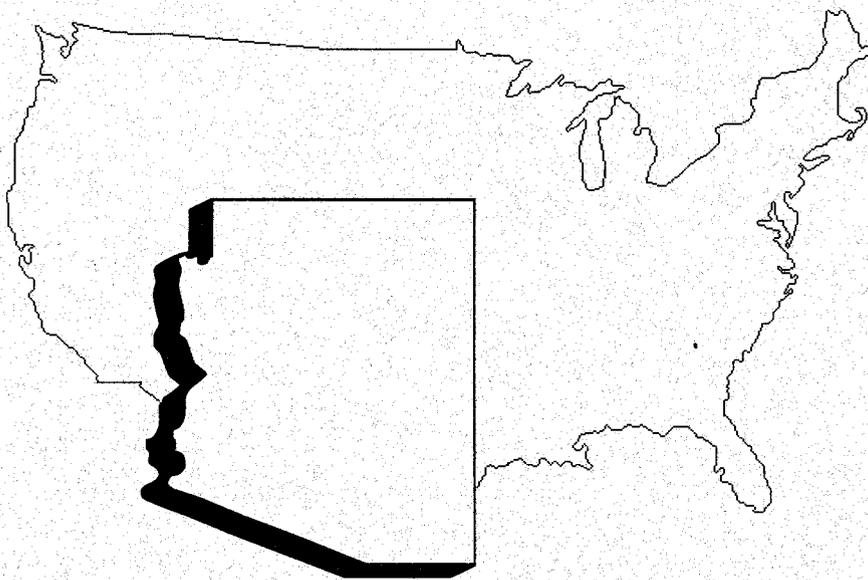
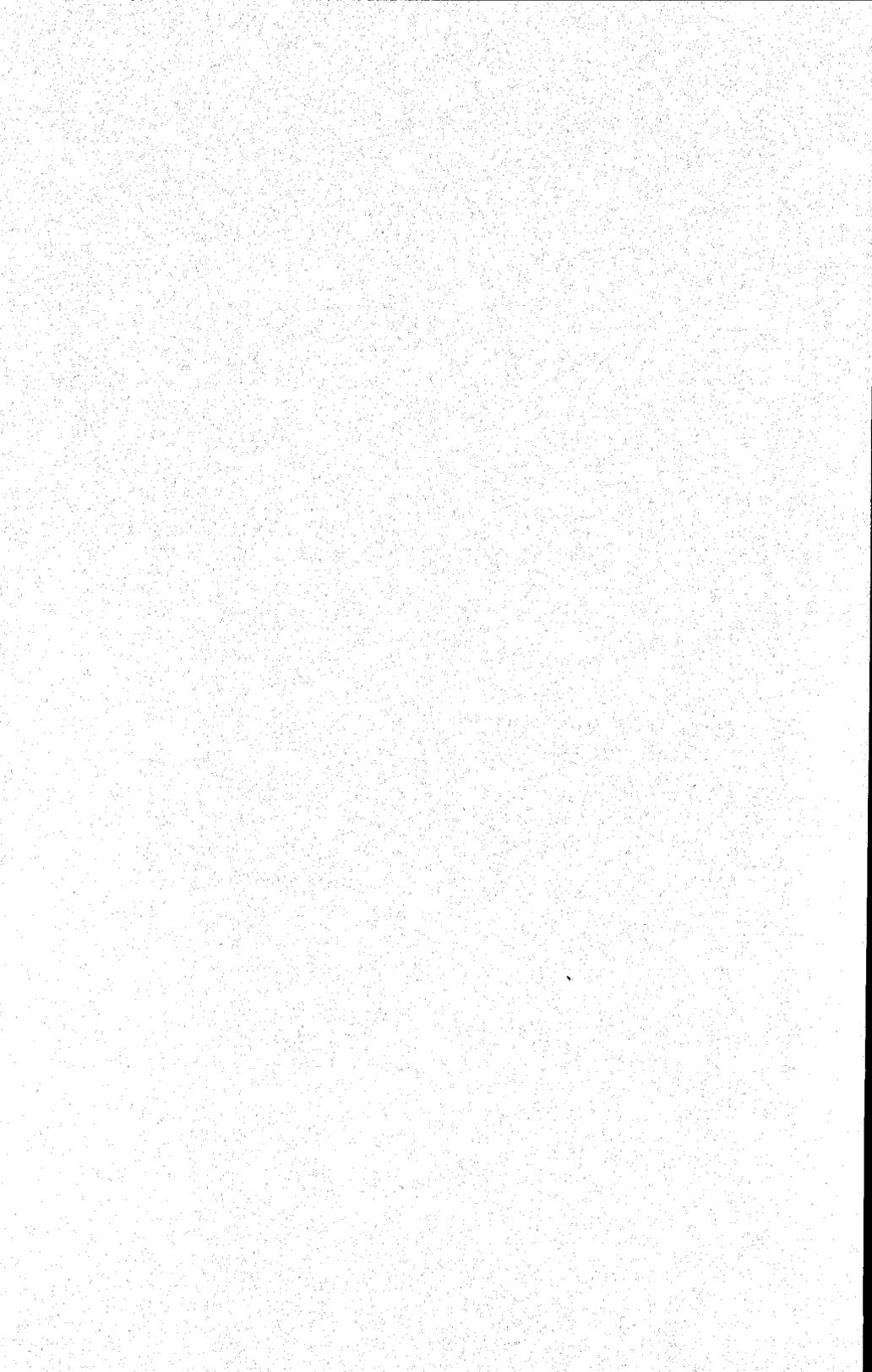


Arizona's Troubled Youth: A New Direction



Jan Christian, Executive Director, Governor's Task Force on Juvenile Corrections, State of Arizona



Parts of this publication appeared in "Arkansas and Arizona: Reforming Troubled Youth Corrections Systems" published by the Center for the Study of Youth Policy; June, 1992. Many people contributed the language used in various Commission and Task Force publications; some of which is contained in this booklet.

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Forward

Jan
Christian

The intent of this publication is to describe Arizona's reform process over the last three and one half years. My hope is that it will be of assistance to professionals in other states, and more importantly, that it will serve to remind us of our own beginnings. It has been an honor and an inspiration to work with Bill Jamieson, Mike Hawkins, and Dinky Snell as well as with Commission and Task Force members who have worked so hard to improve Arizona's system. They can be proud of being part of an effort which resulted in the most comprehensive research ever conducted on Arizona's committed youth, a set of recommendations that established a new direction, omnibus legislation that reflected that new direction, and the selection of a new director to implement that new direction. It is my hope that, having come this far, we will not let the reform falter.

Alice W.
Snell

Johnson v. Upchurch forced Arizona to face the shortcomings of our juvenile justice system and to do something about them. It is sad, but true, that many reforms are backed into, especially those which are costly and affect a segment of the population it is easier to regard as someone else's problem.

The separation of adult and juvenile corrections, the creation of the Department of Youth Treatment and Rehabilitation, the successful search for a director for that new agency who would strive to make the name reflect the truth of what the mission of the agency would be, all of these things are positives grown out of a negative.

The Governor's Commission on Juvenile Corrections came up with 42 recommendations for reform. The Governor's Task Force on Juvenile Corrections was then put in place to oversee the implementation of those recommendations. The people who served on the Commission, many of whom also served on the Task Force, are a remarkable group of dedicated, knowledgeable human beings, and a resource the State of Arizona has been most fortunate to have. That description also fits those who later brought their special talents to the Task Force.

The self-effacing leadership of our Executive Director, Jan Christian, has been invaluable. She possesses a depth of concern for the students DYTR serves, as well as thorough familiarity with how the system has worked, is working and should be expected to work as the Consent Decree is implemented.

It has been a privilege to serve as Chairman of the Task Force for the past two years. I am proud of the progress which has been made by the Department, and the part the Task Force has played in that progress. The task is not completed, though the Task Force will cease to exist on June 30 of this year. Continued interest and vigilance will be required on the part of individuals and groups to keep the reform on track. I have every confidence that the people I have come to admire so much during our association at this initial phase are up to the challenge and I will be pleased to work with them to meet the challenge.

*Arizona's Troubled Youth:
A New Direction*

A Lawsuit Points The Way *

On April 6, 1986, Matthew Davey Johnson, then a resident of Catalina Mountain Juvenile Institution (CMJI) north of Tucson, filed a civil rights lawsuit in U.S. District Court, naming then Superintendent James Upchurch as defendant. The suit alleged that Johnson's constitutional rights had been violated. Matt Johnson had been committed to the Department of Corrections (DOC) on September 10 of the previous year and had been incarcerated since his commitment. Much of his incarceration was spent in Yucca Cottage isolation, including 50 consecutive days on "motivational hold", a program developed by James Upchurch. In a previous letter to the agency, Matthew's father had called the cottage "a house of horrors".

Grace McIlvain, Johnson's appointed attorney, arranged for the participation of the National Center for Youth Law, an advocacy organization based in San Francisco. Shortly thereafter, Johnson's complaint was amended to include a class action for injunctive relief on behalf of all CMJI residents. The class action sought a court order that the Department of Corrections eliminate a number of practices alleged to be unconstitutional. Named as defendants were the Director of the Department of Corrections, the Assistant Director for Juvenile/Community Services, and the Superintendent of Catalina Mountain Juvenile Institution.

On July 29, 1987, the Court certified a class in *Johnson v. Upchurch*, consisting of all juveniles incarcerated in Catalina Mountain Juvenile Institution on or after the date of class certification, except any juveniles who elected not to participate. Certification allowed the action to go forward.

The plaintiff class alleged that the Department of Corrections violated the constitutional rights of juveniles in several areas: disciplinary practices, particularly the use of isolation and conditions in the isolation unit; use of handcuffs and shackling; rehabilitative care and treatment; medical care; educational programming; inappropriate placement, evaluation and classification; visitation, correspondence and access to counsel; and parole revocation procedures.

* For an overview of significant dates in the litigation process, see Appendix A

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Throughout 1987 and 1988, the plaintiffs engaged in extensive pretrial discovery, including tours of the facility by expert witnesses retained by plaintiffs, the deposition of over 40 DOC employees, the review of thousands of pages of logs and journals at Catalina Mountain, and the review of over 15,000 pages of other documents.

At the Court's direction, plaintiffs' counsel submitted a 268-page document with additional extensive appendices simply called "CMJI Proof of Facts". The document began by describing the juvenile justice system in Arizona as a "system run amuck" and attacked virtually every aspect of institutional life at CMJI. Disciplinary practices and procedures, for example, were described as "arbitrary and cruel".

The following quotes are from that document:

The disciplinary system at CMJI is much like the disciplinary systems in the adult institutions operated by the defendants, except the adult institutions are better.

Defendants do not consider Yucca Cottage a treatment cottage nor do they use it to isolate juveniles who constitute a serious and imminent threat to themselves and others. Instead, they use it to punish residents who have violated, or who have been accused of violating, institutional rules; to temporarily confine new admissions; to temporarily confine parole violators; to confine residents who are considered risks for suicide; and for medical quarantine.

Defendant Sam Lewis could not identify any significant differences between Yucca Cottage cells and cells in cell block 6 at Florence Prison which houses Arizona's Death Row.

The cells in Yucca Cottage are 8 1/2 feet square. Defendants confine juveniles as young as 11 years old in these cells for 24 hours a day with nothing to do. Defendants do not provide them with education, counseling, exercise or recreation. They get no reading material. They eat all of their meals in their cells.

Defendants know that juveniles confined in Yucca Cottage have cut themselves, hanged themselves, drunk poison, banged their heads and fists against the

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walls, thrown feces, urine, blood, and food, swallowed screws, and engaged in other bizarre behavior. Yet defendants have not analyzed the patterns of Yucca Cottage confinement and the lengths of stay.

Because of the high incidence of attempted hangings in Yucca Cottage, Yucca staff began wearing scissors on their belts in late 1987.

According to the document, the "heart of the problem" was that the same agency ran both the adult prisons and the juvenile institutions. There were many advocates in Arizona who agreed. Correctional philosophy and case law suggest different missions for adult and juvenile corrections. The administrative responsibility for both of these functions being vested in a single department rendered the juvenile system fiscally, philosophically, and programmatically subservient to the adult system.

In 1966, Justice Abe Fortas had written in *Kent v. United States* that "... there is evidence, in fact, that the child receives the worst of both worlds in the Juvenile Court; that he gets neither the protection afforded to adults nor the solicitous care and regenerative treatment postulated for children." This assessment was consistent with the decision issued not long after in the landmark due process case, *In Re Gault*, which had its roots in Arizona's own Gila County. It appeared to some Arizonans that not much progress had been made in the twenty years between the words of Abe Fortas and the lawsuit filed by Matthew Davey Johnson.

The Early Years

Arizona's juvenile institutions had been managed by a Board of Control until being assigned to a newly-created Department of Corrections in 1968. In 1970, there were approximately 900 juvenile institutional beds in Arizona. In 1980, there were approximately 350 beds. Much of the bed reduction could be attributed to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 which sought to exclude status offenders from correctional institutions, and to the Hoover decision in 1979 (ARS 41-1608 Amended) that reduced the jurisdiction from 21 to 18 years of age.

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The early 80s were watershed years. In 1983, the Arizona Legislature issued findings and policy guidelines with an unmistakable tone. The legislature found that the "deterrence of juvenile crime can be best achieved by instituting strict rules and policies . . ." and suggested that "loss of freedom... must be meaningful" (Arizona Laws: 1983, Ch. 257, Section I. Supplementary Pamphlet. Title 8, p. 503). The legislature mandated a full day of physical labor for incarcerated youth and mandated length of confinement guidelines based on the adult criminal code. As a reflection of this changing public policy, Arizona's institutionalized population began to rise dramatically. From 1981 until the time the class action lawsuit was filed, the institutionalized juvenile population rose by 99%. The adult prison population experienced similar growth. Both systems saw an increase in the numbers of less serious and less violent offenders being incarcerated (Arizona Department of Corrections Data Handbook, 1988).

By 1989, Arizona had 844 secure correctional beds for juveniles in 5 facilities. Adobe Mountain Juvenile Institution (AMJI) with 376 beds for males and Black Canyon Juvenile Institution (BCJI) with 120 beds for females were north of Phoenix. Catalina Mountain Juvenile Institution (CMJI) with 168 beds for males, and the site of the litigation, was north of Tucson. The Pinal Mountain Juvenile Institution (PMJI), approximately 100 miles east of Phoenix, had 140 beds for males and the Alamo Juvenile Institution (AJI) located on the grounds of the Arizona State Hospital had 40 beds for emotionally disturbed males. It was apparent that the wild fluctuations in the number of secure beds for committed youth in Arizona was not related to crime rates or population size, but rather to public policy.

There was growing concern among advocates that the juvenile system was falling victim to the ever-increasing needs of the adult system. Private providers were able to have "Purchase of Care" funds assigned to a separate line item in an attempt to protect community-based options. According to former State Senator Jacque Steiner, this was seen as a "huge breakthrough" at the time. It was clear, however, that adult corrections continued to be funded at the expense of juvenile corrections.

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Advocates were also concerned by the increasing operational and philosophical similarities between adult and juvenile corrections. In 1985, Sam Lewis became Director of the Department of Corrections. Under his supervision, in keeping with the direction established by the legislature, many steps were taken to make the two more alike. Administrative, security, and program staff were encouraged to transfer back and forth between adult and juvenile institutions. The hiring and training process was identical for the different institutions. Newly hired employees went through a 240-hour Academy during which they were exposed to 40 hours of weapons training and 4 hours on the subject of adolescents. Uniformed security guards were placed in the juvenile institutions and juvenile residents were required to wear uniforms.

It was into this system that Matthew Davey Johnson was placed, and it was in response to this system that the class action suit was filed.

Response To The Lawsuit

The State retained private attorneys Ronald Lebowitz and Louis Goodman to defend the State in the *Johnson v. Upchurch* case. The defendants then began to reexamine Arizona's entire juvenile corrections system in light of applicable case law.

The question of whether an incarcerated delinquent juvenile had a constitutional right to treatment had been addressed by a number of the Circuit Courts of Appeals, including the Ninth Circuit, whose jurisdiction includes Arizona. In every jurisdiction that has considered the issue, the court's analysis begins with the notion that juvenile court proceedings are civil, not criminal. Juveniles are not convicted of crimes in juvenile courts; rather, they are found to be delinquent, and delinquency is considered a condition. The various circuit courts have concluded that delinquency, like mental illness or retardation, must be treated—not punished—when it is the basis for incarceration.

In April, 1988 the lawsuit was amended to compel compliance with federal law mandating special education for handicapped youth and the State Board of Education and State Superintendent of Public Instruction were added as defendants.

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Litigation was to help accomplish in Arizona what advocates alone had been unable to do. During the early months of 1989, private counsel met with the defendants, legislative leadership, and Governor Rose Mofford. On May 17, 1989, Governor Mofford wrote Judge Richard Bilby of the United States District Court to inform him of her intent to appoint a Commission "to review the juvenile correctional system in Arizona, and develop a plan that is in accordance with presently recognized law". She also expressed the support of her administration for Senate Bill 1034, which would separate juvenile from adult corrections, creating the Arizona Department of Juvenile Corrections (ADJC). It would also create a separate school system requiring North Central Association accreditation by 1995*. In recognition of these efforts, the Court postponed the trial of *Johnson v. Upchurch* to give Arizona the opportunity to establish a new direction and plan for juvenile corrections. Senate Bill 1034 was signed into law on June 23, 1989.

Select Commission Created

Governor Mofford issued Executive Order 89-22 on September 22, creating a Select Commission on Juvenile Corrections. The 23-member Commission (see Appendix B) was chaired by Bill Jamieson, the former Director of the Department of Administration and the Department of Economic Security. At the time of his appointment, Mr. Jamieson was working as a political consultant and was serving as a Deacon with the Episcopal Diocese in Phoenix.

By the time of the first Commission meeting on November 6, Commission staff had already begun researching similar efforts in other states. Contacts were made with juvenile justice professionals in Alabama, Utah, Oklahoma, Virginia, Oregon, and Texas, as well as with over a dozen consultants, associations, and foundations. Everyone contacted was willing to share research, information, and suggestions related to process and to direction.

The Commission had just over six months to issue its report. During the first two months, members had the opportunity to hear from national juvenile justice professionals regarding trends in juvenile justice, to review case law and details of the *Johnson v. Upchurch* case and to learn about

* The Arizona chapter of the American Association of University Women (AAUW) actively advocated for this component.

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current programs, policies, and practices in Arizona. Members toured correctional and private provider programs and facilities in Arizona. A delegation also went to Utah to tour facilities and to learn about Utah's reform process.

At the third meeting, Richard Gable, of the National Center for Juvenile Justice, facilitated a discussion regarding the mission of juvenile corrections. Members identified 26 items as being important to the success of juvenile corrections. These items were consolidated into a rough draft for consideration by the members at the fourth meeting in February. During this time, areas in need of further research were identified and research was begun.

In February and March, Public Hearings were held in Phoenix, Tucson, Yuma, and Flagstaff so that members could hear regional concerns and solicit recommendations. Over 145 people attended the hearings, with 54 people giving testimony and many others submitting written testimony. At the March meeting of the Commission, members were given an Executive Summary of the hearings as well as recommendations from the hearings, legal findings and Commission findings. A mission statement was approved and recommendations began to be formalized. It was clear that the Commission recognized the need to differentiate between adults and juveniles and was committed to a "least restrictive environment" philosophy.

Commission Findings

In April, preliminary research findings were presented. Initial findings verified what the Commission members had been hearing over the last few months. Once the research was consolidated, an interesting perspective on commitment emerged. For example, only 15.1% of committed youth had ever been adjudicated for a violent offense (see Appendix C, Table 2).

In addition, considerable variations across counties on a variety of delinquency history indicators were identified (see Appendix C, Tables 1-3).

- On the average, juveniles committed from Pima and the smaller counties had longer delinquent

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histories than Maricopa County commits. Additionally, the referral and adjudication histories of juveniles from Pima and the smaller counties were typically more extensive.

- Maricopa County juveniles were also significantly more likely to have fewer petition adjudications for delinquent offenses (two or less) than youth committed from Pima and the smaller counties.
- The most serious adjudication for Maricopa County youth was significantly less likely to be for a major (class 2 or 3¹) felony offense.

Females were much more likely to be committed for less serious offenses (see Appendix C, Tables 4-6).

- Females, on the average, were referred to the juvenile court somewhat more frequently than males but this pattern was reversed when only delinquent referrals were considered.
- Females were significantly more likely to have fewer petition adjudications for delinquent offenses (two or less) than males.
- The most serious adjudication for females was significantly less likely to be for a major (class 2 or 3) felony offense.
- Females were significantly less likely than males to have been placed on intensive probation at some time prior to commitment.

The types of services received by the commitment population and the frequency with which these services were provided varied considerably (see Appendix C, Table 7).

- Youth from Pima County were much more likely than youth from Maricopa County to receive day support services or residential treatment services prior to commitment.
- Juveniles from Pima County were more likely to

¹ No youth was committed in 1989 for a Felony 1.

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receive program services prior to commitment than youth from other counties.

- Substantial differences between Pima and the smaller counties were revealed in all five service areas.

Minority youth were less likely to receive services prior to commitment (see Appendix C, Table 8).

- Anglo youth were more than three times as likely to have been hospitalized prior to commitment than minority juveniles and almost twice as likely to have been placed in residential treatment.
- Anglo youth were more likely than minority youth to receive counseling services.

Arizona had no commitment guidelines other than to restrict commitment to youth who had been adjudicated delinquent. In spite of the diversity of the youth, state law required that all committed youth be incarcerated.

Commission Recommendations

After conducting a total of seven meetings, the Commission issued its Report to the Governor.

The Report condemned overlapping the roles of the child welfare system and juvenile corrections:

Children who are neglected, abused, dependent, and mentally or emotionally handicapped need services, but they should not be committed to the correctional system unless their behavior puts their communities at risk. They should not have to wait for meaningful intervention until their needs become so overwhelming and complex that they are dropped at the doorstep of juvenile corrections out of sheer frustration or because they have, in fact, finally become a danger to their communities.

"I have seen too many children adjudicated delinquent as a direct or indirect result of mental health, educational and/or dependency needs which were not met."

(Karen Santoro, attorney; in public hearing testimony, 1990)

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The Commission's Report emphasized the importance of reclaiming the vision of the juvenile court system in America:

In Arizona, the juvenile correctional system is based on the adult correctional model, emphasizing control and de-emphasizing rehabilitative treatment. This emphasis on punishment and control is inconsistent with the mission of the Arizona juvenile justice system.

The Report condemned Arizona's over-reliance on institutionalization:

Arizona has a responsibility to protect the public from youth who present a threat to public safety. The State also has a responsibility to objectively assess the effectiveness of existing institutional programs and placement policies. Secure institutions, one of the most costly of alternatives, are currently used for all committed youth regardless of their treatment needs or delinquency history. Such a practice is not consistent with individualized treatment or fiscal responsibility.

The Commission clearly recognized that some youth require secure care, but questioned the ability of Arizona's institutions to meet their needs:

There is no doubt that there are young people in Arizona who have clearly demonstrated that they present a threat to public well-being. Because of the severity of their offenses, many of these youth must be confined to a secure setting for intensely supervised treatment. The overall operation and daily schedule do not always promote treatment. In addition, the size, structure, and overall design of the current juvenile institutions do not reflect or promote a treatment-oriented environment. The Commission believes that present institutions should be smaller and that juveniles should be housed in individual rooms where appropriate.

"The fact is, vast impersonal institutions are incapable of responding to a juvenile's real crisis in his actual environment, showing him alternatives within his real-world terrain, tailoring programs that respond to his individual needs. I am sure you

have experienced also that human behavioral change does not occur at arm's length. It occurs within arms' embrace."

(Al Rosen, Assistant Chief Probation Officer, Mohave County; in public hearing testimony, 1990)

Small, treatment-oriented, regionally based institutions were recommended for youth who demonstrated a threat to public safety. A continuum of community-based services was proposed to serve the diverse needs of committed youth. Issues such as minority over-representation, family involvement, and staff training were also addressed by the 42 recommendations. The final recommendation was for the creation of a Task Force to ensure implementation of the recommendations.

Task Force Created

Governor Rose Mofford quickly appointed private attorney Michael D. Hawkins, formerly a U.S. Attorney, to chair the twenty member Task Force (see Appendix D). Some weeks earlier, Bill Jamieson and Jan Christian, Executive Consultant to the Commission, had discussed Arizona's reform efforts with Ira Schwartz and Russ Van Vleet of the Center for the Study of Youth Policy (CSYP). Mr. Jamieson and Ms. Christian had initially agreed that Arizona needed the opportunity to establish its own direction. Once Arizona had clearly articulated a direction, however, it appeared that CSYP would have valuable resources to offer the state. Mr. Hawkins agreed and invited CSYP to participate in Arizona's reform process.

On July 1, 1990, the Arizona Department of Juvenile Corrections (ADJC) was formed. Carol Hurtt, who had supervised juvenile corrections when it was a division of adult corrections, was named as Director. On July 31, just over three years after the court certified a class in *Johnson v. Upchurch*, the Task Force held its first meeting.

With a gubernatorial election on the horizon, the make-up and future of the Task Force was uncertain. Its role and scope was also somewhat unclear. The Task Force, however, began work related to the Commission recommendations. Much of the work was assigned to Committees.

**Defining
"Least
Restrictive
Environment"**

The Secure Care Committee was charged with operationalizing the concept of "least restrictive environment" by establishing objective confinement criteria to assess "risk to public safety". Wayne Stewart, Juvenile Division Chief of the Maricopa County Attorney's Office, served as Chair. Other members were: Ernesto Garcia, the Director of Court Services for the Maricopa County Juvenile Court, David Quantz, the Juvenile Division Supervisor in the Pima County Attorney's Office, Jack Rose, a community college faculty member and former police chief, Dan Flores, a private businessman, Al Rosen, the Assistant Chief Probation Officer in Mohave County, Linda Scott, a Juvenile Court Judge in Maricopa County, Barbara Cerepanya, a Deputy Public Defender in Maricopa County, and Carol Hurtt, Director of ADJC. With the help of Robert Ortega from CSYP and Gregg Halemba, who had conducted the research for the Commission, Committee members identified factors that would be taken into account. Referrals, petitions and adjudications were all weighted, with adjudications weighted most heavily. The major factors selected were: the age at which the youth first entered the system, the seriousness of offense, the number of offenses in the past year, and the number of offenses on record. Also considered in the scoring were substance abuse, school attendance, and probation history.

By weighting these factors and assigning scores to individuals, the Committee was able to look at the 1989 database in a new way. Of the 889 newly-committed youth who were automatically incarcerated in 1989, the Committee agreed that only 204 fell into the "high threat" category of the Secure Care Criteria Index. As a result, the Committee unanimously recommended an initial cap of 450 secure beds for Arizona with the understanding that the number could be further reduced by developing an array of alternatives for youth, an evaluation system not requiring secure care and a system for conditional release revocation to better protect the constitutional rights of youth. The members acknowledged that successful reduction of secure beds would only occur if effective community-based programs were developed. They recommended that funding should follow the youth in order for this to occur.

Legislation To Reflect The New Direction

The Legislative Committee, chaired by businessman Dan Flores, began work on an ambitious omnibus bill to revamp the juvenile corrections statutes. Their intent was to create legislation to reflect an emphasis on accountability and treatment rather than punishment. House Bill 2326 was introduced in the 1991 legislative session with support from Governor Mofford. Representative Dave McCarroll was one of the primary legislative sponsors of the bill, which enjoyed bipartisan support. Due to the need for a run-off election, Governor Symington did not take office until the session was underway. He was, however, quick to show his support for HB 2326.

Overview Of H.B. 2326

House Bill 2326 passed in the 1991 legislative session and was signed into law by Governor Symington. It changed the name of the Arizona Department of Juvenile Corrections (ADJC) to the Department of Youth Treatment and Rehabilitation (DYTR) to reflect the new direction.

It mandated:

- A diagnostic psychological evaluation and educational assessment for each youth (§41-2815).
- Development of an individual treatment plan for each youth (§41-2815).
- Development of Length of Stay Guidelines (consistent with public safety considerations) setting forth minimum and maximum review dates (§41-2816).
- A system of community-based programs (§41-2817).
- Secure care for youth who pose a threat to public safety and for chronic offenders who cannot be controlled in a less secure setting (§41-2816).
- Protection of the due process rights of youth in the revocation of conditional liberty (§41-2819).
- Intergovernmental agreements between DYTR, the Department of Health Services and the Department of Economic Security specifying procedures for sharing funding expertise and training opportunities to better serve mentally ill and developmentally disabled youth (§41-2821).

**Task Force
Continued**

In spite of taking office in the midst of the legislative session, Governor Symington placed a high priority on the Task Force. By assigning Charline Franz, his Special Assistant for Human Resources, as liaison to the Department of Juvenile Corrections and to the Task Force, the Governor indicated clearly that youth in the correctional system were to be viewed as troubled children in need of services. Mr. Hawkins, who resigned to give Governor Symington the opportunity to make his own appointment, was replaced by Alice W. Snell, a woman active in Arizona civic and community affairs for 35 years.

On May 15, Governor Symington issued an Executive Order continuing the Task Force. The order clearly delineated the responsibilities of the Task Force and clarified that the Executive Director (formerly the Executive Consultant) would serve at the Governor's pleasure. The make-up of the Task Force was changed somewhat (see Appendix E), but most of the original members continued to serve.

**New
Director
Hired**

Following Carol Hurtt's departure in the summer of 1991, Governor Symington asked the Task Force to conduct a national search for a new Director of DYTR. Ms. Snell formed an ad hoc Search Committee to do just that. She sought an ethnic and gender balance, and both urban and rural representation. From the Task Force membership, she selected Raner Collins, a presiding juvenile court judge, Dave Hedgcock, the director of a not-for-profit adolescent residential treatment center, Daniel Flores, a private businessman, Barbara Cerepanya, a deputy public defender, Ann Stanton, a law professor, Al Rosen, an assistant chief probation officer, and David Quantz, a chief deputy county attorney. Ms. Snell chaired the ad hoc Committee. The Committee strongly recommended the appointment of John R. Arredondo, from the Texas Youth Commission. Governor Symington quickly appointed Mr. Arredondo, who became Director on December 3, 1991.

**Partnership
Formed**

Following Mr. Arredondo's appointment, the Task Force began to enjoy a true partnership with the Department for the first time. Mr. Arredondo moved quickly to develop a Five Year Plan taking care to incorporate most of the original Commission recommendations.

Another Look At Committed Youth

In conjunction with the Secure Care Committee, DYTR revised the original Secure Care Criteria Index and adopted a Guideline for the Use of Secure Care (See Appendix F) to create a common language in order to begin discussions aimed at reaching a consensus on the use of secure care. Length of Program Guidelines were also adopted. Initial research using the Guideline demonstrated that the diversity evident in research on the 1989 commitment population still held true in 1992*. Of the 254 youth committed between May 15 and August 15 of 1992, 57% scored "low", 31% scored "medium" and only 12% scored "high". As before, youth committed from rural counties were more likely to score "high" and females were still much more likely than males to score "low" (90% versus 53%). It was clear that if the proposed Guideline for the Use of Secure Care and the Length of Programming Guidelines were implemented, the original 450 bed cap would provide enough secure beds to hold youth scoring "medium" for an average of six months and youth scoring "high" for an average of nine months, and still provide 189 beds for youth returning to secure facilities due to lack of success in the community.

Consent Decree Negotiated

With new leadership in place, the state began to explore the possibility of negotiating a consent decree in the *Johnson v. Upchurch* lawsuit. Not satisfied with the initial consent decree draft prepared by the state, Task Force members drafted their own proposal and submitted it to the state. The document submitted to the Court by the attorneys for the plaintiffs and defendants contained much of the language from the Task Force version. On March 25, 1993, Judge Bilby conducted a Fairness Hearing on the proposed consent decree. He indicated that he would be making some changes to the document and that the parties could either sign the decree or a court date would be set. Both parties agreed to the revised decree and it was formally entered on May 5.

Consent Decree Components

The Consent Decree language clearly reflects the Commission's Report to the Governor, House Bill 2326, and the Task Force's version of the Consent Decree.

* Debbie Willis, with the Center for the Study of Youth Policy, assisted in the analysis of the data..

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Section IV 1(A) is a good example:

The principle which shall guide the Department in its decisions regarding out-of-home placement of delinquent youth is that every youth committed to the custody of the Department has a right to receive individualized care and treatment in the least restrictive setting consistent with the youth's needs and the protection of the public. The presumption shall be that each youth's best interests are served by remaining in his or her home community with necessary services provided there, provided that the youth poses no undue risk to the community. The Department shall continue its efforts to develop and implement a plan to work with committing courts to increase community based services for youth not appropriate for secure care.

Section VI 1 is also consistent with the work of the Commission and Task Force:

The goal which shall guide the Department in the administration of its secure institutions is to provide a safe, humane, and caring environment for youth and access to needed services that will contribute to normal growth and development. The Department recognizes the importance of involving a youth's family in rehabilitative efforts and shall maintain program components and flexibility in visitation to encourage families to visit and participate in treatment.

The Consent Decree requires DYTR to:

- Conduct a diagnostic review for each committed youth.
- Use a standardized, objective classification or risk assessment instrument as the basis for determining the appropriate level of restrictiveness.
- Limit the use of secure care to youth who pose a threat to public safety, or who have engaged in a pattern of conduct characterized by persistent and delinquent offenses that, as demonstrated through the use of other alternatives, cannot be controlled in a less secure setting, or who have had their conditional liberty revoked pursuant to statute.

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- Develop and implement a continuum of care.
- Involve the private sector in the provision of a complete array of treatment services.
- Assess the aggregate treatment needs of committed youth and available treatment services annually.
- Provide specialized programming for sex offenders, violent offenders, and substance abusers.
- Develop a plan to evaluate the effectiveness of treatment programs through objective outcome measures.
- Provide each youth with a handbook (available also in Spanish), outlining rights, rules of conduct, and potential sanctions for infractions.
- Confine, on the average, not more than 110 youth in Catalina Mountain School, 240 youth in Adobe Mountain School and 30 youth in the treatment component of Black Canyon School unless additional facilities are constructed*.

The Consent Decree is very specific in the areas of health care, educational services, disciplinary practices, and parole revocation. It recognizes that all youth have a right to equal access to a full continuum of services "regardless of their gender, ethnicity, country of origin, or race."

The Consent Decree requires DYTR to prepare a detailed implementation plan, and to implement most of the changes in the secure facilities within eighteen months of the order. The decree will remain in effect for a minimum of four years.

Committee To Monitor Compliance

A "Committee of Consultants" has been named to monitor Arizona's compliance with the Consent Decree. The plaintiffs named Russ Van Vleet with Center for the Study of Youth Policy. Mr. Van Vleet has worked with the Task Force and DYTR and is very familiar with Arizona's situation. He has served as Director of Court Services in Salt Lake City and as Director of the Utah State Division of Youth Corrections. The defendants named Allen Breed to the Committee. He is the

* Pinal Mountain Juvenile Institution was transferred to the adult system in 1990 and Alamo Juvenile Institution was closed in 1992. This "cap" of 380 does not include youth in secure contract placement, or secure diagnostic services. It is consistent with the 450 bed "cap" adopted by the Task Force.

Arizona's Troubled Youth: A New Direction

Chairman of the Board of Directors of the National Council on Crime and Delinquency and has served as a Special Master for a number of state and federal courts. He is also the former Director of the National Institute of Corrections. Both parties agreed to the appointment of Peter Leone to the Committee. His appointment was also approved by Judge Richard Bilby. Dr. Leone had been serving as a Special Master in the area of special education. He is an Associate Professor in the Special Education Department at the University of Maryland.

Governor Makes Commitment

In a letter to Mr. Arredondo dated April 22, Governor Symington wrote, "As compliance with the Consent Decree will require additional state resources to DYTR, please be advised that I will direct all necessary powers of my office toward that end, including, if necessary, addressing the issue in special session of the Legislature."

Challenges Remain

Many challenges remain. As Ms. Snell said in testimony during the Fairness Hearing, "There are times when I marvel at the progress we have made and there are times when I despair at the amount of work that remains."

The lawsuit focused on the "back-end" of the system and, as a result, so did the Commission and Task Force. The Commission recognized the need for a broader look when it called for an evaluation of Arizona's entire juvenile justice system "so that public policy can be made in an informed way and so the role of juvenile corrections in the overall juvenile system can be more clearly defined and articulated."

This was a recognition of the fact that corrections does not exist in a vacuum and that until it is examined in context, meaningful reform will be limited.

Public Policy Must Be Well Thought Out

The Commission stated in its Report to the Governor:

"Decision-making regarding juvenile justice matters in Arizona has frequently been based on political or short-term economic considerations rather than research, case law, and long-term cost benefit."

Arizona's Troubled Youth: A New Direction

Serious problems still exist in the way public policy is made in Arizona. For example, Arizona continues to be tempted to create policies or programs that would result in more youth being transferred to adult court without any clear evidence that such policies will enhance public safety or utilize limited resources more efficiently. The Task Force adamantly opposed two such proposals in the 1992 legislative session. One would have "assumed" transfer on a variety of offenses and the other would have created a "youthful offender program". Although both proposals were defeated, it is safe to assume that they are not dead.

Arizona needs a strong, independent, non-partisan organization to promote balanced juvenile justice policy. In September 1992, the Task Force unanimously recognized the need for just such an organization.

Due Process Rights Must Be Protected

Of continuing concern to the Task Force and its ad hoc *Due Process Committee*, chaired by ASU Professor Ann Stanton, has been the need for greater protection of youths' due process rights. Of particular concern is the fact that in Maricopa County, as a matter of policy, the Maricopa County Attorney's Office does not file petitions on new offenses committed by youth on parole unless there is a decision to file a request for transfer. As a result, these youth do not receive hearings in juvenile court on the new offenses. County detention facilities and juvenile courts are designed to provide the level of security and the types of hearings appropriate for youth who have been accused of crimes. To expect DYTR to institute a process to provide this service and this level of due process when the courts are designed to do so, seems to be, in the words of one Task Force member, "a horrendous waste of time and assets". DYTR will not be able to find solutions to problems like these without the cooperation and commitment of other agencies and entities.

Questions Remain Unanswered

Arizona spends millions of dollars each year in the area of juvenile justice and yet we are unable to answer basic questions about that system. How is that money spent and to what end? What youth are we locking up and why? What are the conditions in our detention centers and institutions? How are decisions made regarding placement of and services to delinquent youth? How is it working? In the absence of answers to

Arizona's Troubled Youth: A New Direction

these basic questions, how are we to make informed decisions and create effective responses to problems of concern to all of us?

A new direction has been established. A direction that builds on our best hopes instead of pandering to our worst fears. It will take tremendous public participation and political will to protect and to build upon that progress, but the result will be stronger and safer communities and youth better prepared to successfully meet life's challenges.

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Appendix A

Johnson v. Upchurch: Significant Dates*

- April 6, 1986 Case filed on behalf of Matthew Davey Johnson, a resident of Catalina Mountain Juvenile Institution (CMJI), alleging general civil rights violations.
- June 27, 1986 Court appointed counsel to represent Johnson, who amended his complaint and moved for preliminary relief. Soon thereafter, Johnson was released from Yucca Cottage and provided additional services.
- April 8, 1987 Court granted plaintiff's motion to file a Fourth Amended Complaint on behalf of seven residents of CMJI; plaintiff's move to proceed on behalf of a class of plaintiffs.
- July 29, 1987 Court certified a class.
- May 26, 1988 Court appointed Dr. Peter Leone, Professor of Special Education, University of Maryland, as Special Master for Special Education.
- November 10, 1988 ... Dr. Leone filed a report identifying deficiencies in the Department's institutional educational programs.
- May 17, 1989 Governor Rose Mofford advised the court that the state was moving toward comprehensive reform.
- July 19, 1989 Court denied without prejudice plaintiff's motion for preliminary injunction as moot.
- September 22, 1989 ... Governor Mofford created the Select Commission on Juvenile Corrections.
- April 27, 1990 Court granted plaintiff's motion to file a Sixth Amended Complaint alleging unconstitutional parole revocation procedures.
- May 17, 1990 Commission issued its "Report to the Governor" making 42 recommendations including the creation of a Task Force to oversee implementation.
- June 5, 1990 Governor Mofford signed an Executive Order creating a Task Force.
- July 1, 1990 Arizona Department of Juvenile Corrections created.
- August 20, 1990 Court denied plaintiff's motion for summary judgement on the grounds that there were genuine issues of material fact.
- October 16, 1990 The parties reached agreement on individual claims for damages by Matthew Johnson and M.G., a named plaintiff and class representative.
- May 15, 1991 Governor Fife Symington signed an Executive Order continuing the Task Force.
- October 22, 1991 Court awarded interim attorneys fees for plaintiffs.
- June 28, 1992 Parties resolved all pending issues concerning attorneys fees.
- March 25, 1993 Court conducted Fairness Hearing on Consent Decree.
- March 26, 1993 Court proposed revisions to the Consent Decree.
- April 23, 1993 Parties agreed to revised Consent Decree.
- May 5, 1993 Judge Bilby signed Consent Decree.
- June 30, 1993 Task Force ceased to exist.

* Most of these dates are excerpted from the Consent Decree. Some minor discrepancies with other records appear to exist.

Appendix B

Commission Members

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Appendix C

Table 1
Offense Class of Most Serious Adjudication by County

Offense Class - Most Serious Adjudication	Maricopa	Pima	Other	Totals
Felony 6 or Less	45.9% (90)	39.5% (64)	19.7% (31)	35.9% (185)
Felony 4 - 5	28.6 (56)	17.9 (29)	21.7 (34)	23.1 (119)
Felony 2 - 3*	25.5 (50)	42.6 (69)	58.6 (92)	41.0 (211)
Totals	100.0% (196)	100.0% (162)	100.0% (157)	100.0% (515)

Chi Square = 45.491 p < 0.001

* No Juvenile in 1989 Commitment Population had ever been adjudicated on a first degree felony charge (i.e., Murder 1)

Table 2
Offense Class by County if Most Serious Adjudication is for a Violent Offense

Adjudication For Violent Offense - Most Serious	Maricopa	Pima	Other	Totals
No Adjudication For Violent Offense	87.8% (172)	86.4%(140)	79.6% (125)	84.9% (437)
Felony 4	2.0 (4)	1.2 (2)	0.6 (1)	1.4 (7)
Felony 2 - 3*	10.2 (20)	12.3 (20)	19.7 (31)	13.8 (71)
Totals	100.0% (196)	100.0% (162)**	100.0% (157)**	100.0 (515)**

* No Juvenile in 1989 Commitment Population had ever been adjudicated on a first degree felony charge (i.e., Murder 1).

** Discrepancy due to rounding.

Table 3
Mean Scores on Selected Delinquency Indicators by County

Average Score Delinquency Indicators	Maricopa*	Pima	Other	Totals
Age At First Referral	13.5	12.9	13.5	13.3
Age At First Adjudication	14.9	14.8	14.8	14.9
Age At 1989 ADOC Commitment	16.1	16.4	16.4	16.3
Length Of Delinquency History (yrs.)**	2.6	3.4	3.0	3.0
Referrals - All***	6.2	9.7	8.1	7.9
Referrals - Delinquent****	4.9	6.0	5.6	5.4
Past Year - All Referrals	3.8	4.7	4.2	4.2
Past Year - Delinquency Referrals	3.0	2.6	2.7	2.8
Adjudications - All*****	2.5	4.3	3.6	3.4
Adjudications - Delinquent****	2.0	2.8	2.7	2.4
Past Year - All Adjudications	1.9	2.7	2.3	2.3
Past Year - Del. Adjudications	1.5	1.6	1.6	1.6

* Any variance in Maricopa County referral data as presented in the MCJCC Commitment Profile Report (1990) is probably the result of differential treatment of warrants and citations for alcohol and curfew. These are not included in current analysis.

** Computed by subtracting Age At First Adjudication from Age At 1989 ADOC Commitment.

*** Includes all referrals (or adjudicated petitions) for delinquent, status and probation violation offenses.

**** Only includes referrals (or adjudicated petitions) which include one or more delinquent offenses.

***** Total number of petitions on which a juvenile was adjudicated. If a youth was adjudicated on multiple counts contained on one petition, this was counted as one adjudication.

Table 4
Number of Delinquent Adjudications by Gender

Delinquency Adjudication	Males	Females	Totals
0-2*	57.8% (267)	86.0% (43)	60.5% (310)
3	21.9 (101)	10.0 (5)	20.7 (106)
4 or More	20.3 (94)	4.0 (2)	18.8 (96)
Totals	100.0% (462)	100.0% (50)	100.0% (512)

Chi Square = 15.425

Gamma = -0.621 p < 0.001

* One youth in the 1989 commitment population was committed to Adult Department of Corrections on a violation of probation originating from a status offense adjudication. According to court records contained in the central office field file, this youth had never been adjudicated for a delinquent offense.

Source: Halemba, G. J. (Sept. 1990). Profile Study of Juveniles Committed to the Arizona DOC During 1989.

Table 5
Prior Regular Probation or Intensive Probation (JIPS) by Gender

Probation Experience	Males	Females	Totals
No Prior Probation	21.1% (98)	27.1% (13)	21.7% (111)
Regular Probation Only	44.2 (205)	56.3 (27)	45.3 (232)
Placed On JIPS*	34.7 (161)	16.7 (8)	33.0 (169)
Totals	100.0% (464)	100.0% (48)**	100.0% (512)

Chi Square = 6.397

Gamma = -0.285 p = 0.041

* Includes prior times on JIPS if youth was terminated or returned to regular probation prior to commission of offense(s) resulting in Adult Department of Corrections commitment.

** Discrepancy due to rounding.

Source: Halemba, G. J. (Sept. 1990). Profile Study of Juveniles Committed to the Arizona DOC During 1989.

Table 6
Mean Scores on Selected Delinquency Indicators by Gender

Delinquency Indicators	Males	Females	Totals
Age At First Referral	13.3	13.5	13.3
Age At First Adjudication	14.8	15.1	14.9
Age At 1989 ADOC Commitment	16.3	15.9	16.3
Length Of Delinquent History (yrs)	3.0	2.4	3.0
Referrals - All	7.8	8.7	7.9
Referrals - Delinquent	5.6	4.3	5.4
Past Year - All Referrals	4.1	4.9	4.2
Past Year - Delinquent Referrals	2.8	2.5	2.8
Adjudications - All	3.5	3.1	3.4
Adjudications - Delinquent	2.5	1.7	2.4
Past Year - All Adjudications	2.3	2.2	2.3
Past Year - Delinquent Adjudications	1.6	1.2	1.6

Table 7
Treatment Services Received by County

Type Of Service Received	Maricopa County	Pima County	Other Counties	Totals
Counseling Services	63.0%	65.4%	36.2%*	55.8%
Day Support Services	7.0	57.0	3.3*	21.4
Psychological Evaluations	70.5	72.3	42.1***	62.6
Residential Treatment	8.0****	24.5	19.7	16.6
Hospitalization	20.0	19.5	12.5	17.6

* Chi square = 33.865; $p < 0.001$

** Chi square = 173.251; $p < 0.001$

*** Chi square = 39.036; $p < 0.001$

**** Chi square = 18.952; $p < 0.001$

Source: Halemba, G. J. (Sept. 1990). Profile Study of Juveniles Committed to the Arizona DOC During 1989.

Table 8
Treatment Services Received by Race

Type Of Service Received	Anglo	Minority	Totals
Counseling Services	65.1%	46.7%*	55.8%
Day Support Services	17.1	25.6**	21.4
Psychological Evaluations	71.8	53.7***	62.6
Residential Treatment	21.8	11.6****	16.6
Hospitalization	27.5	7.9*****	17.6

* Chi square = 16.721; Gamma = -0.360; $p < 0.001$

** Chi square = 5.009; Gamma = 0.251; $p = 0.025$

*** Chi square = 17.223; Gamma = -0.375; $p < 0.001$

**** Chi square = 8.938; Gamma = -0.361; $p = 0.003$

***** Chi square = 32.071; Gamma = -0.633; $p < 0.001$

Source: Halemba, G. J. (Sept. 1990). Profile Study of Juveniles Committed to the Arizona DOC During 1989.

Appendix D

Task Force Members (July 1990-June 1991)

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Carol Martula (July, 1992-January, 1993)

Stephen R. Anderson (January, 1993-June, 1993)
Administrative Secretaries

Appendix F

Guideline for Use of Secure Care PLEASE PRINT

IDENTIFYING INFORMATION

Youth's Name: _____
 First Middle Last

K#: _____ DOB: _____

Commitment Date: _____

County: _____

Judge: _____

Ethnicity [CHECK ONE]

White (non Hispanic)	_____	Black (non Hispanic)	_____
Mexican National	_____	American Indian/Alaskan Native	_____
Hispanic (non Mexican National)	_____	Pacific Islander/Asian	_____

Seriousness

MOST SERIOUS PRESENT ADJUDICATED OFFENSE:

Class	Offense	Points
Felony 1	[20] _____	_____
Felony 2 CAP	[16] _____	_____
Felony 2	[12] _____	_____
Felony 3 CAP	[12] _____	_____
Felony 3	[8] _____	_____
Felony 4 CAP	[6] _____	_____
Felony 4	[4] _____	_____
Felony 5 CAP	[4] _____	_____
Felony 5	[2] _____	_____
Felony 6 CAP	[2] _____	_____
Felony 6	[1] _____	_____
Misdemeanor or VOP	[0] _____	_____

MOST SERIOUS PRIOR ADJUDICATED OFFENSE:

Class	Offense	Points
Felony 1	[10] _____	_____
Felony 2 CAP	[8] _____	_____
Felony 2	[6] _____	_____
Felony 3 CAP	[6] _____	_____
Felony 3	[4] _____	_____
Felony 4 CAP	[3] _____	_____
Felony 4	[2] _____	_____
Felony 5 CAP	[2] _____	_____
Felony 5	[1] _____	_____
Felony 6 CAP	[1] _____	_____
Felony 6	[0] _____	_____
Misdemeanor or VOP	[0] _____	_____
None	[0] _____	_____

Seriousness Score [Present + Prior] _____

Aggravating Factors

MOST SERIOUS PRESENT ADJUDICATED OFFENSE:

Use of dangerous weapon [firearm, knife or explosive]*	[2] _____
Serious bodily harm*	[2] _____
Sexual Offense	[2] _____
None	[0] _____

*Designate weapon and/or injury:

MOST SERIOUS PRIOR ADJUDICATED OFFENSE:

Use of dangerous weapon [firearm, knife or explosive]*	[1] _____
Serious bodily harm*	[1] _____
Sexual Offense	[1] _____
None	[0] _____

*Designate weapon and/or injury:

Aggravating Score _____

Recency - Prior Delinquent Adjudications within Past Year [Exclude Most Serious Present Adjudicated Offense]

0 prior adjudications	[0] _____	3 prior adjudications	[6] _____
1 prior adjudications	[2] _____	4 prior adjudications	[8] _____
2 prior adjudications	[4] _____	5+ prior adjudications	[10] _____
Recency Score _____			

Chronicity - Prior Delinquent Adjudications on Total Record [Exclude Adjudications Within Past Year]

0 prior adjudications	[0] _____	3 prior adjudications	[3] _____
1 prior adjudications	[1] _____	4 prior adjudications	[4] _____
2 prior adjudications	[2] _____	5 prior adjudications	[5] _____
Chronicity Score _____			

Age at First Adjudication

Age at First Adjudication			
Age 16 or older	[0] _____		
Age 14 or 15	[1] _____		
Age 13 or younger	[2] _____		
			"Age" Score _____

Total Score

Total Score _____

Scores **Length of Program Guideline**

0 - 9	6-10 months of community programming (Multi Disciplinary Team to determine level and type of programming)
10 -17	9-19 months (3-9 months secure programming; 6-10 months community programming)
18 and above	12-25 months (6-15 months secure programming; 6-10 months community programming)

NOTE: Youth committed for Felony 1 shall have their Length of Program Guideline individually assigned.

FACTORS THAT RESULT IN ADMINISTRATIVE REVIEW

Check ALL that Apply

Youth scored 10 or more and is 12 years of age or younger _____	Youth scored 10 or more and is physically handicapped _____
Youth scored 10 or more and is mentally handicapped _____	Youth scored 9 or below but received points for "aggravating factors" _____
Placement recommendation of staff differs from Guideline score recommendation _____	Review is requested for the reasons indicated below _____

NOTE: Automatic review is required if any one of these is checked.

Placement Recommendation/Comments:

Completed By: _____

Rev. 9/17/92

Date: _____