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December 31, 1981

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INTERAGENCY

Mr. Ellis C. MacDougall, Director
Arizona Department of Corrections
1601 West Jefferson Street
Phoenix, Arizona 85007

Re: 181-144 (R81-129)

Dear Mr. MacDougall:

Your letter of September 3, 1981, seeks a formal opinion from this office regarding whether the Arizona Correctional Enterprises (ARCOR) Board of Directors is authorized to incorporate in order to administer correctional industries as a corporate enterprise. We think ARCOR is not authorized to incorporate.

ARCOR was created by Ch. 281, 1981 Ariz. Sess. Laws. The statute is very specific in setting forth the powers granted to both the Director of the Department of Corrections and to the ARCOR Board. See A.R.S. § 41-1623 and 1623.01. The enumerated powers do not include the power to incorporate and operate as a private corporate enterprise. In fact, A.R.S. § 41-1623.01.D, specifically states that the Board shall have certain specified powers "notwithstanding the provisions of any law to the contrary." This language implies that even if the law would otherwise permit it, incorporation would not be permitted unless specifically authorized by §41-1623.01.D.

We therefore think that the Legislature did not intend ARCOR to operate as a corporate entity.

Sincerely,

Bob Corbin

BOB CORBIN
Attorney General