

Arizona Department of Corrections



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CHARLES L. RYAN
DIRECTOR

September 27, 2010

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

Re: RESPONSE TO AUDITOR GENERAL'S PERFORMANCE AUDIT OF PRISON
POPULATION GROWTH

Dear Ms. Davenport:

The mission of the Arizona Department of Corrections (ADC) is to serve and protect the people of Arizona by securely incarcerating convicted felons, by providing structured programming designed to support inmate accountability and successful community reintegration, and by providing effective supervision for those offenders conditionally released from prison. The Department's highest priority is maintaining effective custody and control over inmates in an environment that is safe and secure for staff and inmates.

We have reviewed your September 21, 2010, report of the performance audit of the Department of Corrections, Prison Population Growth.

Below please find our written response to the four (4) recommendations for Legislative and Department consideration.

RECOMMENDATIONS FOR LEGISLATIVE AND DEPARTMENT CONSIDERATION:

OPTION 1: The Legislature could continue to expand the prison system, either by constructing new prison facilities and/or contracting for more private beds. If the Legislature decides to expand the prison system, it should consider directing the Department of Corrections (Department) to further study and analyze the costs for the State to build and operate prison facilities compared to contracting with private prisons to determine which option would be more cost effective while still ensuring public safety.

RESPONSE: The Department agrees that this finding of the Auditor General is an option available to the Legislature.

OPTION 2: The Legislature could consider diverting more nonviolent, low risk offenders from prison and/or reducing the time they serve - alternatives that may require changes to the State's sentencing laws. Specifically:

- Similar to Arizona Revised Statutes (A.R.S.) §13-901.01, which requires persons convicted of a first or a second offense for the personal possession or use of drugs to be sentenced to probation and mandatory treatment, the Legislature could consider revising statute to expand diversion opportunities to other low-risk offenders, particularly those whose crimes are related to substance abuse. In order to divert more nonviolent, low risk offenders from prison, the Legislature may need to consider revising some of the State's sentencing laws.
- The Legislature could consider expanding early release options, such as reducing the time served requirement for nonviolent, low risk offenders and establishing earned time credits. These options would also require changes to the State's sentencing laws.
- If the Legislature expands diversion or early release options, it should also consider taking the following steps:
 - Further defining diversion and/or early release eligibility criteria for other nonviolent, low risk offenders in statute, and/or
 - Ensuring the use a valid and reliable risk assessment tools to determine offender eligibility for diversion and/or early release.
- The Legislature could consider establishing a permanent sentencing commission to assist in reviewing and recommending changes to the State's sentencing laws. Other possible functions this commission could perform include determining eligibility criteria for diversion, recommending guidelines for determining appropriate candidates for alternative sanctions, and monitoring reform results to ensure they are having the intended effect. If the Legislature establishes a sentencing commission, it should consider including representatives from all criminal justice system stakeholders.

RESPONSE: The Department agrees that this finding of the Auditor General is an option available to the Legislature.

OPTION 3: The Legislature could consider using more nonprison alternatives for nonviolent, low risk offenders. This could include:

- Expanding substance abuse treatment alternatives by expanding the use of drug courts and/or establishing additional substance abuse treatment alternatives. This might include providing additional counseling services, in-patient beds, and secure residential treatment beds.
- Expanding the use of home arrest with electronic monitoring.
- Establishing day reporting centers.

These or other alternatives could be used in lieu of prison sentences or in conjunction with earlier release. The Legislature could consider directing the Department and/or the courts to further study nonprison alternatives and develop recommendations for expanding their use, which should include an evaluation of the costs of these alternatives. Additionally, the Legislature could direct the Department and the courts to monitor the cost and impact of any nonprison alternatives established. Depending on whether the Legislature provides funding for expanded nonprison alternatives and which alternatives are expanded, some statutes will need to be revised, such as the home arrest statute.

RESPONSE: The Department agrees that this finding of the Auditor General is an option available to the Legislature.

OPTION 4: Expanding nonprison alternatives for parole violators would require the following actions:

- The Department should complete its study of potential options for expanding the use of nonprison alternatives for parole violators and present its findings to the Governor and Legislature for consideration. The Department should then expand its use of nonprison sanctions in accordance with the direction it receives from state policymakers.
- If nonprison alternatives or sanctions are implemented, the Department should incorporate the use of these additional sanctions in its community supervision policies and procedures.

RESPONSE: The finding of the Auditor General is agreed to and the audit recommendation will be implemented.

On behalf of the Arizona Department of Corrections and its staff, I wish to extend my personal thanks to your staff for their professional work through the audit process.

Thank you for affording the Department this opportunity to respond.

Sincerely,

Charles L. Ryan
Director

cc: File