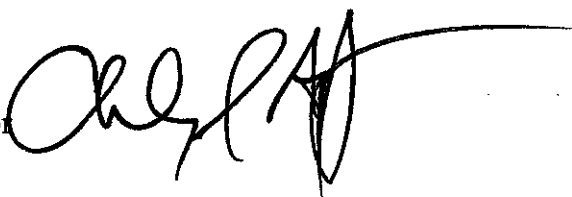


ARIZONA DEPARTMENT OF CORRECTIONS
Director's Office

M E M O R A N D U M

TO: ALL ADC Employees
FROM: Charles L. Ryan, Director
DATE: May 9, 2011
SUBJECT: Open Letter to All ADC Employees



Now that the 50th Session of the Arizona Legislature has concluded, it is important to share and update you on a number of issues that may impact our agency during the coming FY 2012.

FY 2012 Legislation

Overall, I believe that the Department of Corrections fared well during this session. Please review the summary from Jennifer Bowser on ADC's Intranet. She's provided a lengthy summary of the bills that impact the agency and the employees. Below please find a brief synopsis:

- **SB 1612:** Beginning 01/01/2012, employees will enjoy a broader set of benefit options because the budget mandates a more enhanced Medical Savings Account as an alternative (not a replacement) to the standard health insurance benefits for State employees.
- **SB 1614:** Makes various changes that impact the state agencies' budgets, including the **elimination of all future mandatory furlough days for ADC employees**. SB 1614 also makes changes to benefit eligibility for new State employees.
- **HB 2024:** Makes numerous changes to the Arizona State Retirement System (ASRS), relating to benefit eligibility for new State employees, Long Term Disability (LTD), distribution of benefits to current State employees, service purchase and benefit transfers.
- **SB 1539:** ADC has positions in both the Corrections Officer Retirement Plan (CORP) and the Arizona State Retirement System (ASRS). SB 1539 offers a permanent fix that would allow for CORP members (with five or more years in CORP) to accept promotions or transfers to ASRS-designated positions without having to choose between the promotion/transfer and their retirement.

- **SB 1609:** Makes numerous changes to the existing contribution and benefit structures for the Arizona State Retirement System (ASRS), the Public Safety Personnel Retirement System (PSPRS), the Elected Officials Retirement Plan (EORP) and the Corrections Officers Retirement Plan (CORP). The changes are related to changes in benefit eligibility, employer and employee contribution rates, service purchase, and cost of living adjustments.

FY 2012 ADC Budget Summary

Please refer to ADC's intranet page to obtain more detailed information about the FY 2012 Budget Summary. Due to the continuing difficult economic climate, the budget process required many tough decisions and resulted in over \$1 billion in statewide spending reductions. However, throughout the budget process, public safety was recognized as a core function of state government and efforts were made to minimize the impact of budget reductions. Please read the budget summary on ADC's intranet page.

Staffing and Accountability

Although the budget process did not result in the authorization of additional correctional officer FTE positions, we will continue to utilize the 193 overtime positions to provide for the mandatory coverage in housing units for custody levels 3, 4 and 5. The officer-observing-officer coverage is not only intended to enhance safety for our staff, but the inmates as well. We're analyzing the data to ascertain the impact these additional positions are having on the reduction of assaults against staff and other inmates. The additional positions are to remain fixed posts to provide the coverage – they are not 'pull' posts, and this reflects our commitment to staff safety as a top priority.

HB 2154 Privatization of Inmate Health Services

Section 1. Laws 2009, third special session, chapter 6, section 26 is amended to read:

Sec. 26. State department of corrections; budget structure; health care services; retroactivity

Sec. 2. State department of corrections; health care services

Within thirty days after the effective date of this act (May 27, 2011), the state department of corrections shall issue a request for information for the privatization of all correctional health services, including all medical and dental services, that are provided in a state owned and operated facility. All responses shall be submitted to the department within thirty days after the request for information is issued. The state department of corrections shall inform the joint legislative budget committee in executive session of any information submitted.

Within ninety days after the joint legislative budget committee has reviewed the information and the joint legislative budget committee has provided final instructions, the state department of corrections shall issue a request for proposals to privatize all correctional health services that are provided in a state owned and operated facility. The department shall not bid for or compete to provide medical services. The department shall award a contract to the best qualified bidder and the contract shall include the following terms:

The department or its contractor shall not reimburse or pay for services at a rate that exceeds the capped fee-for-service schedule that is adopted by the Arizona health care cost containment

system administration pursuant to title 36, chapter 29, article 1, Arizona Revised Statutes, and that is in effect at the time the services are delivered.

The initial contract is for three years with the option to renew for two additional one year terms. The state department of corrections shall not disclose the information in a bid that was previously submitted to the department pursuant to Laws 2009, third special session, chapter 6, section 26.

Sec. 3. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

Thus, ADC is in the midst of finalizing a Request for Information (RFI) which is to be published within thirty 30 days (no later than May 27, 2011). Thereafter, upon receipt, we will appear before the Joint Legislative Budget Committee in Executive Session to ascertain what the final requirements and instructions are relative to the Request for Proposal. It is my expectation that before the end of the calendar year, a determination will be made regarding the privatization of inmate health services.

This has been a long and tedious issue for ADC and the Health Services employees. It is now our responsibility to comply with the law and move forward in preparation for privatization. Although I cannot guarantee what the outcome of this process will be, it is my expectation that the majority of staff in Health Services would be offered a position with the successful vendor to enhance the success of the transition. As the process allows, I'll update you accordingly.

Inmate Commissary RFP

A revised Commissary RFP for the inmate population was published on May 6, 2011. The current vendor, Keefe, will remain in place, pending the outcome of the new RFP process.

5,000 Bed RFP

Following the Kingman Escape on July 30, 2010, the RFP for 5,000 beds was cancelled on September 1, 2010. A revised RFP has been issued; five (5) companies responded and the evaluation of those proposals is in process. It has been determined, based upon population growth, that only 2,000 of those minimum/medium security beds will be needed in FY 2013, while the remaining 3,000 won't be needed until FY 2014-2015. As the process continues, we'll update you accordingly.

D.O. 601 – Revisions

For a variety of reasons, I have established a task force, led by Warden Tara Diaz, to revise the policy. I reported on this in my 'open letter' in March 2011. The work group is striving to finish the draft within 30 days. I'll let you know.

Correctional Officer Week

This past week was Correctional Officer Week and Governor Janice K. Brewer presented a proclamation to the officers of the Department of Corrections and the Juvenile Department of Corrections. I was privileged, along with Deputy Director Charles Flanagan and Division

Director Robert Patton, to participate in this ceremony with these outstanding officers. All clearly represent the professionalism of our agency! The Proclamation for each complex has been presented to each officer, who will present it to the Warden:

ASPC-Douglas	CO II Simona Grounds
ASPC-Eyman	CO II Dawn Purkey
ASPC-Florence	CO II Christopher Knight
ASPC-Lewis	CO II Juan Mora
ASPC-Perryville	CO II Julian Danztler
ASPC-Phoenix	CO II Sheila Durazo
ASPC-Safford	CO II Deborah Martin
ASPC-Tucson	CO II Cynthia Jensen
ASPC-Yuma	CO II Olga Macias

Carson McWilliams Promoted – SROD

Congratulations to Carson McWilliams for his promotion to the Southern Region Operations Director (SROD) position. Interviews will be occurring to fill the vacant warden position.

Abuse of Inmates

Abuse of inmates by anyone in the Arizona Department of Corrections is **never** acceptable or justified. Furthermore, it is the responsibility of **all** employees to ensure that the inmate population is managed and controlled in a manner that is both professional and requires the minimal force necessary to maintain control. It is the expectation of all supervisors and managers to ensure that all employees within their sphere of responsibility know what the rules and guidelines are. It is not acceptable or reassuring that a supervisor's or manager's response was that they 'did not know' what was going on in their unit.

In May 2009, inmate Marcia Powell collapsed in a holding enclosure, and several hours later died as a result of the abuse and indifference on the part of staff. Nevertheless, nineteen (19) employees, from correctional officer through warden were held accountable – no double-standard was tolerated. Although the outcomes from the Personnel Board resulted in some modifications to the sanctions for the 'covered' employees, the 'at-will' employees received administrative/disciplinary reassignments/sanctions that were not reversed. The message was that **abuse of inmates was never acceptable and would not be tolerated.**

A number of months elapsed, following the changes in policy (FY 2010) regarding the use of holding enclosures and the rigid policy requirements which involved shade, water, misting systems, temperature monitoring and precise record-keeping. Nevertheless, staff at the Tucson Complex, in one unit, opted to not comply with the policy changes and abused a prisoner. Again, line, supervisory and 'at-will' management staff were held accountable – for the abuse and not reporting the abuse outside of the complex – my office learned about it from outside ADC.

Many people saw on the Phoenix television news program, the excessive use of force and physical abuse meted out to a jail inmate in a high custody area of the Maricopa County Jail. The 225-250 pound detention officer was observed putting his full weight on the neck of a jail inmate, while stepping on him, as the inmate was bent over a steel table, cuffed behind his back. Although the inmate was being controlled by other detention officers – following that, the

camera recording observed him punching/beating the inmate while he was being escorted away. That MCSO Detention Officer was terminated and is being prosecuted for aggravated assault.

In FY 2011, abuse of a prisoner has again occurred at ASPC-Florence-Kasson and ASPC-Lewis. A Correctional Officer using unnecessary physical force against a prisoner, restrained behind his back, required another CO II to intervene and stop the assault and report it; or placing an inmate in belly-chains for more than 24 hours on a dry-cell defecation watch – **it is abuse!** The Kasson incident resulted in the dismissal of the CO II and criminal prosecution is pending. **Our job is to ensure that this behavior is not tolerated.**

Inaccurate Criticism of ADC

For many years, ADC has been the subject of criticism from those outside of the agency who make a living or a name by being critical of everything: accurately or not. It was brought to my attention by a number of employees throughout ADC that they are concerned about the misinformation and unethical/unprofessional attacks against the Department of Corrections, including by disgruntled former employees. As disheartening as that might be, one has the choice to ignore it, or to attempt to set the record straight.

It certainly can be frustrating for a reader when someone attempts statistical/data analysis, when they are not adept at doing so, or are not understanding of the decision-making/funneling process. The ‘decision tree’ in any criminal justice organization, to include law enforcement, corrections and prosecutors, is to make an informed decision when determining whether or not to file criminal charges against a defendant. Given the separation of jurisdictions/authority, based upon law, it is the responsibility of the investigative personnel to determine whether or not there is evidence that a specific person has committed a specific crime. If so, the agency may submit it for prosecutorial consideration. Thereafter, it is solely the prosecutor’s decision based upon the evidence presented whether to pursue charges or not. The separation between components of the criminal justice system is clear. We must deal with different county attorneys and each office has different standards and priorities; in short, we do not control their decisions.

In addition to criminal prosecution procedures, ADC is served by the administrative inmate disciplinary policy. Virtually all sustainable incidents of assault, assaultive behavior, or any other misconduct by inmates result in administrative sanctions being placed on the inmate.

The data and analysis below correctly represent and reflect a funneling process from the investigative agency to the prosecutorial decision. Thus, it also reflects that 57% of the cases submitted for prosecution resulted in convictions. Furthermore, when you read the analysis for each year individually, the conviction rates are reported as well.

Fiscal Year	Number of Criminal Cases	Number of cases w/insufficient evidence for prosecution	Number of Cases Submitted for Prosecution	Prosecution declined by County Attorney	Number of Prosecutions Resulting in a Conviction	Number of Cases Pending Prosecution
2005	85	54	31	6	24/77%	1
2006	109	95	14	0	14/100%	0
2007	72	51	21	4	17/81%	0
2008	96	66	30	7	21/70%	2
2009	110	68	42	13	25/60%	4
2010	120	60	60	14	29/48%	17
2011*(3/31)	95	55	40	2	5	33
Total	687	449/65%	238/35%	46/19%	135/57%	57/24%

*Fiscal Year 2011 Incomplete

The outside criticism ignores or downplays the fact that the raw numbers of cases submitted for possible prosecution are higher since 2009. If you consider the data from 2006, although the successful prosecution rate was 100% of all cases submitted for consideration of prosecution, it is noteworthy that only 14 of 109 cases were submitted back then. What can be inferred from considering all of the information is that we are more aggressively submitting cases for prosecution, as well as looking at more cases criminally. Consider that the previous administration did not count or consider an assault against staff as an assault if the employee was not injured. I changed that definition immediately, so that an assault against staff is considered an assault whether the employee is injured or not. We consider the law and the truth, not how low our statistics are interpreted.

In many ways, the most egregious fact ignored by this critic is that virtually all of the cases were addressed by ADC administratively through disciplinary, classification or other actions at 100%, as this is within our control and we do not tolerate assaultive behavior against employees. I also believe that for this critic to compare criminal cases against inmates-to-employee administrative investigations displays a fundamental misunderstanding of administrative and criminal law and practices, as well as being insulting to staff and unfair to the agency we serve. One should also take into consideration the cost associated with pursuing prosecution, the risk to the public in doing so, and the input from the victim staff member.

Last year, inmate Daniel Eason #131983 was able to get out of his cell in the Browning Unit and attacked Correctional Officer Illingsworth with a weapon. CO II Illingsworth was able to avoid further serious injury because of his courageous use of force against the inmate until responding officers arrived and restrained the inmate. For his valiant efforts, Officer Illingsworth was awarded the Department's highest honor, the Medal of Valor.

Inmate Eason is serving a life sentence for murder 1st degree, kidnapping, armed robbery, aggravated assault, flight from law enforcement, burglary – he's probably one of the most

dangerous inmates in the Arizona Department of Corrections. He'll continue to be a management problem for years to come, given that he's 32 years old.

Because of Eason's attempt to kill CO II Illingsworth, I met with the Pinal County Attorney and recommended prosecution, with the expectation, that the inmate was going to accept a plea agreement. When it was finally determined that the inmate wanted to go to trial, and the court would require his presence in the Pinal County Courthouse, the concern for public safety was heightened. This was discussed with CO II Illingsworth and his father – given the life sentence the inmate was already serving; he agreed that pursuit of an attempted murder charge was not necessary and he was appreciative of being involved in the decision-making process.

ADC does not tolerate assaultive behavior. By ensuring that we conduct thorough investigations, refer appropriate cases for prosecution, take administrative actions against assaultive inmates and ensure adequate staffing in housing units and cell blocks, we are demonstrating a commitment to staff safety. Our profession is one of the most challenging jobs in the criminal justice system and our employees put themselves on the line every day. Managing inmate populations takes great intellect, tolerance and observation. A decision to use force or not requires judgment and mental strength. The inmate disciplinary and classification systems are tools that also can be used effectively. In spite of the critics and their slanted perspectives, you can stand proud of the job you do each and every day to protect our families and communities as correctional professionals. Consider the new focus on staff safety and inmate accountability. Consider all of the facts and consider them in proper perspective. Actions speak louder than words, and the actions of the agency demonstrate our commitment to employees and employee safety.

Meet and Confer

I will continue to 'Meet and Confer' with numerous employee groups and will continue the unannounced visits to all prisons.

Open Communication

Furthermore, my 'open door, e-mail and phone' are available to all employees. Let's keep in mind, that when possible, I encourage all employees to first, try and resolve the issue with either the first or second line supervisor.

I thank all employees for their commitment to public safety and the support of the mission of the Arizona Department of Corrections.