

ISSUES MATRIX

**"PRISONER SHIFT"
SB 1621; Effective 7/1/2012**

J. IF A PERSON IS SENTENCED TO SERVE ONE YEAR OR LESS IN THE STATE DEPARTMENT OF CORRECTIONS, THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE COUNTY JAIL, UNLESS THE SHERIFF OF THE SENTENCING COUNTY HAS ENTERED INTO AN AGREEMENT TO REIMBURSE THE STATE DEPARTMENT OF CORRECTIONS FOR THE INCARCERATION COSTS PURSUANT TO SECTION 41 1610.02, IN WHICH CASE THE PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE STATE DEPARTMENT OF CORRECTIONS. A PERSON WHO IS SENTENCED TO A CONCURRENT TERM OF INCARCERATION FOR MORE THAN ONE YEAR SHALL BE INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS.

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| <p>THE GOAL - It is unclear what the end game actually is beyond purported state budget savings. However, if the aggregate cost is greater at the county level does this really accomplish anything?</p> | <p>Significantly adds to the cost of county jail systems with relatively small, marginal savings to ADC. Stated ADC savings \$32,650,551.19. Cost to counties is currently undetermined given that additional infrastructure, employees and support costs will be implicated that have not yet been identified due to gray areas; for example are "felons" entitled to the same conditions if held in jail, such as mail privileges, an outlet, etc.; and who is responsible for community supervision upon release - ADC or the County?</p> | <p>Money as the driver for public policy decisions on public safety ignores the real impact on retribution and punishment, sending conflicting policy messages and eroding social respect for the institutions when goals are unclear. While in over half the counties the daily rate per prisoner may be lower at ADC, in at least once case the rate is higher (\$77 per day v. \$55 per day). Is it a <i>de facto</i> reclassification of the crime from a felony to a misdemeanor? Crimes are defined by the legislature as against the state, yet some are being foisted upon the county as its responsibility. Attempted Class 3 felonies are in this category; plea agreements will be affected.</p> | <p>APAAC, County Supervisors Association, County Sheriff's Association (save 1); Arizona Association of Counties</p> |
| <p>Felons vs. Misdemeanants</p> | <p>It is within the legislature's total purview to define misdemeanor v. felony and they have chosen to do so through the mechanism of stating where time will be served: if in ADC it is a felony, if in jail it is a misdemeanor. By sending felons to jail the very definition of the crime is violated and the result is a <i>de facto</i> reclassification. While some may consider this illegal, at the very least it raises philosophical issues. Further, the mixing of felons and misdemeanor's in jail may expose low level offenders to more hard core prisoners, particularly where the felon may have violent priors that are not in play in the current case. Class 4 felony attempts net one year or less sentences.</p> | <p>May implicate a review of the criminal code as to classification of certain crimes.</p> | <p>APAAC</p> |

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| Whose rules apply: ADC or County Jail? | ADC prisoners are entitled to certain "amenities" that jail prisoners are not, which range from access to an electrical outlet, library and magazine subscriptions, a certain number of changes of clothing to certain services such as education, recreation and visitation. Calculation of release credits and community supervision are also implicated with no clear lines of responsibility. Does the locale of the inmate control and, if so, does it raise equal protection concerns: why should defendant A with a lesser sentence receive fewer privileges than defendant B who has a lengthier sentence and is, "theoretically" a more serious threat to public safety? A variety of indicators in the ADC database identify elements of dangerousness or violence that may not be explicitly reflected in the offense of conviction. Who will make that assessment if the inmate does not go to ADC? What of the disparity in treatment between those counties who opt to pay ADC and those who don't? Finally, who deals with disciplinary issues, the county alone or in consultation with ADC? | If ADC requirements must be met at the jail, the impact will range from county to county, but could be serious as it would require adding and training staff, reorganizing the jails, and contracting for services. At the very least, statutory direction is required to sort through these implementation issues. | APAAC, AACO, CSA |
| Victim Impact | Victims will be expecting punishment to be meted out according to the law. It will be incumbent on the prosecutor to advise them up front that they should expect to see them in jails rather than prison as that will not be readily apparent. The Victims' Rights Advocates are interested in the impact on early release or work release opportunities. | Again, the lack of clarity as regards the release programs presents issues with who is responsible for implementing programs that prison occupants might access, such as work release and whether jail work release policies would apply. | APAAC, Victims' Rights |

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| Counties with current Bureau of Prisons contracts will lose revenue | Pinal County, for example, financed its jail construction in part with the revenues derived from renting space to the US BOP; an influx of inmates could displace those prisoners, thus costing the county twice given the loss of revenue and the increase in cost to manage the new inmates | Doubly negative for the affected counties which probably entered into these agreements based upon the lack of ability to raise jail funds by other means. | Pinal County, AACO |
| One year or less is not defined | <p>A person could be sentenced to one year or less in prison and a number of years of probation. Under the statute that person may be subject to long term probation out of jail rather than out of ADC. This implicates training and resources. But it is unclear if such person was intended to be in this category. This will likely result in the restructuring of plea agreements. Also, probation violators may be returned to prison for one year or less. Again it is unclear where they would go.</p> <p><i>According to the "Fischer Report" Inmates Committed with a Time-to-be-Served of 1 Year or Less in Sept. 2009 numbered as follows:</i></p> <ul style="list-style-type: none"> a) 2,105=5.2% of inmates are committed with a sentence of 1 year or less b) 758=36.0% have a history of felony violence c) 1,531=72.7% have prior felonies d) 1,635=77.7% are violent or repeat felony offenders e) 470=22.3% are Non-Violent First Offenders f) 436=20.7% are committed for DUI <p><i>Of those, the following are committed for DUI with a Sentence of 1 Year or Less:</i></p> <ul style="list-style-type: none"> a) 436=15.4% of DUI inmates are committed with a sentence of 1 year or less b) 334 or 76.6% carry the mandatory flat term of 4-8 months c) 73=16.7% have a history of felony violence d) 213=48.9% have prior felonies e) 218=50.0% are violent or repeat felony offenders f) 218=50.0% are Non-Violent First Offenders | Counties will bear the additional cost of staffing up for probation if this scenario is indeed included in the group of affected inmates. The policy issue is that it injects economics into the consideration of charging and plea agreements to a degree that may impact the administration of justice and public safety. | APAAC, AACO, CSA |