



State of Arizona  
Office  
of the  
Auditor General

**PERFORMANCE AUDIT**

**ARIZONA  
DEPARTMENT  
OF  
CORRECTIONS**

**Sunset Factors**

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

**September 2001  
Report No. 01-26**

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DEBRA K. DAVENPORT, CPA  
AUDITOR GENERAL

STATE OF ARIZONA  
OFFICE OF THE  
AUDITOR GENERAL

WILLIAM THOMSON  
DEPUTY AUDITOR GENERAL

September 26, 2001

Members of the Arizona Legislature

The Honorable Jane Dee Hull, Governor

Mr. Terry Stewart, Director  
Arizona Department of Corrections

Transmitted herewith is a report of the Auditor General, A Performance Audit of the Arizona Department of Corrections—Agency-wide Sunset Factors. This report is in response to a June 16, 1999, resolution of the Joint Legislative Audit Committee. The analysis of the 12 Sunset Factors was prepared as part of the Sunset review set forth in A.R.S. §41-2951 et seq.

This is the seventh in a series of reports issued on the Department of Corrections.

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

This report will be released to the public on September 27, 2001.

Sincerely,

Debra K. Davenport  
Auditor General

Enclosure

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# INTRODUCTION AND BACKGROUND

The Office of the Auditor General has prepared an analysis of agency-wide Sunset Factors for the Arizona Department of Corrections (Department), as part of the Sunset review set forth in Arizona Revised Statutes (A.R.S.) §41-2951 et seq.

This analysis of the 12 statutory Sunset Factors is developed from a series of six performance audits of the Arizona Department of Corrections. These audits covered areas representing over 77 percent of the Department's estimated \$584.1 million fiscal year 2002 budget, and nearly 85 percent of the Department's 10,707 full-time equivalent (FTE) employees.

## Department Organization

The Department is divided into 4 programs and 20 subprograms as described below.

- **Prison Operations (9,187.4 FTEs)**—Nearly 80 percent of the Department's budget is appropriated to the Prison Operations program, which administers prison operations, budgets, and staffing; oversees prison activation; and operates prison work and other inmate programs. Subprograms include Security Operations, Private Prisons, Support Services, Prison Operations Management, and Inmate Programs. Another Prison Operations subprogram, Arizona Correctional Industries, is self-sufficient and does not receive a State General Fund appropriation.
- **Administration (461 FTEs)**—This program provides the Department with guidance, training, and support for employee recruitment and retention, human resources services, information technology solutions, and community corrections issues through four subprograms: Information Technology, Administrative Services, Human Resources Management, and Community Corrections.

- **Inmate Health Care (847 FTEs)**—This program provides inmates with medical, dental, mental health, nursing, and pharmaceutical services. Additionally, it oversees the services private treatment facilities provide to inmates. Moreover, this program provides employees with occupational health care services and tracks work-related injuries and illnesses.
  
- **Department Leadership and Support (132 FTEs)**—This program, comprising Agency Support, Media and Public Relations, and Inspections and Investigations, supports the Department by providing legal services, promulgating policies, supporting other law enforcement agencies, and engaging in strategic planning. Additionally, it facilitates agency communications through various means, including its Web site, news releases, and public records requests. Further, the program promotes Department safety and security by conducting administrative, criminal, and gang-related investigations, as well as performance inspections.

### **Scope and Methodology**

The Department's performance was analyzed in accordance with the 12 statutory Sunset Factors. Previous audit work in the following areas provided a basis for responses to the Sunset Factors:

- Security Operations (Report No. 00-20);
- Human Resources Management (Report No. 01-4);
- Support Services (Report No. 01-7);
- Private Prisons (Report No. 01-13);
- Administrative Services and Information Technology (Report No. 01-18); and
- Arizona Correctional Industries (Report No. 01-25).

## ***Introduction and Background***

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Information obtained from Department officials, the Governor's Regulatory Review Council, the Department of Administration, and the Office of the Attorney General is also included.



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# SUNSET FACTORS

In accordance with Arizona Revised Statutes (A.R.S.) §41-2954, the Legislature should consider the following 12 Factors in determining whether the Arizona Department of Corrections should be continued or terminated.

**1. The objective and purpose in establishing the Department.**

The Department of Corrections (Department) was established pursuant to Laws 1968, Chapter 198 (A.R.S. §41-1601, et seq) by consolidating independently operated prisons into a single department with a variety of responsibilities.

Consistent with its statutory purpose, the Department's purpose, as described in its mission statement, is "to serve and protect the people of Arizona by imprisoning those offenders legally committed to the Department, and by providing community based supervision for those conditionally released."

The Department has six goals in carrying out its mission:

- Maintaining effective custody and control over inmates in a safe and secure environment;
- Providing programs for inmates, including work, GED and literacy education, substance abuse resistance, and spiritual access;
- Increasing staff recruitment, retention, and development;
- Improving Department operations through technology and innovation;

- Providing cost-effective, constitutionally mandated correctional health care; and
- Maintaining effective community supervision of offenders, facilitating their successful transition from prison to the community, and returning offenders to prison when necessary to protect the public.

**2. The effectiveness with which the Department has met its objective and purpose and the efficiency with which it is operated.**

Although the Auditor General has identified in a series of six reports numerous ways the Department could improve its efficiency and effectiveness, the Department has met its overall objective and purpose. For example, escape rates have continued to decline since the mid-1980s, when an Auditor General's report pointed out major security problems. Additionally, the Department is part of a nationally recognized telemedicine program, which provides inmates with faster access to medical care and specialists, while reducing inmate transportation. Specifically,

- The audit of **Security Operations**, Report No. 00-20, found that the Department could increase its security by eliminating the use of tents, staffing unopened units at its Lewis complex, and modifying or replacing buildings that hamper security. Although the Department greatly improved facility security in recent years, the Department is forced to use some prison facilities that have design, maintenance, or other problems that diminish inmate and staff safety. The use of converted hotels, tents, Quonset huts, and other prefabricated buildings increases staffing requirements and makes proper inmate surveillance and control nearly impossible.
- The **Human Resources Management** audit, Report No. 01-4, concluded that the Department spends millions of dollars each year on recruiting, training, and

overtime because of high vacancy and turnover rates. It recommended that the Department improve employee retention by better screening out unsuitable candidates, offering competitive wages and benefits, and using exit interviews to identify problems and reduce turnover. Additionally, the report recommended that the Department conduct regular research into the reasons for the high number of drop-outs and failures from the training academy, which reduce the number of officers available to fill vacant positions. The report also recommended that the Department redesign its Internet Web site because its layout made it difficult for potential recruits to learn about job availability.

- The performance audit of **Support Services**, Report No. 01-7, reported that the Department can improve time computation and records procedures to reduce errors that sometimes result in inmates' early or late release from prison. Additionally, the report recommended that the Department improve business office procedures and develop a plan to implement recommendations from its internal task force, the Venture Team, to improve operations at inmate stores.
- The **Private Prisons** audit, Report No. 01-13, stated that the Department should begin planning for possible future privatization by separately identifying costs associated with incarcerating women, geriatric inmates, mentally ill inmates, and sex offenders who could reasonably be held in private prisons.
- The audit of **Administrative Services and Information Technology**, Report No. 01-18, found that although the Department generally does well in maintaining its facilities, prisons continue to have many maintenance needs that strain Department resources. The Department does not have a standardized automated system to enhance preventive maintenance scheduling, improve inventory control, or facilitate tracking maintenance and repairs performed. Further, the Department does not have long-term plans for replacing deteriorating facilities. Additionally, the re-

port revealed that the Department continues to be plagued by information technology problems identified in a 1986 performance audit, including inadequate oversight and planning. As a result, the Department lacks information technology systems needed to communicate, track, or manage some information.

- The audit of **Arizona Correctional Industries (ACI)**, Report No. 01-25, found that although ACI is meeting its statutory mandate to be self-supporting, the Department should take steps to increase sales by its owned-and-operated enterprises. Additionally, the report stated that the Department should explore the potential of a printing certification program and, if appropriate, implement such a program.

**3. The extent to which the Department has operated within the public interest.**

The Department of Corrections has generally operated in the public interest by operating a safe and secure prison system that confines offenders as directed by the courts. Confinement contributes to public safety by removing offenders convicted of crimes from society and preventing them from further victimizing citizens.

Auditor General consultants found that the Department is making highly commendable and largely effective efforts to provide a safe and secure environment. For example, the Department has substantially improved security in almost all areas and the number of escapes has dropped dramatically. Additionally, Arizona Correctional Industries has made progress over the last decade in accomplishing its mission of employing inmates in revenue-generating work activities by more than tripling the number of inmates it employs. In addition, ACI has operated as a profitable enterprise, and has reported a positive net income since 1994. Furthermore, the Department operates in the public interest by participating in numerous national surveys and providing information on numerous topics of public interest, including inmate

DNA sampling, drug treatment intervention, privatization, and incarcerated fathers and child support.

Some other examples of how the Department has operated in the public interest include:

- Adopting effective management policies and practices that allow staff to monitor inmates' location, control their behavior, and prevent assaults, contraband, and escapes.
  - Significantly improving other security practices related to areas such as inmate transportation between prisons and controlling access to dangerous tools.
  - Improving how inmates are assessed for security risks to the public and other inmates and staff by adopting a more objective classification model.
  - Improving fleet management practices by tracking operating costs, purchases, vehicle inventory, and maintenance.
  - Ensuring that contracted facilities operate almost exactly like state-operated facilities, but at a lower cost, through strong contract requirements and extensive oversight activities.
4. **The extent to which rules and regulations promulgated by the Department are consistent with legislative mandate.**

Pursuant to A.R.S. §41-1005, the Department is exempt from the rule-making requirements of the Administrative Procedures Act. The Department is, however, statutorily required to adopt rules regarding incentives for good behavior and the performance of work by inmates. It is also required to adopt rules to limit inmate access to the Internet. The Department has adopted rules in the form of policies addressing those issues. For example, Director's Instruction 156 prohibits inmate Internet access and De-

partment Order 903 enumerates inmate work activities procedures.

5. **The extent to which the Department has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public.**

Although the Department is exempt from the rule-making process, it does inform the public of its actions through other means. According to Department officials, it creates internal policies that sometimes impact the public, but does not encourage input from the public before promulgating these policies. The Department does, however, provide Internet access to all its unrestricted policies. Policies are also available for purchase, in whole or in part, from the Department's Policy and Research Bureau or Arizona Correctional Industries. Additionally, the Department offers further public access by identifying policies that impact the public and publishing Substantive Policy Statements with the Secretary of State.

The Department has expanded its Internet Web site to include information on escaped inmates and absconders, with a 24-hour telephone number that the public can use to report information on the fugitives. It also contains information on the Department's inmates and is linked to the Department of Public Safety's sex offender database. Annual reports, news releases, fact sheets, the Department's newsletter, *Directions*, and other agency documents can also be accessed through the Web site. The Department also organizes prison tours for the public and has participated in numerous media documentaries and reports to inform the public of its actions.

6. **The extent to which the Department has been able to investigate and resolve complaints that are within its jurisdiction.**

The Department receives complaints from inmates, its employees, and the public. Inmate complaints take two

forms: appeals to discipline imposed and formal inmate grievances. The Department received 722 inmate grievance appeals in calendar year 2000. Of those, 54 were decided, wholly or partially, in favor of the inmate, while 668 appeals were denied. Complaints from employees are reviewed through the Department of Administration grievance procedures or Department policies, as applicable. The Department handled 197 employee grievances during calendar year 2000. Of those grievances, 2 remain open, 113 were closed due to inactivity or lack of response to requests for information, 32 were resolved between the employee and supervisor or warden, and 50 grievances were appealed to the director, who decided 3 in favor of the employee. The State Personnel Board receives appeals of Department dismissals, demotions, and suspensions over 40 hours, as well as actions under the State's whistleblower statute. In fiscal year 2000, the Personnel Board heard 37 appeals of Department actions, more than for any other agency. The Board upheld the Department's action or modified the penalty in most cases, and decided in favor of the employee in only 3 cases. The Department's Inspections and Investigations Bureau investigates documented complaints from the public as internal affairs investigations or special investigations.

**7. The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under enabling legislation.**

The Attorney General provides legal services to the Department pursuant to A.R.S. §41-192. County attorneys prosecute most crimes committed by inmates or staff within their county. The Attorney General represents the Department in criminal appeals, civil prosecutions, and criminal cases from the state grand jury. The Attorney General also prosecutes cases at the request of county attorneys.



**8. The extent to which the Department has addressed deficiencies in the enabling statutes that prevent it from fulfilling its statutory mandate.**

According to the Department, it has sought legislation on a regular basis in recent years. From 1997 through 2001, the Department introduced 26 bills, 11 of which were enacted. Some key pieces of legislation introduced and approved are as follows:

- **SB 1129—Corrections Officer Retirement Plan (Laws 2001, Ch. 309)**—The legislation more closely aligns correctional officer retirement benefits with those of police officers and other public safety officials. First, it reduces the years of service necessary to receive a normal retirement pension from 25 to 20. Additionally, the maximum pension was raised from 75 percent to 80 percent of the employee’s average monthly salary.
- **SB 1213—Prison Facilities Contracts (Laws 2001, Ch. 26)**—The law permits the Department’s private prison contracts to include a facilities purchase option. The statute also allows such contracts to include a provision that reduces the purchase price by a portion of any per diem the Department pays. Finally, the act establishes a private 450-bed community treatment facility.
- **SB 1042—Inmate Work and Employee Travel Reduction (Laws 1999, Ch. 234)**—The legislation modifies requirements for using inmate labor in community betterment and public works projects. In addition, it establishes a travel reduction program that transports employees between home and work via vanpools, carpools, or buses.
- **HB 2144—Inmate Release/Inmate Complaints (Laws 1998, Ch. 232)**—The law permits the Department to deny or delay an inmate’s release to community supervision or probation if the inmate is believed to be sexually violent. The statute also requires inmates to follow the Department’s internal grievance

procedures before filing a complaint with various state medical boards.

**9. The extent to which changes are necessary in the laws of the Department to adequately comply with the factors in the Sunset Laws.**

Recent reports from the Office of the Auditor General identified several actions the Department should take before seeking statutory changes from the Legislature.

The performance audit of the Department's Security Operations (Report No. 00-20) recommended that the Department:

- Develop a plan for legislative approval that would eliminate the use of the Department's permanent tents at its Florence complex.
- Develop plans to replace the mental health units in the Alhambra/Flamenco and Aspen Units at the Phoenix complex because they have design problems that inhibit direct inmate surveillance.
- Develop a plan for the future replacement of Quonset huts and modular housing units, which will require legislative appropriations.

The Department of Corrections Administrative Services and Information Technology performance audit (Report No. 01-18) recommends that the Department consider forming a committee of stakeholders and experts to review the current building systems and possibly also determine if establishing a Department of Corrections building system is appropriate.

- 10. The extent to which the termination of the Department would significantly harm the public health, safety or welfare.**

Terminating the Department of Corrections would significantly harm public safety because confinement of criminal offenders is vital to the protection of the public. Imprisonment contributes to public safety by removing offenders from society and preventing them from further victimizing citizens. Arizona has traditionally provided confinement for felony offenders at the state level.

- 11. The extent to which the level of regulation exercised by the Department is appropriate and whether less or more stringent levels of regulation would be appropriate.**

Although the Department is not a regulatory agency, it has entered into contracts with three private prisons, over which it exerts extensive oversight. This oversight and strong contract requirements ensure that those prisons operate almost exactly like state-operated prisons, and at a lower cost. However, state regulation of prisons located in Arizona without Department contracts is minimal.

According to Department officials, the Department plans to initiate legislation in the next session to regulate private prisons that have not entered contracts with the State and prohibit the importation of maximum-security prisoners into the State.

- 12. The extent to which the Department has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.**

The Department uses private contractors for many functions, although it is prohibited from using private contractors for some of its functions. For example, private contractors' access to inmate release dates, the inmate classification system, and the inmate disciplinary system is proscribed. The Department does, however, use private con-

tractors to provide a variety of services, including (1) privately operated prisons that house state inmates, (2) inmate food service, (3) nursing services, (4) waste collection, (5) radio maintenance, (6) pest control, and (7) wastewater testing. The Department's privatized services totaled approximately \$58.6 million or about 10 percent of the Department's fiscal year 2000 budget. For example, three private prison contracts are valued at approximately \$20.8 million per year and food service contracts total approximately \$36.1 million annually. According to Department officials, food cost savings will total approximately \$14.8 million over the contracts' five-year term.

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# **AGENCY RESPONSE**

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September 24, 2001

Debra K. Davenport  
Auditor General  
State of Arizona  
2910 North 44<sup>th</sup> Street, Suite 410  
Phoenix, Arizona 85018

Re: Final Response to Sunset Review

Dear Ms. Davenport:

Thank you for the opportunity to review and respond to the final draft of the Sunset Review report. As noted in the introduction of the report the review of the 12 statutory Sunset Factors were developed from the series of six performance audits previously conducted by your office. Since no new findings or recommendations were identified in this report, I have no issues or concerns with the draft at this time.

Again, I wish to extend my personal thanks to your staff for their professional work through the audit process.

Sincerely,

Terry L. Stewart  
Director

TLS/HG/sf



## **Other Performance Audit Reports Issued Within the Last 12 Months**

01-1	Department of Economic Security— Child Support Enforcement	01-14	Arizona Automobile Theft Authority
01-2	Department of Economic Security— Healthy Families Program	01-15	Department of Real Estate
01-3	Arizona Department of Public Safety—Drug Abuse Resistance Education (D.A.R.E.) Program	01-16	Department of Veterans' Services Arizona State Veteran Home, Veterans' Conservatorship/ Guardianship Program, and Veterans' Services Program
01-4	Arizona Department of Corrections—Human Resources Management	01-17	Arizona Board of Dispensing Opticians
01-5	Arizona Department of Public Safety—Telecommunications Bureau	01-18	Arizona Department of Correct- ions—Administrative Services and Information Technology
01-6	Board of Osteopathic Examiners in Medicine and Surgery	01-19	Arizona Department of Education— Early Childhood Block Grant
01-7	Arizona Department of Corrections—Support Services	01-20	Department of Public Safety— Highway Patrol
01-8	Arizona Game and Fish Commission and Department—Wildlife Management Program	01-21	Board of Nursing
01-9	Arizona Game and Fish Commission—Heritage Fund	01-22	Department of Public Safety— Criminal Investigations Division
01-10	Department of Public Safety— Licensing Bureau	01-23	Department of Building and Fire Safety
01-11	Arizona Commission on the Arts	01-24	Arizona Veterans' Service Advisory Commission
01-12	Board of Chiropractic Examiners	01-25	Department of Corrections— Arizona Correctional Industries
01-13	Arizona Department of Corrections—Private Prisons		

## **Future Performance Audit Reports**

Board of Regents

Department of Public Safety—Criminal Information Services Bureau,  
Access Integrity Unit, and Fingerprint Identification Bureau

Department of Public Safety—Sunset Factors