

Department of Corrections

Prison Population Growth

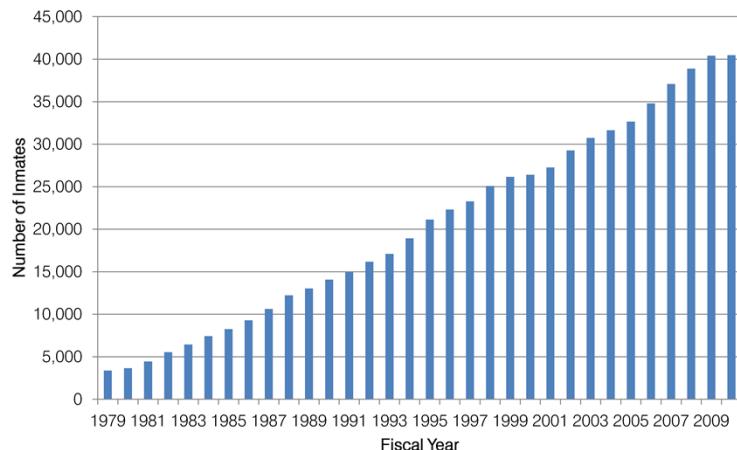


Presenter: Jeremy Weber
November 17, 2010

Mr. Chairman, Members of the Committee.

My name is Jeremy Weber, and I'm a performance audit manager with the Office of the Auditor General. I'm presenting information on the Department of Corrections Prison Population Growth audit that we issued in September of this year.[\[click\]](#)

Arizona's prison population



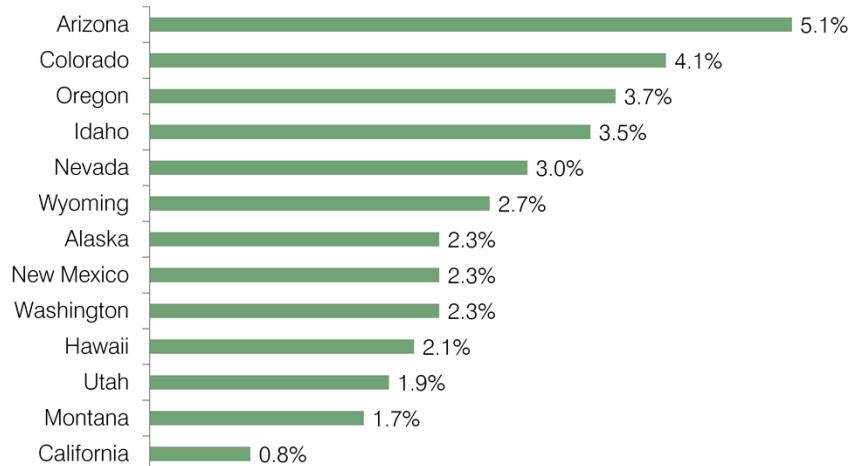
As shown on this slide, Arizona's prison population has grown significantly over the past 30 years, from about 3,400 inmates in June 1979 to over 40,000 inmates in June 2010. On average, the prison population has increased by about 1,200 inmates each year. [\[click\]](#)

Prison population growth has outpaced state population growth

- 1980—1 in every 749 Arizonans in prison
- 2008—1 in every 170 Arizonans in prison

Although the State's general population also grew during this time, the prison population has grown much faster. As a result, while 1 in every 749 Arizonans was in prison as of June 30, 1980, 1 in every 170 Arizonans was in prison as of June 30, 2008. [\[click\]](#)

Western states' average annual prison population growth (December 2000 to December 2008)



In addition, Arizona's prison population has grown at a faster rate than most other states' since at least 2000. According to the Bureau of Justice Statistics, Arizona ranked third nation-wide and, as shown here, first among western states in terms of average annual percent growth between December 2000 and December 2008.[\[click\]](#)

2009 prison population growth

- Prison populations declined in 24 states
- Arizona's prison population grew by 2.6 percent

Source: Bureau of Justice Statistics

Although 24 states experienced a prison population decline in 2009, [click] Arizona's prison population grew by 2.6 percent. [click]

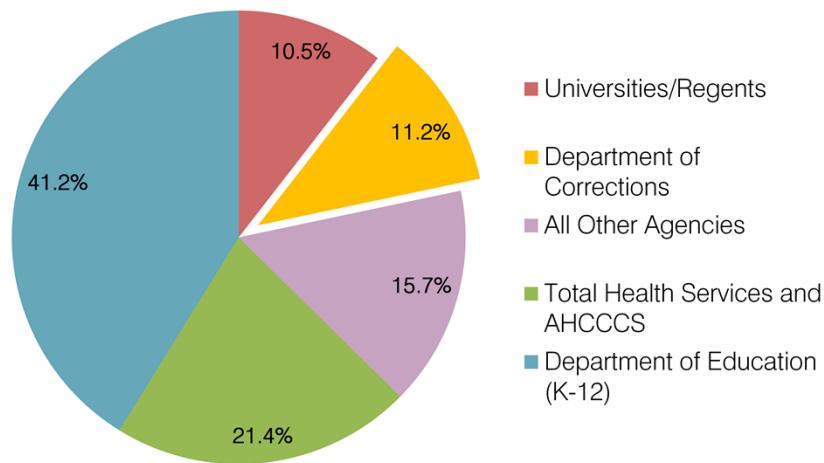
Arizona has expanded prison system

- New prison construction
- Private prison bed contracts
- Use of temporary beds
- Total Bed Capacity: almost 43,000 beds
as of November 10, 2010

To accommodate this growth, the State has expanded its prison system by constructing new prison facilities,[click] contracting for private prison beds,[click] and adding temporary beds.[click]

The prison system had a total bed capacity of almost 43,000 beds as of November 10, 2010.[click]

State General Fund appropriations Fiscal Year 2011



Source: Auditor General staff analysis of the *Fiscal Year 2011 Appropriations Report*

The State's prison population growth has come at a substantial cost. The Legislature has appropriated nearly 949 million dollars in State General Fund monies to the Department for fiscal year 2011. This accounts for over 11 percent of all State General Fund appropriations and is the third largest General Fund expense behind K-12 education and health. [\[click\]](#)

Prison population expected to grow

- Prison population could reach nearly 49,700 inmates by December 2016
- Fiscal year 2010: net growth of 65 inmates (much less than projected)
- Growth projections may change

In addition, the prison population is expected to continue growing. The Department has estimated that it could grow to nearly 49,700 inmates by December 31, 2016.[\[click\]](#)

However, in fiscal year 2010, it grew by only 65 inmates, far below the projected growth.[\[click\]](#)

As a result, the Department's growth projections may change. At the time of the audit's release, the Department was still researching whether it needed to revise them based on the fiscal year 2010 growth.[\[click\]](#)

Options for addressing prison population growth

- Continue to expand prison system
- Divert more offenders or reduce time served
- Expand nonprison alternatives
- Reduce prison admissions from parole revocations

Given the potential for continued prison population growth, our audit discussed four options the Legislature or Department could consider to address this growth.[\[click\]](#)

The options are (1) continue to expand the prison system;[\[click\]](#) (2) divert more nonviolent, low-risk offenders from prison or reduce the time they serve;[\[click\]](#) (3) expand nonprison alternatives for nonviolent, low-risk offenders;[\[click\]](#) and (4) reduce prison admissions resulting from parole revocations.

The options are not mutually exclusive and any combination of them could be used to address growth.[\[click\]](#)

Option 1:

Continue to expand the
prison system

The first option is to continue expanding the prison system. Specifically, the Legislature could consider constructing new prison facilities and/or contracting for more private beds. [\[click\]](#)

Department's recommendations for additional beds

Ownership	Beds
State	2,000
Private	<u>6,500</u>
Total	<u>8,500</u>

Based on projected growth, the Department has estimated that the State would need an additional 8,500 beds by the end of December 2016 and has recommended adding both state-operated and private prison beds (including the 5,000 private prison beds required by Laws 2009).[\[click\]](#)

Potential expansion costs

Fiscal Years 2012 – 2017

Construction and start-up costs	\$147,051,900
Operating and contracting costs	<u>827,807,862</u>
Total costs	<u>\$974,859,762</u>

Expanding the prison system by 8,500 beds could cost an estimated 975 million dollars for construction, operating, and contracting costs between fiscal years 2012 and 2017.[\[click\]](#)

Statutory requirements for private prison contracts

- Department may contract with private prisons and must consider doing so before adding new prisons
- Private prison contracts must offer “cost savings”

In considering whether to continue expanding the prison system, the State should also consider whether to contract for additional private prison beds. Statute allows the Department to contract with private prisons and even requires the Department to consider doing so before expanding or constructing new minimum- or medium-security prisons for certain offenders.[\[click\]](#)

Statute also requires that such contracts offer “cost savings” to the State.[\[click\]](#)

Department's inmate cost analysis Fiscal Year 2009

Custody Level	State Prison Cost	Private Prison Cost	Cost Savings (Loss) Per Day	Cost Savings (Loss) Per Year
Minimum	\$46.81	\$47.14	(\$0.33)	(\$121)
Medium	\$48.13	\$55.89	(\$7.76)	(\$2,834)

Source: Department of Corrections' *Fiscal Year 2009 Operating Per Capita Cost Report*

However, the Department's analysis of private prison and state prison costs for fiscal year 2009 indicates that it may be more costly to house inmates in private prisons. After adjusting state and private prison costs to make them more comparable, the Department's study found that rates paid to private prisons were higher for both minimum- and medium-custody beds—the two categories of beds for which the Department contracts.[\[click\]](#)

Further study needed

- Studies of private vs. state prison costs have mixed results
- Legislature should consider directing Department to further analyze private vs. state prison costs

The Department's analysis is consistent with some studies. For example, a 2009 University of Utah review of eight studies comparing private and state prison costs found that results were mixed as to whether the use of private prisons resulted in cost savings.[\[click\]](#)

If the Legislature decides to expand the prison system, it should consider directing the Department to further study and analyze the costs to build and operate private and state prisons to determine which option would be more cost-effective while still ensuring public safety.[\[click\]](#)

Option 2:

Divert more nonviolent, low-risk offenders or reduce time served

The second option is to divert more nonviolent, low-risk offenders from prison or reduce the time they serve. This option may require changes to the State's sentencing laws.[\[click\]](#)

State laws determine prison sentences

- ◉ Arizona's sentencing laws:
 - Require judges to impose sentences prescribed by statute
 - Require offenders to serve 85 percent of sentences in prison
- ◉ Laws have contributed to prison population growth

State laws largely determine how long an offender spends in prison. Specifically, Arizona's sentencing laws require judges to impose sentences prescribed by statute and require offenders to serve at least 85 percent of their sentences in prison.[\[click\]](#)

These laws have contributed to the State's prison population growth.[\[click\]](#)

Median sentence lengths

- Legislature shortened some statutory sentences when it adopted truth in sentencing
- Median sentence lengths have decreased for:
 - Several nonviolent offenses
 - Some violent offenses (except homicide, manslaughter, and sexual assault)

In addition, when Arizona revised its laws to require all offenders to serve 85 percent of their sentences, which is known as truth in sentencing, it also shortened the statutory sentences for some offenses.[\[click\]](#)

Since then, median sentence lengths have generally decreased for several nonviolent and some violent offenses (except for homicide, manslaughter, and sexual assault).[\[click\]](#)

Median time served (in years)

	Pre-Truth in Sentencing	Post-Truth in Sentencing
Nonviolent	2.0	1.9
Violent	4.8	2.6

Although sentence lengths have decreased for nonviolent offenses, truth in sentencing has meant that the median time served in prison for nonviolent offenses has remained about 2 years. In contrast, the median time served in prison for violent offenses has decreased from 4.8 years to 2.6 years. Thus, for offenders sentenced under truth in sentencing, the typical violent offender spends only a few months longer in prison than the typical nonviolent offender.[\[click\]](#)

State already diverts some offenders from prison

- Statute requires some drug offenders to be sentenced to probation and treatment
- In fiscal year 2005:
 - 1,072 offenders diverted
 - \$11.7 million in net costs avoided

To address prison population growth, the Legislature could consider diverting more nonviolent, low-risk offenders from prison. The State has already taken steps in this direction. In 1996, Arizona voters passed Proposition 200, amending state laws to require certain nonviolent drug offenders to be sentenced to probation and mandatory treatment instead of prison.[\[click\]](#)

According to a 2006 Arizona Supreme Court report, in fiscal year 2005, over 1,000 offenders were diverted under this law, avoiding an estimated 11.7 million dollars in net costs.[\[click\]](#)

State could divert more nonviolent, low-risk offenders

- Legislature could divert other nonviolent, low-risk offenders with substance abuse issues
- As of December 2009: 23 percent of inmates convicted of property crimes often associated with drugs
- Offenders could be diverted to probation or other alternatives

The Legislature could consider this same approach for other nonviolent, low risk offenders, particularly those whose crimes are related to substance abuse.[\[click\]](#)

As of December 31, 2009, 23 percent of the inmate population were offenders convicted of property crimes, such as burglary, theft, and fraud, which are often associated with drugs.[\[click\]](#)

Such offenders could be diverted to probation or to other alternatives discussed in option 3.[\[click\]](#)

State could expand early release

- Some nonviolent, low-risk inmates released 3 months early and receive transitional services
- Most released inmates successfully complete the 3-month supervised release
- About 2,000 inmates may be eligible in fiscal year 2011

In addition to diverting more offenders from prison, the Legislature could also consider expanding early release options for nonviolent, low-risk offenders.

Currently, some nonviolent, low-risk offenders who meet certain criteria may be released 3 months earlier than their sentences require. During those three months, they receive transitional services before beginning regular community supervision.[\[click\]](#)

Most of the inmates released under this program successfully complete the 3-month supervised release.[\[click\]](#)

The Department estimates that about 2,000 inmates may be eligible for the program in fiscal year 2011.[\[click\]](#)

State could revise truth in sentencing

- Mississippi has revised laws for nonviolent offenders
 - Nonviolent offenders eligible for parole after serving 25 percent
 - Prison population decreased by 1,360 inmates in 2009
- Legislature could reduce 85 percent time-served requirement for nonviolent, low-risk offenders.

One option for expanding early release is to revise truth-in-sentencing for nonviolent, low-risk offenders. For example, Mississippi, which also requires offenders to serve 85 percent of their sentences, has revised its laws to make nonviolent offenders eligible for parole after serving just 25 percent of their sentences. According to the Mississippi Department of Corrections, this change helped reduce its prison population by 1,360 inmates in 2009.

[\[click\]](#)

The Legislature could reduce Arizona's 85 percent time-served requirement for nonviolent, low-risk offenders.[\[click\]](#)

State could create earned time credits

- Earned time credits reduce time served in prison for completing inmate programs
 - At least 31 states offer these credits
 - Usually available to lower risk inmates
 - Typical credit range is between 30 and 120 days

Another option for expanding early release is to authorize earned time credits that reduce the time inmates serve in prison. These credits can be earned for completing education, vocational training, treatment, or work programs. According to the National Conference of State Legislatures, at least 31 states offer earned time credits. These credits are usually made available to lower-risk offenders, and the typical range for a credit is between 30 and 120 days.

[click]

Prison costs could be reduced

- State would save an estimated \$4.62 for each day an inmate spends on parole instead of prison.
- Cost savings would be higher if enough inmates diverted to close a prison unit
- However, Department would likely stop using its 4,800 temporary beds first

Diverting more offenders from prison or reducing the time they serve could reduce prison costs as well. For example, the State would save an estimated 4 dollars and 62 cents for each additional day an inmate spends on parole instead of prison.[\[click\]](#)

Cost savings would increase if enough inmates were diverted to close a prison unit.[\[click\]](#)

However, a significant number of inmates would need to be diverted. As of August 2010, the Department had over 4,800 temporary beds in the prison system, and department officials indicated that they would likely stop using these beds before closing a unit.[\[click\]](#)

Other considerations

- Defining eligibility criteria in statute
- Ensuring the use of a risk assessment tool to screen for eligibility
- Establishing a permanent sentencing commission
 - At least 23 states and the federal government had sentencing commissions as of April 2010

If the Legislature expands diversion or early release options, it could consider defining eligibility criteria in statute[\[click\]](#) and/or ensuring the use of a valid and reliable risk assessment tool to identify suitable offenders.[\[click\]](#)

In addition, the Legislature could consider establishing a permanent sentencing commission to assist in reviewing and recommending changes to the State's sentencing laws. As of April 2010, at least 23 states and the federal government had such commissions.[\[click\]](#)

Option 3:

Expand use of nonprison alternatives for nonviolent, low-risk offenders

The third option is to expand the use of nonprison alternatives for nonviolent, low-risk offenders. These alternatives could be used instead of prison sentences or in conjunction with earlier release from prison. [\[click\]](#)

Arizona could expand nonprison alternatives

- Arizona uses probation as alternative to prison
- Other states and counties have expanded their alternatives
 - Substance abuse treatment
 - Home arrest with electronic monitoring
 - Day reporting centers

Like all states, Arizona uses probation as an alternative to prison. [\[click\]](#)

However, other states and counties have expanded their use of nonprison alternatives including substance abuse treatment, home arrest with electronic monitoring, and day reporting centers.

[\[click\]](#)

Expand substance abuse treatment

- Texas provides residential treatment for probationers and parolees who violate conditions of supervision
- Such programs have helped reduce prison population and some costs

Although some probationers are required to participate in drug court as a condition of their probation, Arizona could expand its use of substance abuse treatment, similar to other states. For example, Texas provides residential treatment in a secure facility for probationers and parolees who violate the conditions of their supervision because of substance abuse problems. [\[click\]](#)Such programs have helped the state reduce its prison population and some prison costs.[\[click\]](#)

Expand home arrest with electronic monitoring

- Statute currently limits use to a few inmates
- Florida and Mississippi report that home arrest is a less expensive alternative
 - In Mississippi, prison costs about \$41 per day whereas home arrest costs about \$12 per day

Arizona could also expand its use of home arrest with electronic monitoring. Arizona statute allows the use of this alternative for some offenders, but limits its use to offenses committed prior to 1994, and only two inmates were on home arrest as of November 10, 2010. [\[click\]](#)

Both Florida and Mississippi use home arrest with electronic monitoring and report that this alternative is less expensive than prison. For example, in Mississippi, prison costs about 41 dollars per day whereas home arrest costs about 12 dollars per day.
[\[click\]](#)

Establish day reporting centers

- Georgia had 13 centers as of August 2010
 - One study indicated the program may reduce recidivism
 - Centers cost \$16.50 per day whereas prison costs \$48 per day
- Maricopa County used day reporting centers from 1992 to 2002

Similar to other states, Arizona could establish day reporting centers, a nonprison alternative in which offenders sleep at home but report to centers during the day for intensive services and programming.

Georgia had 13 day reporting centers as of August 2010, and a study of its Atlanta center indicated that completing the program may help reduce recidivism. Moreover, Georgia Department of Corrections officials reported that its day reporting centers cost 16 dollars and 50 cents per inmate, per day, whereas prison costs 48 dollars per inmate, per day. [\[click\]](#)

In Arizona, Maricopa County used day reporting centers from 1992 to 2002, but stopped using them because fewer and fewer probationers were deemed eligible for the program and because of budget considerations. [\[click\]](#)

Further study needed

- Department of Corrections and county courts have statutory authority to establish nonprison alternatives
- Legislature could direct the Department and/or courts to further study alternatives and develop recommendations

Arizona could expand the use of these or other alternatives. Although the Department of Corrections and the county courts have statutory authority to establish such alternatives, [\[click\]](#)

the Legislature could consider directing the Department and/or courts to further study alternatives and develop recommendations for expanding their use. This study should include an evaluation of their potential costs.

[\[click\]](#)

Option 4:

Reduce revocations from parole
violations

The fourth option is to reduce prison admissions that result from violating the terms of community supervision (commonly referred to as parole). [\[click\]](#)

Inmates serve part of their sentences in community

- Inmates serve about 15 percent or less of their sentence in the community
 - Median parole length: about 5 months
- Inmates must follow several conditions of release, including:
 - Maintaining contact with parole officers
 - Securing employment
 - Abstaining from alcohol and drugs
 - Obeying the law

Most inmates serve about 15 percent or less of their sentences in the community. The median length is parole is about 5 months.[\[click\]](#)

While on parole, they must follow several conditions of release, such as maintaining contact with parole officers, securing employment, abstaining from alcohol and drugs, and obeying the law.[\[click\]](#)

Offenders can be returned to prison for violating parole

- Parole revocations accounted for 15 percent of prison admissions in fiscal year 2010
- Inmates revoked in 2008:
 - Spent an additional 3 months in prison
 - Cost of 3 months in prison: \$6,300 per inmate (\$1,200 based on marginal costs)
 - Cost of 3 months on parole: \$774

Offenders can be returned to prison for violating these conditions, and parole revocations accounted for about 15 percent of prison admissions in fiscal year 2010.[\[click\]](#)

Inmates who had their parole revoked in 2008 spent a median of 3 additional months in prison. 3 months in prison costs about 6,300 dollars per inmate (or 1,200 dollars based on marginal costs) compared with a parole cost of about 774 dollars for the same length of time.[\[click\]](#)

Department has limited alternatives to address violations

- Department uses graduated sanctions:
 - Verbal or written reprimands
 - Increased supervision or drug testing
 - Curfews
- Department lacks nonprison facilities to address parole violations

Similar to some other states, the Department can use a variety of sanctions to address parole violations. These sanctions, commonly called graduated or intermediate sanctions, include verbal or written reprimands, increased supervision or drug testing, or curfews.[\[click\]](#)

However, the Department lacks nonprison alternative facilities that it can use to address parole violations.[\[click\]](#)

Other states use nonprison alternatives for parole violators

- New Jersey uses assessment centers for violators facing revocation
- Parolees held for 15 to 30 days and undergo risk/needs assessments
- Centers have resulted in fewer revocations
- Saved the state \$10 million in fiscal year 2009

Some states have established such facilities. For example, New Jersey uses assessment centers to house parole violators awaiting revocation hearings.[\[click\]](#) Violators are confined for 15 to 30 days and undergo risk and needs assessments which help the parole board make more informed decisions[\[click\]](#) and has resulted in fewer revocations.[\[click\]](#) According to the New Jersey State Parole Board, the centers saved the state an estimated 10 million dollars in fiscal year 2009.[\[click\]](#)

Arizona could expand alternatives for parole violators

- Statute authorizes Department to establish community correctional centers
- Department should complete its study of alternatives and submit findings to state policymakers for consideration

Arizona could use similar facilities. Statute authorizes the Department to establish and operate community correctional centers that could be used for this purpose.[\[click\]](#)

During the audit, department officials indicated that they were in the process of studying potential nonprison alternatives for parole violators. We recommended that the Department complete this study and present its findings to the Governor and Legislature for their consideration.[\[click\]](#)

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Mr. Chairman, thank you for allowing me to present our audit results. This concludes my presentation. I would be happy to answer any questions.