



Pima County
Attorney

The People's Office



January 20, 2023

Honorable Chair Adelita Grijalva and
Members of the Pima County Board of Supervisors
33 N. Stone Avenue, 11th Floor
Tucson, AZ 85701

Dear Honorable Chair and Members Pima County Board of Supervisors:

We are pleased to see the Board's interest in returning to the important subject of Initial Appearances (IAs).

As your County Attorney, Tucson Police Chief, and Sheriff, we are deeply invested in the upcoming Board of Supervisors agenda item regarding IAs: *the hearing that sets the stage for all full custodial booked criminal cases within the system*. Indeed, we continue to spend at least a third of the taxpayer's dollar on the current criminal justice process that is failing to provide desired outcomes (a reduced jail population that is more equitably aligned with the population of Pima County). It is in all our interests to treat this subject with the utmost evaluation and care it deserves, particularly as this subject affects fundamental democratic principles such as safety, security, due process, and liberty. The IA is perhaps the most critical hearing that occurs in a criminal case.

The arresting jurisdiction pays \$ 401.17 for booking on the first night and then \$107.43 per day to house an arrestee. This cost per day is significantly higher than the amount treatment would cost, due to historically slow case movement for those incarcerated and awaiting hearings. On the other hand, if an arrestee is released or given a low bond on a **violent** crime offense, they are free to return and continue to harm our community. This even includes homicides, which occurred too frequently in the recent past. To refresh awareness, we spent hours briefing you on this last year:

Board Meeting of April 5, 2022, @ 1:32:57

Chief Kasmar speaks followed by CA Conover

Board Meeting of May 3, 2022 @ 1:33:20

Re: Initial Appearances

JOH/120-23M0807PCOKFB
2023

What we believe to be one of the most critical hearings in a criminal case is treated by the system as the least important. One needs only to privately watch the YouTube channel nightly to see that IAs are conducted as quickly as possible, some hearings lasting eight, ten, or twelve seconds. What we testified about to you last year has only worsened. As Chief Kasmar often says, "I have to make sure I'm doing everything possible internally before I ask system partners to make changes toward system-wide progress." And to that end:

1. County Attorney Conover has now led two office-wide IA trainings for a select group of attorneys who then must apply to conduct IA hearings, be accepted, and go through an additional IA training. The select IA team then attends refresher training every two months with County Attorney Conover personally, with periodic updates in the interim.

**CLERK'S NOTE:
COPY TO SUPERVISORS
COUNTY ADMINISTRATOR**

DATE 1-20-2023 YR

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2. Chief Kasmor has ongoing dialog with Judge Riojas to improve the content and consistency of arresting personnel narrative that currently contributes to IA decision making. Chief Kasmor has also been clear that there will be a sustained increase in full custodial arrest numbers from the low jail population numbers we became accustomed to during the pandemic. Tucson Police Department is focusing on a proactive approach to address violent crime, narcotics sales and possession, quality of life crime (repeat offenders of trespassing, panhandling, and shoplifting).
3. Sheriff Nanos brings to the Board's attention that in Arizona, a Rule 11 hearing is a court proceeding where the judge determines whether the criminal defendant is mentally competent to stand trial. This process can take several months. Twenty years ago, the Restoration to Competency (RTC) program sat with the state (Arizona State Hospital) and in 2003, was given to five county jails as a cost transfer from the state to the counties. The counties took this on as a for-profit venture by charging other counties for RTC services. Sheriff Nanos stopped that practice, and all outside county inmates were returned to their respective agencies. However, more needs to be done with the high numbers that remain from local cases. The Sheriff would want to remind county leadership that the jail is NOT a hospital, despite the seeming direction based upon regular decisions of the IA bench of judges.

The Superior Court is responsible for meaningful IA hearings to protect victims, to protect the community by keeping only the right individuals incarcerated, and to assure the attendance of the accused at a future court date. It is time to recognize the past four decades of metropolitan growth, and the interconnected increase of mental health, narcotics, and violent crime. It is time to reevaluate our system.

By current process design, Superior Court continues to farm out IA hearings to a group of City Court magistrates (some with limited felony trial experience) who are largely unaccountable to the public. It should be noted, the Pima County Attorney' Office is not aware of ongoing judicial training, or a move toward reforming the IA system since the Board asked about the process nine months ago.

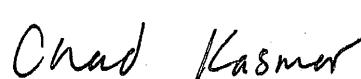
We are encouraging the Board to follow the direction proposed by the County Administrator to ensure appropriate actions are taken now to begin to reform IA hearings.

We remain at the Board's service if you have any questions, please do not hesitate to reach out to any one of us. Thank you.

Respectfully,



Laura Conover
Pima County Attorney



Chad Kasmor
Tucson Chief of Police



Chris G. Nanos
Pima County Sheriff