also be educated to the meaning and importance that Broken Windows Policing and Prosecution hold for the city's businesses and homeowners. In fact, Officer Stuart gave a presentation on the Street Crime Reduction Program to the Prosecutor's Office about 18 months ago. Yet, Mr. Tutleman, of the Prosecutor's Office, said in a meeting with our Association in November, 2008 that he thought it would be beneficial to invite Officer Stuart *back again* to give the presentation for the new prosecutors and with updated statistics.

Therefore, the Indian School Corridor Citywide Business and Homeowners Association requests that Officer Stuart gives the Prosecutor's Office this presentation to update their knowledge on how effective this method of policing has been right here in Phoenix and what an integral component prosecution is to the success of Broken Windows.

Upon request, members of our Association would also assist in this educational effort by telling the prosecutors how this style of policing and prosecution has positively impacted us. We would also be able to express how grateful we are to the police and prosecutors for this style of policing and prosecution and make them realize that the citizens of Phoenix support their efforts on our behalf one hundred percent. As stated previously, this would restore morale in the prosecutor's office as well as the police. And it would restore the confidence and trust the citizen's want to give to both of them.

2. The prosecutors must read the reports on the officer's tickets and then prosecute aggressively. Prosecutors must be certain that they are getting complete Form IV's from each officer and if not, as a checks and balance system, they should get them for themselves. Prosecutors can also run the criminal histories, or have the bailiff run them, and then insist that the officer do it properly in the future if that is the method settled on. (It may also be possible to have the Form IV's done cooperatively between both offices. The best system would surely surface in discussion with all groups.) In any event, each branch is watching out for the other, so that the *community* doesn't suffer by overlooking and releasing a hardened criminal by accident. Our goal must be to never send a career street criminal back to the community to do more harm.
3. In light of this Broken Windows Policing and Prosecution, we ask that the office of the City Prosecutor, Charging Prosecutors and Trial Prosecutors revisit the laws already on our books.

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We ask them to reacquaint themselves with the responsibility, disposition and probation chapters of the Arizona Revised Statutes, such as the following paragraphs, as they affect the crimes we are currently discussing in the way we are discussing them. This will enable them to make the transition to Broken Windows Policing and Prosecution as seamlessly and cost effectively as possible. The significant portions of the actual Arizona Statutes listed below that can be used to facilitate this have been reduced to plainer English. (There may be more but these are the ones that have been explained to me.)

- a) **ARS 13-503** – A person under the influence of alcohol or drugs may not use a decrease of perception or judgment as a defense.
 - b) **ARS 13-604.E** – If a person has been convicted of one or more of the same misdemeanors within two years, the next sentencing shall be under the next higher criminal classification (of the last criminal classification that was the basis for the last conviction), specifically:
 - A class 3 misdemeanor becomes a class 2 misdemeanor, then
 - The next time, the class 3 misdemeanor becomes a class 1 misdemeanor
 - The next time, the class 3 misdemeanor becomes a class 6 felony
 - A class 2 misdemeanor becomes a class 1 misdemeanor, then
 - The next time, the class 2 misdemeanor becomes a class 6 felony
 - A class 1 misdemeanor becomes a class 6 felony.
 - c) **ARS 13-604.N** – Convictions in other jurisdictions and states apply in Phoenix.
 - d) **ARS 13-707.A and 13-702** – Maximum incarceration for:
 - A class 3 misdemeanor is 30 days
 - A class 2 misdemeanor is 4 months
 - A class 1 misdemeanor is 6 months
 - A class 6 felony is 1 year
 - A second conviction for a class 6 felony is 1½ years
 - e) **ARS 13-707.B** – The court may direct that a person sentenced under a misdemeanor sentence shall not be released by the Sheriff on any basis until the imposed sentence has been served.
 - f) **ARS 13-902** – Maximum probation may continue for:
 - 1 year for a class 3 misdemeanor
 - 2 years for a class 2 misdemeanor
 - 3 years for a class 1 misdemeanor or class 6 felony
4. After a certain and limited number of repeat offenses from the same criminal, and we request that number be determined specifically and then implemented as policy, the Prosecutor's Office should request a trial or should request aggravated sentencing as a matter of said policy. However, another possible solution is listed below under judges.

How Can We Change the Culture?

Judges

1. As stated previously, it is perceived by many that the judges are not sentencing repeat misdemeanor street criminals. In fairness, looking at the court statistics of September and October of 2007 given to me by the court, from their perspective, judges are not just letting them off. They are sentencing high percentages of these career street criminals to time served in custody. (*See Court Statistics - Appendix Item J*)

The problem is, however, this is not sufficient time to persuade the career street criminal to change his behavior or leave Phoenix. In fact, quite the opposite is happening unbeknownst to the judges. These repeat, time served in custody, types of sentences are a minor inconvenience to these criminals. Not only does it not deter their negative lifestyle choices, it seems to empower them to believe Phoenix is the place for them to stay and continue their quality of life crimes against the rest of us. It is not until we make their lifestyle choice *painful for them* that they will choose to change or move on.

2. Judge Song-Ong was introduced to our Association's goals in November 2007, and she told our president that all the judges would be willing to see, and would benefit from Officer Stuart's presentation on the Street Crime Reduction Program. She also saw the importance of a citywide solution. Therefore, the Indian School Corridor Citywide Business and Homeowners Association specifically requests that Officer Stuart give the Judge's Office a presentation on how this method of policing has taken place right here in Phoenix.
3. Upon request, members of the Indian School Corridor Citywide Business and Homeowners Association would also assist in this educational effort by telling the judges how this style of policing and prosecution has positively impacted us. We believe that when the judges begin to see this problem as viewed from our perspective, they will not only understand, but will correct the problem as far as it is in their power to do so.
4. We believe that once the judges discover the extent of the problem, they and their clerks will habitually read the Form IV's and give them serious consideration. As a matter of policy, if they don't see a Form IV and complete criminal history, they should ask why it isn't there, providing a further check and balance to the system that is meant to protect the interests of the law abiding citizens of our city.

Again, we believe that when the judges realize that turning these low level misdemeanor criminals back onto our streets is having a tremendously negative impact upon our community's homes and businesses they could effectively turn the whole thing around by adopting a city court policy to "Require the Prior" in all sentencing decisions effectively making us a Broken Windows Policing and Prosecution city with all of the long term benefits that other cities have achieved.

5. We need the judges to decide as policy, exactly how many previous convictions is enough to get significant jail time in the city of Phoenix for these career street criminals. And we must have an exact number that is not negotiable. The policy must be exact and it must be clear.

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6. Once the judges set the number of “acceptable” misdemeanors, they must sentence accordingly. The community must be guaranteed that under this new policy repeat offenders will get progressively longer stints in jail with a specific amount of time as a minimum.

Our law abiding, taxpaying citizens must trust that once a criminal is alleged on a Form IV he will be given a trial date and then sentenced accordingly. We do not need any additional state laws for this. If the judges follow the existing Title XIII parameters, exercising the maximum allowable sentence on the first and successive arrests, they would drive home the message to career street criminals that the City of Phoenix has had enough.

7. Our Association recommends that creative options currently available such as the following be explored for the transition to Broken Windows Policing and Prosecution:
 - a) Sentence criminals for first time offenses with probation for 1 year. The second time he is arrested for a misdemeanor, revoke the probation and send him to jail for a minimum of two weeks. Upon original sentencing, add the notation regarding terms of probation to the criminal’s PACE report, like a file stop. It would then automatically come up when an officer runs the history on subsequent arrests. This latter part would not cost any money and would help us accomplish our goal of requiring the prior and sentencing accordingly.
 - b) Do not allow repeat career street criminals to post bond before seeing a judge.
 - c) Title XIII allows that even if arrested for his first misdemeanor in Arizona, a convicted felon from another state can have all priors taken into consideration in this “first” sentencing in Arizona. Our judges need to consider the whole person and make it clear that a career criminal from outside our state is not welcome to move here to continue his pattern of criminal behavior. This individual should face a higher level of prosecution and sentencing as the result.

There are many other ideas that Officers Dobson and Stuart as well as other rank and file officers could contribute to the specific discussion we are looking at. They should be permitted to explore these options with prosecuting attorneys and judges. The more immediate an officer’s experience on the street, and with this style of policing, the more valuable is his or her input.

How Can We Change the Culture?

The City Council

It has been related to me by numerous homeowners and business owners that they believe the City Council is only interested in annexing land, light rail, and increasing business downtown by the stadium. Whether this perception is just or not, if the City Council were to take the lead on this issue it would go a long way toward making the citizens citywide feel united. It would also restore the confidence the citizens living in the central corridors of the city want to place in their elected officials.

More importantly than ever in these hard economic times, we need to feel safe in our homes and in our parking lots. We want to believe that our city officials are fighting to give businesses every opportunity to compete with Scottsdale, Glendale, and the other outlying cities: cities that clearly don't tolerate the career street criminal problems that we have. We want our City Council to implement Broken Windows Policing and Prosecution as city policy.

The Indian School Corridor Citywide Business and Homeowners Association specifically requests that Officer Stuart give the full City Council a presentation on how this method of policing has taken place right here in Phoenix.

Moreover, we need this Council to ensure that a presentation by Officer Stuart on the Street Crime Reduction Program, requested by the offices of both the city Judge and Prosecutor, becomes a reality. It is incomprehensible and unacceptable to the members of this Association that to date, Officer Stuart's superiors have refused to allow him to contribute to the discussion that the judges, prosecutors, and citizens are requesting. This in spite of the fact that Officer Stuart has been working with this method of policing for several years and has been given a Distinguished Service Award *from the Police Department* for the creation and implementation of the program, as well as an award from the Kiwanis Club. He is the local expert and we expect to have access to his knowledge, experience, and input as part of this discussion.

We request that you, our City Council members take the lead on this unified effort bringing together representatives of all involved parties: Police, Prosecutors, Judges, Council People, Community Activists, and the Business Owners and help Officer Stuart's superiors see that it is not in anyone's best interest to exclude this vital piece of the puzzle we are trying to solve together.

Upon request, members of the Indian School Corridor Citywide Business and Homeowner's Association would also assist in this educational effort by telling our council persons how this style of policing and prosecution has positively impacted us. We believe that when the Council begins to see this problem as viewed from our perspective, they will not only understand, but will correct the problem as far as it is in their power to do so. We are confident that this will further unite our city.

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The following are other cursory recommendations for the City Council to help achieve this unifying goal:

1. Enforcement of trespassing statutes could be greatly enhanced if Police and Prosecution believed offenders faced significant penalties instead of being turned back onto the streets within hours of their arrest.

Significant penalties would also lead offenders to believe that the residents of the City of Phoenix whose property they trespass on are serious about protecting their property rights and have a strong desire to live in a safe community without ongoing disruption to their residential and business affairs.

To this end it is recommend that the City of Phoenix adopt minimum sentencing provisions for criminal trespassers who are diminishing our safety and eroding the quality of life in our community.

Therefore, the Indian School Corridor Citywide Business and Homeowner's Association specifically requests the City of Phoenix to establish ordinances, similar to those previously adopted to address and reduce prostitution, which require minimum jail sentences for misdemeanor trespassing convictions as listed below in accordance with already established state laws:

- a) **ARS 13-1502.** – Criminal trespass in the third degree; Class 3 Misdemeanor

Proposed City Ordinance:

- 1st Conviction: Minimum of 5 consecutive days in jail.
- 2nd Conviction w/in 84 months: Minimum of 15 consecutive days in jail.
- 3rd and/or Subsequent Convictions w/in 84 months: Minimum of 30 consecutive days in jail.

- b) **ARS 13-1503.** – Criminal trespass in the second degree; Class 2 Misdemeanor

Proposed City Ordinance:

- 1st Conviction: Minimum of 15 consecutive days in jail.
- 2nd Conviction w/in 84 months: Minimum of 60 consecutive days in jail.
- 3rd and/or Subsequent Convictions w/in 84 months: Minimum of 120 consecutive days in jail.

- c) **ARS 13-1504.** – Criminal trespass in the first degree; Class 1 Misdemeanor

Proposed City Ordinance:

- 1st Conviction: Minimum of 30 consecutive days in jail.
- 2nd Conviction w/in 84 months: Minimum of 90 consecutive days in jail.
- 3rd and/or Subsequent Convictions w/in 84 months: Minimum of 180 consecutive days in jail.

How Can We Change the Culture?

While the initial response to this suggestion of mandatory jail time will be that it is too expensive, we would like to remind the Council that this was the same thing that was said before similar ordinances were created for prostitution.

We would also like to remind the Council that Phoenix's efforts to reduce prostitution by the implementation of mandatory jail was so successful that it was adopted into Arizona State Law just this past year. Shouldn't we again take the lead on as important an issue as reducing the number of career street criminals?

We need to keep in mind that our ultimate goal here is not to incarcerate career street criminals, but to use incarceration as a way to get them to leave our city. I would reiterate what I have stated previously: In jurisdictions where Broken Windows Policing and Prosecution have been implemented, violent offenses and property crimes have declined. Once released from significant time in jail, the career street criminals leave those jurisdictions because it is no longer in their best interests to stay. So while initial costs may go up, they will drop precipitously once the culture is changed and word gets out on the street.

The Budget Issue – Comparison of Costs

1. Using Incarceration Costs provided to us by the court we have done an initial comparison of the costs of repeatedly arresting a career street criminal vs. what it would cost to incarcerate him with the minimum mandatory standards we are requesting. While certainly not claiming that these numbers are hard and fast; they are fair estimates and should be studied more thoroughly. (*See Incarceration Rate Schedule – Appendix K*)
2. As per Officer Stuart, Robert (a pseudonym), the first career street criminal tracked by the Street Crime Reduction Program, has been arrested in the City of Phoenix 94 times. He generally gets time served in custody. Let's compare the numbers from what we do now, to those of a Broken Windows style of policing and prosecution:

Using court provided figures; I have determined the exact booking and jail costs Robert has cost the city to date. 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.

For complete accuracy we would need to find a way to come up with dollar amounts for the salary costs and the opportunity costs of tying up a prosecutor, a judge, a bailiff, and other court personnel 94 times. We would need to find a number for the cost of the lost commerce to the business owner; both in immediate revenue loss and cost to the business of loss of repeat business. We would also need to decide how to factor in costs for any city fire personnel and/or any county medical personnel that may have assisted on these calls.

We would also have to decide on a dollar value for the opportunity cost of the arresting officer's time off the street while booking Robert for an average of 282 hours (3 x 94).

But for now we will work with just the following simple numbers:

One day in jail, including the booking rate is \$189. This adds up to \$17,766 (\$189 x 94) for Robert's repeated incarceration. If we use a 3 hour average for booking time and multiply that by the average arresting officer's salary of \$30 per hour we get \$90 per arrest. If we then multiply \$90 by 94, the number of Robert's arrests, the total is \$8,460. It has now cost the city **\$26,226 (\$17,766 + \$8,460) to incarcerate Robert.** (Not including all of the costs mentioned above that we have not factored in because we have not assigned a dollar value to them yet.)

If we followed the City Ordinance minimum sentencing guideline suggested above, Robert would have initially clocked in as a Class 1 misdemeanor with a third conviction in 84 months (he certainly has more than enough priors for this designation) and he would be immediately facing the highest possible minimum mandatory sentencing of 180 days. It would cost the state \$13,136 in jail time plus \$90 in the arresting officer's booking time for a total of **\$13,226 which gives the city a net savings of \$13,000 (\$26,226 - \$13,226).**

Our savings would, of course, be greater than this once we factored in the dollar values mentioned previously that we have not yet assigned. However, it would be safe to say that after the 180 days we would be certain that Robert would move on to another city as quickly as he could.

This ratio of expense to savings would be consistent with all of the repeat offenders in the system as long as they have 9 or more previous convictions in the past 84 months.

The Budget Issue – Comparison of Costs

However, even if we chose to save money and ignored his priors and began sentencing Robert on his next three misdemeanor arrests with the schedule for *first* time class three criminal trespassers as recommended above (and can anyone really doubt there will be a next three?) it would cost us \$478 for 5 days; \$1,202 for 15 days; and \$2,287 for 30 days. It is a reasonable and consistent expectation for Phoenix to benefit as other cities who have implemented the Broken Windows Policy have found: when a career street criminal does 5, 15, and then 30 days in jail (and many will leave after the second time, if not the first with the promised threat of the second) it will cost the city \$3,967 (\$478 + \$1,202 + \$2,287) to eradicate the problem of Robert.

It has already cost the city of Phoenix \$26,226 to incarcerate Robert and he's still not gone.

3. The budget will appear to go up initially, but it will settle back down and even improve in a very short time as it has in every other city that has implemented the Broken Windows Policy of Policing and Prosecution. When word gets out that there is a tough policing and prosecution policy in Phoenix these career street criminals will move on to someone else's city. They do not want to be uncomfortable and would rather leave Phoenix than do time here.
4. What we haven't even touched on is the most important part of this equation: the human cost of allowing these career street criminals repeated access to our citizenry, especially our children.

If we apply this same Broken Windows cost formula to the case of William Speed, the man who molested a four year old girl less than two months after completing his incarceration for a felony conviction, and less than one month from committing a class three misdemeanor – even under current sentencing guidelines he could have gotten 6 months in jail: a combined cost to the city of \$13,226.30. Considering he was incarcerated from 11/07/07 until 12/11/07 (the day before he raped this child he was released on his own recognizance); his incarceration had already cost us \$2,286.80. The difference is \$10,939.50.

Who among us can honestly say that the City of Phoenix could not have afforded to spend \$10,939.50 to spare this four year old child from being raped?

In Conclusion

...it must be asked: How can we brag about becoming the fifth largest city in the country if we can't protect our children, our homes and our businesses from the destructive lifestyle choices of career street criminals? The Indian School Corridor Citywide Association of Businesses and Homeowners stands together to say: We can't.

It's time we begin to follow the example of New York City, the largest city in America, and implement Broken Windows Policing and Prosecution as a citywide policy so that we too can watch our city's crimes and the *real* costs of those crimes – decline year after year.