



State of Arizona
Office
of the
Auditor General

PERFORMANCE AUDIT

**ARIZONA
DEPARTMENT
OF
CORRECTIONS
Private Prisons**

Report to the Arizona Legislature
By Debra K. Davenport
Auditor General

**July 2001
Report No. 01-13**

The Auditor General is appointed by the Joint Legislative Audit Committee, a bipartisan committee composed of five senators and five representatives. Her mission is to provide independent and impartial information and specific recommendations to improve the operations of state and local government entities. To this end, she provides financial audits and accounting services to the state and political subdivisions and performance audits of state agencies and the programs they administer.

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AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

WILLIAM THOMSON
DEPUTY AUDITOR GENERAL

July 11, 2001

Members of the Arizona Legislature

The Honorable Jane Dee Hull, Governor

Mr. Terry L. Stewart, Director
Arizona Department of Corrections

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Private Prisons subprogram of the Arizona Department of Corrections. This report is in response to a June 16, 1999, resolution of the Joint Legislative Audit Committee. The performance audit was conducted as part of the Sunset review set forth in A.R.S. §41-2951 et seq. I am also transmitting with this report a copy of the Report Highlights for this audit to provide a quick summary for your convenience.

This is the fourth in a series of reports to be issued on the Arizona Department of Corrections.

As outlined in its response, the Department of Corrections will implement the report's recommendation.

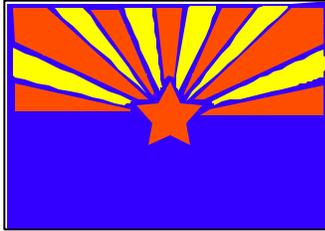
My staff and I will be pleased to discuss or clarify items in the report.

This report will be released to the public on July 12, 2001.

Sincerely,

Debbie Davenport
Auditor General

Enclosure

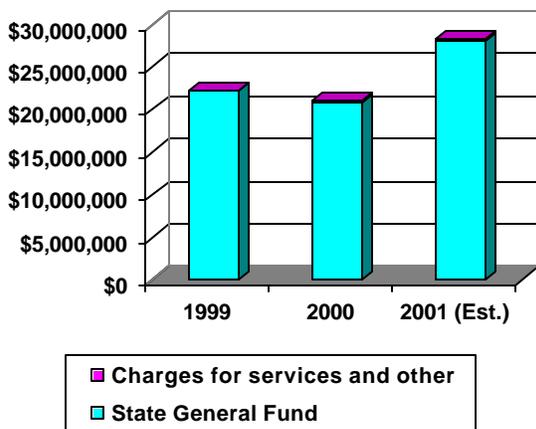


Program Fact Sheet

Arizona Department of Corrections Private Prisons

Services: Private Prisons is one of the five subprograms under the Prison Operations Program at the Arizona Department of Corrections. Its mission is to develop private prison contracts and provide oversight to monitor their safe, secure, and cost-effective operation. Private Prisons manages private prison contracts, including the conceptual development, proposal evaluation, contract negotiations, and contract maintenance functions, such as approving payments and clearance of contractor personnel.

Program Revenue: \$28.3 million
(fiscal year 2001 estimate)



Personnel: 15 full-time equivalent staff, including:

- 1 Deputy Warden
- 3 Associate Deputy Wardens
- 1 Captain
- 4 Clerical Support
- 6 Department on-site staff

Facilities: The Private Prisons subprogram operates out of the Department's building at 1601 W. Jefferson, Phoenix, AZ.

Equipment: In addition to basic office equipment, such as computers and printers, the Department has purchased the following items used by Private Prisons staff to carry out contract monitoring functions:

- 8 sedans
- 7 hand-held radios.

Program Goals and Performance Measures:

The Private Prisons subprogram has one goal:

To maintain effective monitoring of the private prisons through the prescribed evaluation schedule by Department staff.

To assess the goal, the program has five compliance-related input, output, and outcome performance measures, including the number of written instructions and data collection instruments reviewed for compliance, and the overall composite compliance score for the audited private prison facility.

Adequacy of Goals and Performance Measures:

The goal and performance measures for the Private Prisons subprogram appear to be appropriate for its mission. However, the Department's performance measures are designed to assess only procedural compliance. The Department should consider incorporating more substantial quality and outcome measures that are related to the Department's overall mission. These measures could address such areas as public safety and inmate education. For example, performance measures could include the number of escapes, or the number of inmates who completed General Education Diploma (GED) or substance abuse classes.

SUMMARY

The Office of the Auditor General has conducted a performance audit of the Private Prisons subprogram at the Arizona Department of Corrections (Department) in response to a June 16, 1999, resolution of the Joint Legislative Audit Committee. This performance audit was conducted under the authority vested in the Auditor General by A.R.S. §41-1279 and as part of the Sunset review set forth in A.R.S. §41-2951 et seq. This audit is the fourth in a series of six audits of the Department of Corrections. Previous audits focused on Security Operations, Human Resources Management, and Support Services. The remaining audits will focus on Agency Infrastructure and Arizona Correctional Industries.

Arizona statutes allow the Department to contract for prisons if doing so offers a cost advantage to the State, while still providing comparable levels of protection and service. The Department has contracts for three minimum-custody-level private prison facilities, with a total capacity of 1,450 inmates. These facilities, located in Florence, Marana, and Phoenix, primarily house inmates who have committed Driving Under the Influence (DUI) or drug-related offenses. In addition to a Department administrator who is responsible for all privatization projects, 15 Department employees administer the subprogram. These employees monitor contract compliance and carry out functions such as classification and discipline of inmates housed in the private prisons. Most of these employees work on-site at the private prisons.

The Department Exercises Strong Oversight of Prison Contractors (See pages 9 through 12)

Through strong contract requirements and extensive oversight activities, the Department has ensured that contracted facilities operate almost exactly like state-operated facilities, and at a lower cost. The Department requires its contractors to follow the

same policies and procedures as its state-operated prisons, extending to specific details such as following the same daily menus as state-operated facilities. Full-time contract monitors at each private prison assess compliance with Department requirements, and additional on-site Department staff perform inmate classification and handle inmate grievances and discipline. Department reviews show that its contractors met or exceeded Department operational standards at a cost averaging about 12 percent less than state-operated beds for similar inmates. This difference resulted in a savings of \$5.5 million in fiscal years 1998 and 1999, including the costs of program administration and contract monitoring. These savings are derived mainly from providing lower salaries and benefits compared to those of state employees.

The Department's review and oversight activities are more extensive than those in most other states. However, the approach appears to be effective, based on the private prisons' compliance with Department standards and the lower cost of housing inmates in private prisons compared to the cost of state-operated facilities.

The Department Should Begin Gathering Information To Make Future Privatization Decisions (See pages 13 through 17)

The Department should plan ahead so it can use private prisons most effectively when it needs more beds to accommodate inmate population growth or replace unsatisfactory facilities. In addition to the substance abuse and DUI inmates already sent to private prisons, the Department may wish to consider privatizing incarceration of other inmate groups, such as women, geriatric inmates, sex offenders, or mentally ill inmates. Other states have privatized or are considering privatizing some of these populations. However, in order to compare the costs of incarcerating in state-operated versus private facilities for such inmates, the Department needs to begin tracking such costs as health care,

special programs, or facility modifications required for these inmate groups. Because the Department has moved many of these types of inmates into separate units within Department-operated complexes, it may be easier to track these costs.

**Other Pertinent Information
(See pages 19 through 23)**

The prisons that have contracts with the Department are not the only private prisons operating in Arizona. Three additional prisons operate in Arizona and house inmates from other jurisdictions, such as three federal agencies, two other states and the District of Columbia, and a tribal government. More such prisons may open in the near future. Currently, state regulation of prisons without Department contracts is minimal. However, the Department would like the State to have more stringent regulation of these prisons.

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INTRODUCTION AND BACKGROUND

The Office of the Auditor General has conducted a performance audit of the Private Prisons subprogram at the Arizona Department of Corrections (Department) pursuant to a June 16, 1999, resolution of the Joint Legislative Audit Committee. This performance audit was conducted under the authority vested in the Auditor General by Arizona Revised Statutes (A.R.S.) §41-1279 and as part of the Sunset review set forth in A.R.S. §41-2951 et seq. This audit is the fourth in a series of six audits of the Department of Corrections. Previous audits focused on Security Operations, Human Resources Management, and Support Services. The remaining audits will focus on Agency Infrastructure and Arizona Correctional Industries.

Statutes Authorize Private Prisons and Establish Requirements

Arizona Revised Statutes §41-1609 authorizes the Department to contract for prison facilities. The statutes require that such contracts offer a cost savings to the State and a level of service quality that is at least equal to that provided by the State. The statutes also establish qualifying criteria for contractors, including experienced personnel, the ability to comply with correctional standards, and a history of successfully operating and managing other secure facilities. The Department must conduct biennial studies comparing contractor services against state operations, using at least nine dimensions of service set out in statute, such as security, and must also conduct a cost comparison every five years for each contract. The statutes also prohibit the Department from delegating certain functions, such as calculating inmate release dates and determining inmate security classification levels, to private contractors.

Photo 1: Front view of Florence private prison



Use of Private Prisons in Arizona

*The Department con-
tracts for three minimum-
custody-level facilities.*

Currently, the Department has contracts with two vendors for three minimum-custody-level facilities. Minimum-custody facilities house inmates assessed by the Department as presenting low risk to the public, staff, and other inmates. As shown in Table 1 (see page 3), the contract facilities mainly hold individuals convicted of DUI or drug-related offenses. One facility also houses up to 200 male inmates awaiting a hearing after being returned to custody for allegedly violating their release. For example, if a person released to community supervision fails a mandatory drug test, he could be sent to this facility until his hearing takes place.

In addition to its current contracts, the Department will add two more facilities once inmate numbers reach targets set by the Joint Legislative Budget Committee. On August 10, 2000, the Committee authorized the Department to contract for 400 minimum-custody beds for DUI inmates and 1,000 beds for non-U.S. citizens who can be deported after serving their sentences, and the Department issued requests for proposals accordingly. However, footnotes to the fiscal year 2002 and 2003 budgets prohibit expenditures for the new beds until the Department has a 2,500-bed deficit, and prohibit using more than half the beds for inmates of a single nationality. Because the Department could

Table 1

**Arizona Department of Corrections
Private Prisons
Private Prisons in Arizona
Under Contract with the Department of Corrections¹
As of March 1, 2001**

Marana Community Correctional Treatment Facility (Opened 1994) Management and Training Corporation			
Gender	Offenses	Current Occupancy	Rated Capacity
Male	Substance abuse	350	350
Female ²	Substance abuse	<u>79</u>	<u>100</u>
Total occupancy		<u>429</u>	<u>450</u>
Phoenix West (Opened 1996) Correctional Services Corporation			
Gender	Offenses	Current Occupancy	Rated Capacity
Male	DUI	385	400
Total occupancy		<u>385</u>	<u>400</u>
Florence West (Opened 1997) Correctional Services Corporation			
Gender	Offenses	Current Occupancy	Rated Capacity
Male	DUI	396	400
Male	Returned to custody	<u>176</u>	<u>200</u>
Total occupancy		<u>572</u>	<u>600</u>

¹ All three prisons are Level 2-custody facilities. The Department classifies inmates according to their risk to the public and the institutional risk to staff and other inmates, ranking them from 1 (lowest risk) to 5 (highest risk). The Department assigns only the lowest-risk inmates to these units.

² As of June 5, 2001, the Department houses only male inmates at the Marana facility.

Source: Auditor General staff analysis of information provided by the Arizona Department of Corrections as of March 1, 2001.

not fill the 1,000-bed prison with non-U.S. citizens without violating the latter prohibition, it canceled its request for proposals for the 1,000-bed facility and plans to issue a new one for minimum- to medium-custody DUI inmates.

This will provide, for the first time in Arizona, private prison beds for Department inmates above the Level 2 (minimum) custody level. The Department is currently evaluating proposals for

the 400-bed DUI facility but will not implement the contract until its bed deficit reaches the target level.

Department Staff and Budget Dedicated to Overseeing Private Prisons

The Department's Deputy Director of Prison Operations oversees Private Prisons, a subprogram of Prison Operations. To carry out its duties, which include developing contracts and monitoring the safe, secure, and cost-effective operations of private prisons, Private Prison Operations had 15 full-time equivalent staff as of January 8, 2001. In addition, an administrator in the Prison Operations program is responsible for all privatization projects, including private prisons. At the Department's central office, a deputy warden oversees the program and a captain is responsible for inmate appeals. At each private prison site, an associate deputy warden monitors contract compliance, a lieutenant is responsible for inmate disciplinary actions, and a classification specialist handles classification and inmate grievances. In addition, four clerical staff, one each at the central office and at the private prison sites, provide support.

Private Prisons received approximately \$20.9 million in General Fund appropriations in fiscal year 2000.

For fiscal year 2000, the Private Prisons subprogram, as illustrated in Table 2 (see page 5) received approximately \$20.9 million in State General Fund appropriations. That year, the Department paid about \$19.2 million to the private prison contractors, and spent approximately \$763,000 for Department employee salaries, employee-related expenditures, and other operating expenditures. Each contract includes a per diem rate that is paid to the contractor for the delivery of correctional services. In fiscal year 2000, per diem rates ranged from \$34.33 to \$41.04, depending on program needs, and the Department's additional costs to oversee the private prisons totaled about \$1.79 per inmate per day. In contrast, the average daily cost of a state-operated Level 2 facility was \$47.91 that year. According to Department and prison officials, the lower costs at private prisons derive mainly from providing lower salaries and benefits compared to those of state employees.

Table 2

**Arizona Department of Corrections
Private Prisons
Statement of Revenues, Expenditures, and Changes in Fund Balance
Years Ended or Ending June 30, 1999, 2000, and 2001
(Unaudited)**

	1999 (Actual)	2000 (Actual)	2001 (Estimated)
Revenues:			
State General Fund appropriations	\$22,139,300	\$20,899,300	\$28,125,400
Charges for services	129,608	175,788	141,500
Other	<u>476</u>	<u>222</u>	<u> </u>
Total revenues	<u>\$22,269,384</u>	<u>\$21,075,310</u>	<u>\$28,266,900</u>
Expenditures and other uses:			
Direct administrative support:			
Personal services	\$ 646,525	\$ 607,572	\$ 820,400
Employee-related	108,105	96,996	183,600
Aid to individuals and organizations	4,977	9,854	
Travel, in-state	168	529	600
Other operating	87,519	34,193	50,000
Equipment	<u>14,881</u>	<u>14,059</u>	<u> </u>
Total direct administrative support	862,175	763,203	1,054,600
Inmate Education and Treatment Program ¹	386,083	521,939	447,100
Professional and outside services ²	<u>20,788,094</u>	<u>19,202,146</u>	<u>19,560,500</u>
Total expenditures	22,036,352	20,487,288	21,062,200
Operating transfers out	5,743		
Remittances to the State General Fund	130,084	176,010	141,500
Reversions to the State General Fund	<u>97,205</u>	<u>412,012</u>	<u>7,063,200</u> ³
Total expenditures and other uses	<u>\$22,269,384</u>	<u>\$21,075,310</u>	<u>\$28,266,900</u>

¹ Consists of payments to inmates for work performed at privately operated prisons.

² Consists of payments to contractors to obtain inmate housing in privately operated prisons.

³ In 2001, the Department received additional State General Fund appropriations to contract for 1,400 new beds. However, the Department did not acquire these beds; consequently, it plans to revert these monies back to the State General Fund.

Source: Auditor General staff analysis of the Arizona Financial Information System (AFIS) *Accounting Event Extract File* for the years ended or ending June 30, 1999, 2000, and 2001 (through December 31, 2000); the AFIS *State of Arizona Appropriations Report* for the years ended June 30, 1999 and 2000; and the Department's *Program Budget Unit Summary of Expenditures and Budget Request* for fiscal years 2002 and 2003.

Audit Scope and Methodology

This audit focused on the Department's approach to contract monitoring and possible opportunities for expanding privatization. To obtain an understanding of contract monitoring and the issues surrounding prison privatization, auditors used a variety of methods, including a review of contracts, requests for proposals, monitoring tools, monthly and annual inspection reports, and the *Arizona Competitive Government Handbook*. In addition, auditors surveyed corrections officials in 11 states regarding their experience and practices related to private prisons.¹ Finally, auditors interviewed private prison contractors and their staff, as well as Department staff.

To identify the potential costs and benefits of privatizing specialized populations, auditors conducted interviews with experts in the area of prison privatization, private prison staff who do not contract with the Department, private prison contractors who incarcerate specialized populations in other states,² and corrections officials in states that contract out specialized inmate populations.³ In addition, auditors conducted an extensive review of privatization literature, including professional journal and newspaper articles, books, Internet Web sites, and reports from other states.

¹ Colorado, Ohio, Oklahoma, Tennessee, and Texas were surveyed because Department officials identified them as similar to Arizona in their approach to privatization. California, Nevada, and New Mexico were surveyed because they are neighboring states to Arizona. Finally, Alaska and Hawaii were surveyed because they currently send inmates to private prisons in Arizona and because they use different approaches to privatization.

² Contractors interviewed included a health care company that provides inpatient care for geriatric inmates from Georgia and South Carolina, and one private company that incarcerates female inmates in Florida, Nevada, and New Mexico.

³ States surveyed regarding contracting specialized populations included Florida, Nevada, and Oklahoma, which have contracts for incarcerating female inmates.

Introduction and Background

This audit includes findings in two areas:

- The Department exercises strong oversight of prison contractors.
- The Department should plan ahead for future privatization of additional populations.

In addition, the audit provides Other Pertinent Information (see pages 19 through 23) regarding other private prisons that operate in Arizona, but do not have contracts with the Department of Corrections. These private prisons house inmates on behalf of federal agencies and other states and jurisdictions.

This audit was conducted in accordance with government auditing standards.

The Auditor General and staff express appreciation to the Director of the Department of Corrections, his staff, and private prison officials for their cooperation and assistance throughout the audit.

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FINDING I

THE DEPARTMENT EXERCISES STRONG OVERSIGHT OF PRISON CONTRACTORS

The Department closely supervises its private prison contractors. The Department requires contractors to follow the same policies and procedures as state-operated prisons, and also closely monitors their operations. In fact, Arizona's approach to contract monitoring is among the most extensive nationally. While costly, the Department's approach appears to be effective, based on the private prisons' compliance with Department standards and the lower cost of housing inmates in private prisons compared to the cost in state-operated facilities.

Department Requires Equivalent Operations and Closely Monitors Compliance

The Department requires that private prisons mirror state-operated facilities, and performs extensive oversight activities to ensure that its contractors meet its requirements. In order to maintain uniform standards for state and private prisons, the Department requires contractors to follow Department Orders, Director's Instructions, Technical Manuals, Institution Orders, and Post Orders. These requirements extend to specific details, such as following the same daily menus as state-operated facilities. Contractors may request waivers from the Department for policies that are not applicable to private prisons, such as state fiscal management practices, employee evaluations, and employee benefits.

Private prisons must mirror state operations.

To monitor its contractors' operations, the Department stations Department employees at each private prison, conducts regular audits similar to internal audits used in state-operated facilities,

and performs comparisons with state operations at two-year and five-year intervals as required by statute. Specifically,

Three Department staff work full-time at each private prison.

- **On-Site Department Staff**—The Department assigns three full-time staff and at least one part-time employee to work on-site at each private prison. An associate deputy warden at each private prison, equivalent in rank to the second-in-command position at some state-operated prison units, serves as a full-time contract compliance monitor. The monitor participates in daily private prison staff meetings; conducts daily walk-around reviews of the prison; monitors weekly and monthly audit compliance in ten or more contract areas, such as inmate detention, inmate funds, and armory procedures; and works closely with the private prison warden and staff. The monitor’s job also includes coordinating and overseeing responsibilities the Department cannot delegate, including inmate release dates, approving inmate jobs, changing inmate custody levels, and disciplinary actions.

In addition to the monitor position, each private prison has a classification specialist, responsible for reviewing inmate custody levels and responding to inmate grievances, and a lieutenant, responsible for inmate discipline. Arizona Revised Statutes §41-1609.01(P) prohibits delegating these duties to private prison contractors. These two Department employees also help to ensure that the private prison follows Department inmate management practices. Finally, an employee provides clerical support.

- **Annual Audits**—Private prisons must undergo annual audits and inspections by Department employees, identical to those used in state-operated prisons, to further ensure compliance with Department policies. The Department also conducts special-purpose inspections, such as reviews of the inmate banking system and inmate health services.
- **Biennial Comparisons**—As required by A.R.S. §41-1609.01, the Department compares contractor performance to the state-operated prisons, using professional correctional standards established by the director every two years. These comparisons consider, at a minimum, nine dimensions of service, including security, inmate management and control,

inmate programs and services, and facility safety and sanitation.

- **Five-Year Cost Comparisons**—The same statute also requires the Department to work with the Governor’s Office for Excellence in Government to complete a cost comparison every five years, to ensure that each contract continues to provide cost savings to the State.

Department’s Approach Among Most Extensive Nationally

Compared to other states and jurisdictions, the Department’s oversight approach is one of the most extensive in the nation. Other states and jurisdictions use a wide variety of oversight approaches, ranging from on-site to periodic monitoring. For example, the Federal Bureau of Prisons also stations Bureau staff on-site to ensure contract compliance, similar to the Department’s approach. In contrast, some states conduct only periodic monitoring visits to private facilities. For example, Alaska and Hawaii use monthly or quarterly visits to monitor contract compliance at private prisons located in distant states such as Arizona. Variations also exist in delegating other duties to contractors. For example, in Colorado, Nevada, New Mexico, and Oklahoma, contractors handle the administrative work associated with inmate classification, instead of placing state staff on-site to carry out these duties.

The Department’s approach is one of the most extensive in the nation.

Private prison contractors perceive Arizona as a strict state to contract with. Officials at companies that contract with Arizona told auditors that Arizona is among the most stringent states to contract with, and that if they can contract with Arizona, they can contract with other states.

Approach Appears Effective and Costs Remain Below State-Operated Costs

The Department’s approach appears to be successful, and the costs of using and monitoring private prisons remain lower than

Finding I

using state-operated facilities. According to a 1997 evaluation conducted by an outside consultant and a recent Department report, all three contracted private prisons met or exceeded Department operational standards.

Department records show private prisons cost about 12 percent less than state-operated facilities.

Department administration and oversight of the Private Prisons subprogram represents about 13 percent of the program's total cost, but the Department still saves money by using private prisons. A recent Department report found that, even with these costs included, private beds cost about 12 percent less than state-operated beds for similar inmates in fiscal year 1999. Altogether, the report showed the Department saved \$5.5 million in two years through privatizing prison beds. According to Department and private prison officials, the lower costs at private prisons derive mainly from providing lower salaries and benefits compared to those of state employees. For example, one vendor's starting salary is \$8.00 per hour, compared to \$11.30 for new Department employees.

FINDING II

THE DEPARTMENT SHOULD BEGIN GATHERING INFORMATION TO MAKE FUTURE PRIVATIZATION DECISIONS

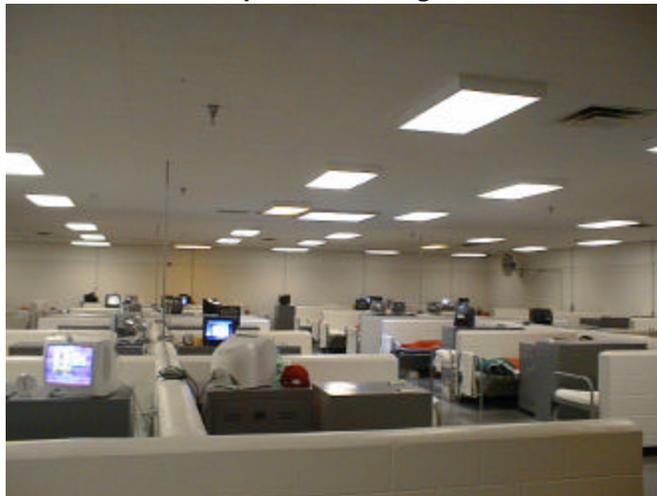
In order to make the best use of privatization in the future, the Department should begin planning and gathering good cost information. In the future, the Department could contract for housing additional inmate groups, such as women, geriatric inmates, or mentally ill inmates, as has already been done in some other states. However, the Department needs to begin collecting cost information regarding such inmates now in order to make good privatization decisions in the future.

Other Specialized Populations May Be Viable Candidates for Privatization

Privatization can help accommodate future growth in the inmate population, as well as the need to replace beds in aging or inadequate facilities. The Department prefers to use private prison beds for defined groups instead of general population inmates, in order to simplify selection of inmates to send to a particular prison. Even within the constraints imposed by this preference, the Department has numerous inmates who would qualify for private beds. In addition to DUI and substance abuse offenders housed in private prisons under current contracts, several other inmate groups may be viable candidates for privatization. Other states have already privatized beds for women. Geriatric inmates, mentally ill inmates, and sex offenders may present similar opportunities to increase privatization. According to auditors'

estimates, at the end of fiscal year 2000, at least 28 percent of the Department's inmate population fell into one of these groups.¹

Photo 2: Private prison housing



Dormitory-style housing at a private prison specifically designed for substance abuse treatment.

Arizona had 1,883 female inmates as of June 30, 2000.

- **Female Inmates**—At least five states have contracts for housing female inmates. For example, three different companies operate facilities for women in Nevada, New Mexico, Florida, Oklahoma, and Texas. In addition to cost savings, other states report efficiencies related to consolidating specialized medical services, and improved programs for women, such as parenting classes and, in Nevada, a Girl Scout Troop where inmate mothers serve as troop leaders. Arizona had 1,883 female inmates in the prison system at the end of fiscal year 2000.

¹ According to Department records, as of June 30, 2000, female inmates comprised approximately 7 percent of the total inmate population. Approximately 8 percent of the total inmate population was over 50. During that same period, 12 percent of inmates were housed in units designated by the Department for sex offenders, and over 1 percent of inmates were housed in units designated for mentally ill populations.

Finding II

2,253 Arizona inmates were age 50 or older at the end of fiscal year 2000.

The Department houses over 3,000 inmates in units designated for sex offenders.

- **Geriatric Inmates**—In response to the increase in older inmates in their prison populations, at least eight states house geriatric inmates separately in state-operated prisons, and some have issued requests for proposals to contractors for private geriatric facilities. Older inmates have increased needs for medical services, and officials in some states believe private companies may offer reduced costs. At the end of fiscal year 2000, approximately 2,250 of all Arizona inmates were age 50 or older.¹

- **Mental Health Inmates**—Although several states, like Arizona, house mentally ill inmates together in state facilities, this group may present another opportunity for successful privatization. According to the Department, about 2 percent of the Department’s inmates are seriously mentally ill. The Department houses many of these inmates in one of its oldest, least satisfactory physical facilities, on the grounds of the Arizona State Hospital in Phoenix. Contracting for incarcerating these inmates could provide an opportunity to move them to a better facility, while possibly saving on the costs of medication and other treatment. Currently, there is one private mental health prison facility in Mississippi. As of June 30, 2000, about 345 Arizona inmates were housed in areas designated for mentally ill inmates.

- **Sex Offenders**—Finally, Arizona could consider contracting for incarcerating inmates convicted of sex offenses. While it appears that no other state has privatized the sex offender population, Department officials report that such inmates tend to present fewer management problems than general population inmates, which may make them good candidates for privatization. The Department currently houses over 3,000 such inmates, mostly at designated sex offender units in its Florence and Eyman prison complexes.

¹ Corrections literature defines “geriatric” as over age 50, because inmates typically have a physiological age about 10 years older than their chronological age. Literature attributes this difference to substance abuse, poor health care, and other characteristics of many inmates’ lifestyles prior to incarceration.

Each of these specialized populations may present other considerations that could affect the decision to privatize their incarceration. For example, the Department may prefer to retain female inmates in its own facilities to better ensure appropriate staff-inmate behavior. The Department has established a training program designed to eliminate inappropriate staff-inmate behavior in its own prisons as a result of a lawsuit filed by female inmates under the federal Civil Rights of Incarcerated Persons Act (CRIPA).¹

The Department Should Collect Better Cost Information

To make more informed decisions regarding privatizing additional inmate groups, the Department needs to collect better cost information. According to criteria established by the Arizona Competitive Government Project, before deciding whether to privatize any additional inmate groups, the Department must determine if it can reduce costs or obtain better service at similar costs. However, the Department lacks reliable cost information regarding its specialized populations. Auditors requested information on health care costs for female inmates, for example, but the Department could not provide it. Collecting such information has not been deemed a high priority by Department staff, and the Department lacks adequate computer tracking systems to separate out such costs. However, the Department has moved many of these specialized inmate groups into designated units and complexes, which may make it easier for Department staff to identify costs associated with these inmates in the future.

In order to assess the potential for reducing costs through privatizing, the Department should begin to track costs separately for specialized inmate populations. Specifically, the Department should monitor their health care costs and the costs of special

¹ In response to the 1997 CRIPA lawsuit, the Department entered into a settlement agreement with the federal government in 1999 to establish a specialized training program designed to eliminate inappropriate staff-inmate behavior. The Department satisfied the agreement requirements and the case was dismissed in December 1999.

programs, such as sex offender treatment programs. In addition, the Department should monitor any increased staffing costs. For example, some specialized population units may require a higher staff-to-inmate ratio than similar general population units. The Department should also keep track of costs associated with modifying facilities for special populations, such as adding wheelchair ramps and widening doors. Finally, the Department should identify other costs that might change upon privatization, such as the cost of monitoring adherence to the CRIPA lawsuit requirements or the cost of assessing sex offenders for possible referral to the sexually violent persons program.

Recommendation

The Department should begin planning ahead for possible future privatization by separately identifying costs associated with incarcerating women, geriatric inmates, mentally ill inmates, and sex offenders who could reasonably be housed in private prisons.

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OTHER PERTINENT INFORMATION

During the audit, auditors acquired information about private prisons in Arizona that do not have contracts with the Department of Corrections.

Three Private Prisons in Arizona Do Not Have Department Contracts

Three private prison facilities, operated by Corrections Corporation of America and located in Eloy and Florence, are not under contract with the Department of Corrections. Rather, these private prisons house inmates on behalf of several federal agencies, other states, and jurisdictions. These private prisons house more inmates and higher-custody-level inmates than state-contracted private prisons. Table 3 (see page 20) shows the number, sources, and custody levels of inmates at these prisons.

Prisons Governed by Statutes, Contracts, and Company Practices

Like several other states' statutes, Arizona Revised Statutes §§41-1682 through 1684 and 41-1830.31 allow private prisons to operate in the State, and establish certain requirements all such companies must follow. Specifically, they must show financial responsibility before constructing a private prison, maintain photos and fingerprints of all inmates, and, upon release, return out-of-state inmates to the states where they were sentenced. In addition, they must notify the Governor, the Department, and the Department of Public Safety of inmates transferred into the State, providing the number of inmates transferred, their names and security levels, and the transfer date. The Department receives such notice in the form of a list of inmates. Finally, in the event

Arizona statutes permit private prisons to house out-of-state inmates.

Table 3

**Arizona Department of Corrections
Private Prisons
Private Prisons in Arizona
Without Department of Corrections Contracts
As of February 28, 2001**

Central Arizona Detention Center (Opened 1994) Corrections Corporation of America			
Source of Inmates	Custody Level¹	Current Occupancy	Rated Capacity
District of Columbia	Maximum	139	
Alaska	All	794	
United States Marshals Service	All	<u>1,547</u>	
Total occupancy		<u>2,480</u>	<u>2,304</u>
Eloy Detention Center (Opened 1995) Corrections Corporation of America			
Source of Inmates	Custody Level¹	Current Occupancy	Rated Capacity
Federal Bureau of Prisons	Low	490	500
Immigration and Naturalization Services	All	890	1,000
Total occupancy		<u>1,380</u>	<u>1,500</u>
Florence Correctional Center (Opened 1999) Corrections Corporation of America			
Source of Inmates	Custody Level¹	Current Occupancy	Rated Capacity
Immigration and Naturalization Service	All	241	
United States Marshals Service	All	100	
Hawaii	All	540	
Pascua Yaqui	All	<u>34</u>	
Total occupancy		<u>915</u>	<u>1,600</u>

¹ Low/minimum-custody inmates pose a relatively low risk of escape or few management problems. Medium-custody inmates require frequent supervision, with direct observation of their programs and activities areas. Maximum-custody inmates require constant supervision because they present serious escape risks or pose serious threats to themselves, to other inmates, or to the State.

Source: Auditor General staff analysis of information provided by Corrections Corporation of America.

of an escape from a private prison, the company must pay a minimum penalty of \$10,000 per escapee to the Department of Administration.

In addition to Arizona's statutory requirements, private prisons without Department contracts also operate according to contract requirements set by the jurisdictions that send them inmates and by their own company practices. The contract requirements drive operational details such as inmate clothing, education, work programs, and, for federal contracts, employee salaries. Currently, one company owns all three of these prisons in Arizona, as well as 67 other facilities in 20 other states. This company mandates that each facility meet internal monitoring practices, as well as other operational standards established by the American Correctional Association.

More such prisons may be located in Arizona in the future. Currently, the Federal Bureau of Prisons is considering bids from companies to build and operate new prison facilities. The new facilities will house approximately 4,500 low-security males, who are not U.S. citizens, but committed crimes in the United States. Arizona sites named in some of the bids under consideration include Kingman, Yuma, Florence, and Eloy. Bidders also proposed sites in California. The Bureau of Prisons will decide on a bid at the end of this year. The Department has asked the Bureau to reject any site that already supports a prison, due to concerns about the adverse effect on labor resources.

Other States Have Different Approaches to Allowing and Regulating Private Prisons

States have established different levels of regulation and oversight for private prisons that do not contract with them. According to the American Federation of State, County, and Municipal Employees' (AFSCME) compilation of states' private prison statutes, in November 2000, 15 states, including Arizona, had statutes that specifically mention housing out-of-state inmates in private prisons. (The remaining states either prohibit private prisons entirely or do not mention others states' inmates in their statutes pertaining to private prisons.) Six of those states prohibited importing inmates from other states, and two allowed importing inmates only upon approval of a state agency.

In a survey of selected states, auditors asked officials to characterize their state's identified form of regulation as restrictive, somewhat restrictive, or permissive.

- **Restrictive:** Ohio and Oklahoma officials describe their state oversight of such prisons as restrictive. For example, Ohio requires such prisons to have contracts with a local government in Ohio and mandates accreditation by the American Correctional Association, and bars them from housing inmates with a history of assaulting prison workers or visitors.
- **Somewhat Restrictive:** A Texas official describes their state regulation as somewhat restrictive. The Texas Commission on Jail Standards oversees private jails that house out-of-state inmates. The Commission establishes minimum standards for construction and operation of jails, reviews and comments on jail construction documents, and monitors compliance with adopted standards.
- **Permissive:** New Mexico and Tennessee officials characterize their state regulation as permissive. These states have few requirements and no state oversight. According to Arizona Department of Corrections officials, Arizona's level of regulation of prisons that do not contract with the Department also falls into the permissive category.

The Department Wants More Regulation of Private Prisons

The Department has proposed that Arizona should have more stringent regulation, and two bills introduced in the 2001 legislative session would have increased regulation of noncontracted private prisons. First, an amendment to Senate Bill 1213 would have prohibited private prisons from housing maximum-security inmates. The amendment failed. Currently, Arizona does not prohibit the import of maximum-security inmates into private prisons. In contrast, Idaho's, Texas', and West Virginia's statutes allow private prisons to import only minimum- and medium-security inmates. Department officials believe that such

SB 1213 would have prohibited private prisons from housing maximum-security inmates.

Other Pertinent Information

prohibitions in other states will make it more likely that other jurisdictions will transfer maximum-security inmates to private prisons in Arizona.

A second bill, Senate Bill 1478, would have required the Department's director to approve private companies' prison proposals, and the Joint Committee on Capital Review to assess proposals before private prisons are built in Arizona. The bill failed. Currently, private prison companies do not have to seek approval from the Department before constructing a private prison. Department officials assert that private prisons located near state-operated prisons could hamper Department efforts to recruit and retain sufficient correctional officers.

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AGENCY RESPONSE

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July 5, 2001

Debra K. Davenport, CPA
Auditor General
Office of the Auditor General
2910 North 44th Street, Suite 410
Phoenix, Arizona 85018

Re: AUDITOR GENERAL'S PERFORMANCE AUDIT
PRIVATE PRISONS SUBPROGRAM FINAL REPORT RESPONSE

Dear Ms. Davenport:

The mission of the Arizona Department of Corrections (ADC) is to serve and protect the citizens of Arizona by imprisoning offenders legally committed to ADC and by providing community based supervision of those conditionally released. Private Prisons play an important role in the mission by providing quality incarceration at a level equal to ADC operated prisons at a cost savings. We believe we operate private prisons in compliance with applicable state statutes and are a national leader in the area of prison privatization. However, the perspectives provided by your staff will further enhance our program.

We have reviewed your revised audit draft report of June 28, 2001. Below please find our written response to the audit findings.

Finding II

Recommendation: The Department should begin planning ahead for possible future privatization by separately identifying costs associated with incarcerating women, geriatric inmates, mentally ill inmates, and sex offenders who could reasonably be housed in private prisons.

Response:

The Department concurs in this finding and the audit recommendation will be implemented.

Comment: The Department shall review the methodology used to capture and report identifying costs which may potentially aid in the improvement of the Cost Model used to evaluate privatization issues. However, the reference to those population types identified in this recommendation as being, "reasonably housed in privately prisons" remains to be determined. While there are states privatizing these population types, it is too early to unequivocally determine that these are in fact the population types to privatize. ADC will continue to monitor national trends noting both successes and difficulties in the privatization arena. More importantly, ADC will seek empirical evidence supporting the privatization of population types. ADC will then, based on sound correctional practice and taking into consideration community concerns, political interest and the needs of the agency, determine what population type(s) to privatize.

Debra Davenport
July 5, 2001
Page 2

ADDITIONAL REPORT COMMENTS:

Program Fact Sheet - Adequacy of Goals and Performance Measures:

Comment: ADC annually reviews the goals and objectives. The suggestion to incorporate quality and outcome measures related to the Department's mission is noted and appreciated.

Finding I:

Comment: Page 9: While the costs related to the monitoring staff are adjusted for in the Cost Model to ensure the vendor is providing the service at a lower cost than the State could, the private company does not directly pay the wages of the monitoring staff. The Department is examining what effect requiring the contractor to pay for the cost of the monitoring would have on the per diem cost.

Finding II:

Comment: Page 14: Female Inmates: ADC has consolidated the females into one exclusive female complex and one release center in an effort to reduce costs and maximize program activities.

On behalf of the Arizona Department of Corrections and its staff, I wish to take this opportunity to thank you and your staff for the observations offered regarding our Private Prison Program. It has been a pleasure working with your staff. I am certain our efforts will improve our approach to prison privatization and continue to benefit the citizens of this State.

Thank you for affording this opportunity to respond.

Sincerely,

Terry L. Stewart
Director

TLS/CLR/lis

cc: Charles L. Ryan, Deputy Director, Prison Operations
Lacy L. Scott, Administrator, Privatization & Contract Services
Tim Murphy, Deputy Warden, Private Prisons

Other Performance Audit Reports Issued Within the Last 12 Months

00-16	Arizona Department of Agriculture— Pesticide Compliance and Worker Safety Program	01-04	Arizona Department of Corrections—Human Resources Management
00-17	Arizona Department of Agriculture— Sunset Factors	01-05	Arizona Department of Public Safety—Telecommunications Bureau
00-18	Arizona State Boxing Commission	01-06	Board of Osteopathic Examiners in Medicine and Surgery
00-19	Department of Economic Security— Division of Developmental Disabilities	01-07	Arizona Department of Corrections—Support Services
00-20	Arizona Department of Corrections— Security Operations	01-08	Arizona Game and Fish Commission and Department—Wildlife Management Program
00-20	Universities—Funding Study	01-09	Arizona Game and Fish Commission—Heritage Fund
00-21	Annual Evaluation—Arizona’s Family Literacy Program	01-10	Department of Public Safety— Licensing Bureau
01-01	Department of Economic Security— Child Support Enforcement	01-11	Arizona Commission on the Arts
01-02	Department of Economic Security— Healthy Families Program	01-12	Board of Chiropractic Examiners
01-03	Arizona Department of Public Safety—Drug Abuse Resistance Education (D.A.R.E.) Program		

Future Performance Audit Reports

Arizona Automobile Theft Authority

Department of Real Estate