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ARIZONA SUPERIOR COURT
MOHAVE COUNTY

STATE OF ARIZONA,

Plaintiff,

vs.

JOHN CHARLES McCLUSKEY,

Defendant.

No. CR2010-00823
**MOTION FOR
RECONSIDERATION OF
OCTOBER 14, 2010 MINUTE
ENTRY DENYING CAMERA
COVERAGE REQUEST**

(Assigned to the Honorable Steven F.
Conn)

[Oral Argument Requested]

Pursuant to Ariz. R. Sup. Ct. 122, Ariz. Const. art. II, § 11 and U.S. Const. amend. I, KPNX Broadcasting Co. ("KPNX"), which produces "12 News," respectfully moves the Court to reconsider its October 14, 2010 Minute Entry that denied camera coverage of "any phase in the proceedings in any one of these cases." [Oct. 14, 2010 Minute Entry, at 3] KPNX did not have the opportunity to brief these issues before the Court issued the Minute Entry denying camera coverage, and therefore seeks an opportunity to be heard. Ariz. R. Sup. Ct. 122(f). This Motion is supported by the following Memorandum of Points and Authorities, and by the Declaration of Jerome Parra.



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MEMORANDUM OF POINTS AND AUTHORITIES

Preliminary Statement

KPNX respectfully urges the Court to reconsider its ruling because the concerns identified in the Minute Entry can be addressed through less-restrictive alternatives that would permit the public to enjoy the “benefit” of camera coverage. Ariz. R. Sup. Ct. 122(c). The United States and Arizona Supreme Courts long ago rejected the notion that fair trial rights trump the public’s right to camera coverage of criminal proceedings. *E.g., Chandler v. Florida*, 449 U.S. 560 (1981) (permitting states to allow television and still photographic coverage of criminal trials); Ariz. R. Sup. Ct. 122(c) (recognizing benefits to public of camera coverage). As the U.S. Supreme Court recognized, media coverage does not *automatically* pose a threat to the jury pool that would justify a blanket restriction on camera coverage. In fact, courts have repeatedly found that pre-trial publicity that significantly pre-dates trial often has no effect on the proceedings. *E.g., Nebraska Press Ass’n v. Stuart*, 427 U.S. 539, 555 (1976).

Presumably, any trials are months away, and courts have long recognized *voir dire* as an effective tool to screen jurors who may have been unduly influenced by pre-trial publicity. *Press-Enterprise v. Superior Court*, 478 U.S. 1, 15 (1986) (“*Press-Enterprise II*”). By contrast, the public interest in this case is substantial – and directly advanced by camera coverage. *E.g., Petition of WMUR Channel 9*, 813 A.2d 455, 460 (N.H. 2002) (citing studies that have found that allowing cameras in the courtroom “improves public perceptions of the judiciary and its processes, improves the trial process for all participants, and educates the public about the judicial branch of government.”). Indeed, the facts and consequences of Defendants’ escape have become an issue of statewide concern and a political issue during the current election, making television coverage of these proceedings especially appropriate.

Rule 122 provides the Court with flexibility to limit camera coverage when the need arises. For example, if camera coverage would affect a witness’ ability to testify, or involve uniquely prejudicial evidence, then the Court can order the camera in the

1 courtroom to be turned off. At a minimum, the Court should reconsider its ruling
2 prohibiting camera coverage of “any phase” of these proceedings, including trials. Any
3 risk camera coverage poses of jury prejudice – however remote in a region the size of
4 Mohave County – dissipates significantly once the jury is seated and the trial begins.
5 Accordingly, and for the reasons explained more fully below, KPNX respectfully requests
6 that the Court reconsider its Minute Entry and allow camera coverage of subsequent
7 proceedings in these cases.

8 Pertinent Background

9 On October 13, 2010, KPNX submitted a request for camera coverage of an
10 October 15, 2010 hearing and “subsequent events” in this case, which was set to be
11 conducted jointly with a hearing in *State v. Welch* (the “Request”). The Court determined
12 that the Request applied to “any subsequent hearings” in both cases, and issued a Minute
13 Entry on October 14, 2010 that denied the Request. [Minute Entry, at 1] Specifically, the
14 Court held that “the likelihood of harm from televising the proceedings would outweigh
15 the benefit to the public of camera coverage” and denied the request “to televise any phase
16 in the proceedings in any one of these cases.” [*Id.*, at 3]

17 Argument

18 I. CAMERA COVERAGE OF SOME OR ALL OF THE PROCEEDINGS WILL 19 NOT IMPACT THE RIGHT TO A FAIR TRIAL.

20 In September 2008, the Arizona Supreme Court approved the first
21 significant revisions to Rule 122 since its inception over 20 years ago. Under the new
22 rule, courts may limit or prohibit camera coverage of courtroom proceedings “only after
23 making specific, on-the-record findings that there is a *likelihood of harm* arising from one
24 or more” of seven factors identified in the Rule “*that outweighs the benefit to the public* of
25 camera coverage.” Ariz. R. Sup. Ct. 122(c) (emphasis added). Because camera coverage
26 of the pre-trial proceedings and trials in these matters does not pose a risk to fair trial
27 rights, the Court should reconsider the Minute Entry.

1 First, camera coverage of preliminary, pre-trial hearings in these cases does
2 not create a likelihood of harm to fair trial rights. As the Court acknowledged in the
3 Minute Entry, “there has already been significant local media coverage” of the cases.
4 [Minute Entry, at 2] Indeed, local and national media coverage of the cases – which
5 involve an escape from a private prison and a multi-state crime spree – is inevitable. But
6 “pretrial publicity, even if pervasive and concentrated, cannot be regarded as leading
7 automatically in every kind of criminal case to an unfair trial.” *Nebraska Press*, 427 U.S.
8 at 565. Through the use of well-settled alternatives to complete closure of the proceedings
9 to a KPNX camera, the Court can ensure a fair trial.

10 Over 25 years ago, the U.S. Supreme Court rejected an absolute ban on
11 broadcast coverage of trials based on mere speculation that reports of pre-trial and trial
12 events “may impair the ability of jurors to decide . . . uninfluenced by extraneous matter.”
13 *Chandler*, 449 U.S. at 574-75; see also *Patton v. Yount*, 467 U.S. 1025, 1032 (1984)
14 (jurors not prejudiced by adverse publicity that significantly predated trial). Similarly,
15 courts have repeatedly rejected the notion that the mere presence of a camera in the
16 courtroom harms fair-trial rights. *Chandler*, 449 U.S. at 578-79; *Stephens v. Mississippi*,
17 911 So. 2d 424, 433 (Miss. 2005) (holding placement of national network’s television
18 camera in courtroom did not impact defendant’s fair-trial rights).

19 KPNX understands that any trials in these matters may be months away.
20 Consequently, camera coverage of pre-trial proceedings poses little risk of tainting the
21 relatively large Mohave County jury pool. [[http://quickfacts.census.gov/qfd/states/04](http://quickfacts.census.gov/qfd/states/04/04015.html)
22 [/04015.html](http://quickfacts.census.gov/qfd/states/04/04015.html) (recognizing 2009 population of Mohave County as 194,825)] As the U.S.
23 Supreme Court noted in a case involving public access to criminal proceedings, *voir dire*
24 is more than sufficient to prevent any conceivable prejudice:

25 [T]his risk of prejudice [to the jury selection process] does not
26 automatically justify refusing public access. . . . Through *voir*
27 *dire*, cumbersome as it is in some circumstances, a court can
28 identify those jurors whose prior knowledge of a case would
disable them from rendering an impartial verdict.

1 *Press-Enterprise II*, 478 U.S. at 15. Indeed, the Supreme Court upheld a conviction where
2 eight of twelve jurors acknowledged they had “read or heard something” about the case
3 before trial, finding that *voir dire* had effectively screened out prospective panelists who
4 had formed opinions about guilt or innocence. *Mu’Min v. Virginia*, 500 U.S. 415, 428-29
5 (1991) (noting county population of 182,537 was large enough to find unbiased panel).
6 Given the sizeable jury pool of almost 200,000 Mohave County residents, *voir dire* will be
7 an effective tool to screen the jury pool. *Id.*

8 Second, Rule 122 allows the Court to manage camera coverage of
9 proceedings to protect fair trial rights on a hearing-by-hearing basis. Ariz. R. Sup. Ct.
10 122(b)(i). For example, the Court can prohibit camera coverage of sensitive proceedings
11 – such as a hearing involving potentially prejudicial evidence – but permit coverage of
12 other hearings that would allow the public to continue to monitor these matters. By
13 exercising its power under Rule 122 to limit camera coverage of only the most sensitive
14 proceedings, the Court could best balance any risks against “the benefit to the public of
15 camera coverage.” Ariz. R. Sup. Ct. 122(c); *See In re WLBT, Inc.*, 905 So. 2d 1196, 1199
16 (Miss. 2005) (“[P]rohibiting cameras does restrict the ability of the public to access the
17 proceedings . . . and should be resorted to only after less restrictive measures have been
18 considered and found to be inadequate.”); *cf. Press-Enterprise II*, 478 U.S. at 14
19 (requiring consideration of “reasonable alternatives” before closing hearing).

20 Third, and at a minimum, the Court should reconsider its ruling that
21 prohibits camera coverage of “any phase” of the proceedings in these matters, including
22 trials. [Minute Entry, at 3] Rule 122 makes clear that “[c]overage of jurors in a manner
23 that will permit recognition of individual jurors by the public is *strictly forbidden*.” Ariz.
24 R. Sup. Ct. 122(k) (emphasis added). As the rule suggests, cameras are typically placed in
25 the courtroom where jurors cannot be taped. In any event, KPXX will observe Rule 122’s
26 restrictions on images of jurors faithfully, as it has done in previous trials. [Declaration of
27 Jerome Parra (“Parra Decl.”), ¶ 5] Any concern about jurors being unwilling to serve
28 due to camera coverage can be addressed by explaining at the beginning of *voir dire* that

1 photographic coverage of jurors is “strictly forbidden” and will not be permitted by the
2 Court. Ariz. R. Sup. Ct. 122(k).

3 Once the jury is selected and seated, camera coverage of the trial poses little
4 risk to fair trial rights. *Chandler*, 449 U.S. at 578-79 (“[A]t present no one has been able
5 to present empirical data sufficient to establish that the mere presence of the broadcast
6 media inherently has an adverse effect on [the judicial process].”). KPNX has covered
7 numerous high-profile criminal trials without incident, and can safely use cameras to
8 cover these matters without impacting the proceedings. [Parra Decl., ¶¶ 2-3]
9 Accordingly, the Court should allow camera coverage of *at least* the trials in these cases.
10 *WMUR*, 813 A.2d at 460 (holding that camera coverage does not negatively impact
11 defendant’s fair-trial rights).

12 II. CAMERA COVERAGE WILL NOT DISTRACT PARTICIPANTS OR
13 DETRACT FROM THE DIGNITY OF THE PROCEEDINGS.

14 A KPNX photojournalist can cover the proceedings without distraction or
15 disruption. *E.g.*, *WMUR*, 813 A.2d at 460 (“Numerous states have conducted studies on
16 the physical effects cameras and electronic media have on courtrooms, finding minimal, if
17 any, physical disturbance to the trial process.”). KPNX’s cameras are small, silent, and do
18 not require cables, power cords or additional lights. [See Parra Decl., ¶¶ 3-4] The Station
19 has covered numerous courtroom hearings – including high-profile jury trials – without
20 distracting participants or disrupting proceedings. [*Id.* at ¶¶ 2-3] In addition, KPNX has
21 covered proceedings in small courtrooms in old courthouses built before television
22 coverage was a consideration. [*Id.* at ¶ 2] At bottom, “the increasingly sophisticated
23 technology available to the broadcast and print media today allows court proceedings to
24 be photographed and recorded in a dignified, unobtrusive manner, which allows the
25 [judge] to fairly and impartially conduct court proceedings.” *WMUR*, 813 A.2d at 648-49.

1 III. THE PUBLIC WOULD BENEFIT FROM CAMERA COVERAGE OF THE
2 HEARING.

3 The public has an acute interest in monitoring the outcome of this case,
4 which involves the investigation and prosecution of three inmates who escaped from a
5 private prison. *See, e.g., Godbehere v. Phoenix Newspapers, Inc.*, 162 Ariz. 335, 343, 783
6 P.2d 781, 789 (1989) (“It is difficult to conceive of an area of greater public interest than
7 law enforcement.”). Indeed, the escape – and the role of private prisons in Arizona – is an
8 issue in the governor’s race between Gov. Jan Brewer and Attorney General Terry
9 Goddard. [See Ex. 1, Casey Newton, Ginger Rough and JJ Hensley, “Arizona Inmate
10 Escape Puts Spotlight on State Private Prisons,” *The Arizona Republic*, Aug. 22, 2010] As
11 a result, camera coverage of the proceedings is critically important to citizens in Mohave
12 County and across Arizona who are interested in these cases but cannot attend in person.

13 The Arizona Supreme Court recently recognized the unique role cameras
14 play in informing the public about the justice system in a homicide case. In waiving the
15 one-camera limit on television cameras at a Tucson murder trial in which a well-known
16 doctor was accused of conspiring to murder his former associate, the Court observed: “It
17 is in the public interest that people understand as fully as possible the operation of the
18 justice system, and the courts in particular.” [Ex. 2, Ariz. Sup. Ct. Admin. Order No.
19 2006-9 (approving expanded camera coverage by national network)] Video coverage of
20 court proceedings is the most accurate tool available to convey unfiltered information
21 about the courts and their proceedings to the public. *See WMUR*, 813 A.2d at 459. By
22 contrast, prohibiting cameras in the courtroom impedes public access to criminal
23 proceedings. *WLBT, Inc.*, 905 So. 2d at 1199. As both logic and experience have shown,
24 allowing camera coverage enhances the public’s ability to monitor criminal proceedings
25 and obtain important information about the legal system. *See WMUR*, 813 A.2d at 460.

26 At bottom, allowing camera coverage of these proceedings is consistent with
27 Arizona’s long commitment to open court proceedings and the well-established principle
28 that “[p]ublic scrutiny of a criminal trial enhances the quality and safeguards the integrity

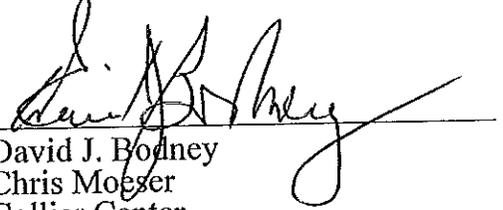
1 of the factfinding process, with benefits to both the defendant and society as a whole.”
2 *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 606 (1982). Accordingly, KPNX
3 should be permitted to cover future proceedings, or at a minimum, the trials in these
4 matters, with a video camera, consistent with the requirements of Ariz. R. Sup. Ct. 122.

5 Conclusion

6 For the foregoing reasons, the Court should reconsider its October 14, 2010
7 Minute Entry and permit camera coverage of these proceedings as provided in Ariz. R.
8 Sup. Ct. 122.

9 RESPECTFULLY SUBMITTED this 25th day of October, 2010.

10 STEPTOE & JOHNSON LLP

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19 Original of the foregoing was filed with
20 the Clerk of the Court this 25th day of
21 October, 2010, and

22 A copy of the foregoing was delivered
23 this same day via e-mail and U.S. Mail to:

24 Hon. Steven F. Conn
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EXHIBIT 1

Arizona inmate escape puts spotlight on state private prisons

by Casey Newton, Ginger Rough and JJ Hensley -
Aug. 22, 2010 12:00 AM
The Arizona Republic

Arizona puts more of its inmates into privately run prisons every year, even though the prisons may not be as secure as state-run facilities and may not save taxpayers money.

Lawmakers began using private prisons to ease overcrowding and have supported their use so aggressively that today, one in five Arizona inmates is housed in a private facility.

Many inmates from other states also are housed in private prisons in Arizona, but the state has little information about who they are and limited oversight of how they are secured.

The state has 11 privately operated prisons.

A high-profile escape of three Arizona inmates last month from a Kingman-area private prison, which spurred a nationwide manhunt and is believed to have resulted in two murders, raises questions about the industry's growth and the degree of state oversight.

The last fugitives in that escape were caught Thursday, and the state's prison director has promised changes to the private sites that house Arizona inmates.

State leaders in recent years have pushed for

more privatization and have blocked efforts to regulate the industry, which has invested heavily in local lobbying and contributed to political campaigns.

Last year, officials approved a plan to hand over the operation of nearly every state prison to private companies. The plan was repealed only after no credible bidder came forward. This year, lawmakers approved 5,000 new private-prison beds for Arizona prisoners.

Data suggest that the facilities are less cost-effective than they claim to be. A cost study by the Arizona Department of Corrections this year found that it can often be more expensive to house inmates in private prisons than in their state-run counterparts.

A growing industry

Arizona's use of private prisons dates back to the early 1990s, when lawmakers, grappling with overcrowding in state facilities, authorized the construction of a 450-bed minimum-security prison in Marana to house drug and alcohol abusers.

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The prison is owned and operated by Management & Training Corp., the Utah-based company that also operates the Kingman facility where the three inmates escaped.

Since then, Arizona has increasingly relied on for-profit operators to manage its own inmates. It also has allowed private companies to import prisoners from other states.

Rapid growth began in 2003 and the years immediately following, when Arizona was again wrestling with prison overcrowding.

To ease the shortage, Republican lawmakers agreed to build 2,000 new prison beds, compromising with a reluctant Gov. Janet Napolitano, a Democrat, to make half of them private.

Around the same time, nearly a dozen other states grappling with the same issues began shipping their inmates to private facilities elsewhere in the country.

Arizona, with cheap land and a receptive political climate, became a go-to destination for private-prison operators, who began accepting inmates from as far as Washington and Hawaii.

Today, Arizona houses 20.1 percent of its prisoners in private facilities, according to state data from July. Exactly how many inmates are here from other states is unclear.

Last year, lawmakers took the unprecedented step of exploring the privatization of almost the entire Arizona correctional system, passing a bill that would have turned over the state's prisons to private operators for an up-front

payment of \$100 million. The payment would have helped the state close a billion-dollar budget gap.

The bill, which also included a host of changes related to the state's budget, was signed by Gov. Jan Brewer, but the language relating to prison privatization was repealed in a later special session.

The state now has an open contract for the construction and operation of 5,000 new private-prison beds.

Arizona's reliance on private facilities coincides with operators' increasing national political activity in hiring lobbyists and donating to political campaigns.

The ties between the companies and Arizona elected officials - which go back nearly a decade - have become a campaign issue in this year's gubernatorial race.

Tennessee-based Corrections Corporation of America, the nation's largest operator of private prisons, runs six in Arizona, three of which house inmates for U.S. Immigration and Customs Enforcement.

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Brewer's critics have suggested that she signed Senate Bill 1070, and has advocated for privatization of some prisons, in part to benefit CCA's bottom line.

Democrats have called on Brewer, a Republican, to fire "aides" associated with the prison company. That includes HighGround, a Phoenix consulting and lobbying firm managing Brewer's gubernatorial campaign. The firm counts CCA among its clients.

Brewer's official spokesman, Paul Senseman, also used to lobby for CCA.

Campaign finance reports filed earlier this year show that eight executives with CCA contributed \$1,080 of the \$51,193 in seed money Brewer received for her gubernatorial campaign.

CCA also gave \$10,000 to the "Yes on 100" campaign, which backed a temporary, 1-cent-on-the-dollar increase in the state's sales tax. Brewer was the chief advocate for the tax, which was approved by voters in May.

In an interview with The Arizona Republic, Brewer said those connections have not influenced her policy decisions. She said she never felt pressured by any of her advisers.

"It's absolutely political posturing and rhetoric," Brewer said. "I find it very disappointing. We have a bed shortage here in Arizona, and we have to come up with some way to incarcerate (criminals). The best way, the least-expensive way, is to do it with private prisons."

The industry's political connections have extended to other Arizona politicians.

According to a 2006 report from the National Institute on Money in State Politics, the private-prison industry gave to the campaigns of 29 of 42 Arizona lawmakers who heard a 2003 proposal to increase state private-prison beds.

Between 2001 and 2004, the industry contributed \$77,267 to Arizona's legislative and gubernatorial candidates, the vast majority through lobbyists paid to represent their interests at the Legislature.

In most cases, donations ranged from a couple of hundred dollars to as much as \$2,500.

Lax oversight

The state Department of Corrections has varying levels of oversight of Arizona's private-prison network.

Some prisons house criminals convicted in Arizona. The Corrections Department regulates those facilities, though private-prison critics question whether those facilities maintain the same safety standards as their state-run counterparts.

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Other private prisons house inmates from other states or on behalf of the federal government. Arizona does not dictate what kinds of inmates they may accept, nor the manner in which they are secured.

In those situations, private-prison operators work with their outside-government partners on training specifications and other operational details.

They report to Arizona only the names, security classifications and number of inmates housed at their facilities. State statutes do not require private operators to provide Arizona officials details about the crimes the prisoners committed or escape data.

In 2007, two convicted killers sent from another state stole ladders from a maintenance building and climbed onto a roof at a private prison outside Florence. Brandishing a fake gun, they climbed over the prison walls and escaped to freedom.

One was caught within hours, but it was almost a month before the other was caught hundreds of miles away in his home state of Washington.

As with the Kingman breakout, the 2007 escape drew attention to the largely unregulated growth of private prisons in the state, particularly prisons that house other states' inmates.

To address security concerns, a bipartisan bill drafted by Napolitano's office in 2008 and introduced by Republican state Sen. Robert Blendu would have required private prisons to be built to the state's construction standards.

The proposal also would have ended the

practice of private prisons importing murderers, rapists and other dangerous felons to Arizona. And it would have required the companies to share security and inmate information with state officials.

After an initial flurry of activity, the bill died.

"The private-prison industry lobbied heavily against that bill, and they were successful," said Michael Haener, Napolitano's lobbyist at the time.

Blendu later left the Legislature, and the bill was not reintroduced.

What little regulation private prisons have in Arizona stems from a series of escapes in the late 1990s.

In response, the Legislature passed a law requiring the reimbursement of law-enforcement costs from private-prison operators in the event of an escape.

Arizona laws also require companies to carry insurance to cover law-enforcement costs in cases of escape, to notify state officials when they bring new prisoners into the state and to return out-of-state

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prisoners to their home states to be released. But there are no penalties if the companies don't comply.

Costs questioned

Notwithstanding lawmakers' concerns about security, private prisons gained favor in part because of the promised savings they could deliver to a cash-strapped and overcrowded prison system. Yet studies have questioned whether those savings are real.

In making their pitches, private-prison companies played on the desire of many lawmakers to shift more state services to the private sector.

Direct cost comparisons between for-profit and public prisons can be difficult, however.

According to the National Institute of Justice, private prisons tend to make much lower estimates of their overhead costs to the state for oversight, inmate health care and staff background checks.

Officials at public prisons often argue that the state winds up paying a higher cost for those services than is advertised, mitigating savings that private prisons are built to deliver.

A study this year by the Arizona Department of Corrections found that when various costs are factored in, it can be more expensive to house an inmate in a private prison than it is to house one in a state-run prison.

The cost of housing a medium-security inmate is \$3 to \$8 more per day in a private prison, depending on what assumptions are made about overhead costs to the state, the

study found.

Travis Pratt, a professor of criminology and criminal justice at Arizona State University, said there is no evidence that private prisons save government agencies money, even though they typically promise up-front savings.

To maintain profit margins, Pratt said, companies often cut back on staff training, wages and inmate services.

"Cost savings like that don't come without consequences," Pratt said. "And that can present a security risk that's elevated."

Odie Washington, a senior vice president at Management & Training Corp., acknowledged Thursday that the Kingman prison employed an inexperienced staff.

"We have a lot of very young staff that have not integrated into very strong security practices," Washington said.

Private-prison operators disagree with Pratt's assessment, contending that they can deliver services efficiently and safely.

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"That's one of the more frustrating misconceptions out there for us that we have to repeatedly respond to," said Steve Owen, director of public affairs for Corrections Corporation of America.

Owen said it is CCA's "general experience" that private prisons can save states and the federal government 5 to 15 percent on operational costs. The company also can build facilities more cheaply, he said.

CCA is contractually required to meet or exceed training requirements that states they work for set for themselves, Owen said. In addition, the company has made sure its prisons in Arizona comply with accreditation standards put in place by the American Correctional Association, a Virginia-based trade group.

Many communities, meanwhile, eagerly welcome private prisons because the facilities generate jobs and economic activity. CCA prisons in Florence and Eloy, for example, employ 2,700 people. Last year, the company paid \$26 million in property taxes, Owen said.

What's next

Lawmakers from both parties have called for hearings into what went wrong in Kingman. Presumptive Democratic gubernatorial nominee Terry Goddard has said he would push to bring back the 2008 private-prison bill.

Goddard also is calling for an immediate re-evaluation of the system used to classify and place inmates in facilities.

The five-tiered system, which allows some violent criminals to migrate to lower-

security facilities for good behavior, met with bipartisan criticism in the wake of the escapes.

Two of the three inmates who escaped from the medium-security Kingman prison had been convicted of murder.

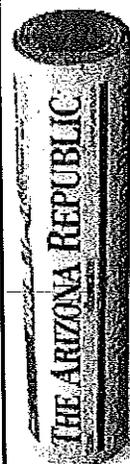
Goddard said the three recent escapees never should have been in a medium-security prison.

Charles Ryan, director of the Department of Corrections, announced Thursday that the state would slow its bidding process for the 5,000 new private-prison beds pending additional review.

Brewer has said little publicly about the escape but told The Republic last week that she is committed to holding prison operators responsible for mistakes they made. She said she has ordered Ryan to conduct a "complete review to make sure that inmates are appropriately secured and in the right kinds of facilities."

While Brewer remains confident that private prisons are well suited to house less-violent offenders, she said: "What has happened is

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unacceptable, and I am absolutely pushing for more accountability."

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EXHIBIT 2

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)

SPECIAL ELECTRONIC ACCESS TO)
SUPERIOR COURT PROCEEDINGS)

Administrative Order
No. 2006 - 9

Arizona Supreme Court Rule 122 permits electronic and photographic access to court proceedings subject to certain specified limitations and subject to the trial judge's approval of the proposed access. It is in the public interest that people understand as fully as possible the operation of the justice system, and the courts in particular. A major national television network proposes to produce a program in Arizona that promotes this interest and that will require special access to judicial proceedings.

Now, therefore, pursuant to the Supreme Court's administrative supervisory authority (Arizona Constitution Art. 6, § 3) and rule-making authority (Arizona Constitution, Art.6 § 5) over all of the courts of the state,

IT IS ORDERED that the limitation in Rule 122 (n) to one camera in the courtroom is hereby waived for electronic coverage of *State of Arizona v. Bradley A. Schwartz*, CR-20043995, scheduled to be tried in the Superior Court in Pima County before Judge Nanette Warner. Judge Warner shall have sole discretion as to placement of cameras in the courtroom for this proceeding. All other provisions of Rule 122 shall apply to this proceeding.

Dated this 11th day of January, 2006.

RUTH V. MCGREGOR
Chief Justice