MENTAL HEALTH COMMITMENTS OF CHILDREN IN CUSTODY

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Staff Report

to the

JOINT JUVENILE JUSTICE COMMITTEE
Arizona Legislative Council
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REPORT SUMMARY

I. STATE LAW GOVERNING MENTAL HEALTH COMMITMENTS OF MINORS

Two separate sections of state law relate to mental health commitments of children. A.R.S. 8-242, permits the juvenile court to order studies, reports, and hospitalize children in psychiatric facilities. In addition, A.R.S. 36-518 and 36-519 governs the voluntary admission and discharge of minors to mental health facilities.

II. PROBLEM STATEMENT AND FINDINGS

Problem Statement: It appears that children in the custody of juvenile probation, the Department of Economic Security (DES) and the Department of Corrections (DOC) are being committed and admitted to both private and state psychiatric hospitals without clear statutory guidelines or administrative procedures. These admissions are most often based on the discretion of the individual judges, social workers, and staff involved and vary from agency to agency, from court to court, and from county to county.

These commitments and admissions may be in violation of Title 8 requirements for a dispositional hearing. They may violate Title 36 procedures for admissions, if Title 36 applies to children in custody. They may violate constitutional due process requirements.

Furthermore, the variations in admissions procedure is not necessarily in the child's or society's best interests for it permits excessive use of psychiatric hospitalization at great expense to the state.

Finding 1: The term "study and report" in A.R.S. 8-242 is unclear. Court orders do not necessarily distinguish between commitment for evaluation from commitment for treatment.

Finding 2: Courts are committing children in custody to psychiatric hospitals prior to the adjudication hearing.

Finding 3: Court orders for committing children to psychiatric hospitals are sometimes made without a hearing.

Finding 4: Substantive and procedural safeguards may be lacking for children in custody committed to psychiatric hospitals by court order because A.R.S. 8-242(B) does not refer to Title 36.

Finding 5: Youth committed under A.R.S. 8-242 may not be discharged by authorization of the medical director of the mental health treatment agency which is contrary to two Title 36 provisions.

Finding 6: Admissions to psychiatric hospitals are being made by DES and DOC without the voluntary consent of the youth aged 14 to 18 as required by Title 36 and without court approval.

Finding 7: Mental health admissions of children in custody of DES are not necessarily reviewed for approval by the juvenile court.

Finding 8: Present psychiatric admissions procedures of youth in custody with the Department of Corrections allows staff to directly refer youth to the Arizona State Hospital.

Finding 9: A.R.S. 36-518 is unclear as to the procedure for admission of children under 14 to psychiatric facilities.

Finding 10: DES' Comprehensive Medical and Dental Program has been unable to control psychiatric hospitalizations of children in custody.

III. IMPLICATIONS OF THE U.S. SUPREME COURT PARHAM DECISION

On June 20, 1979 the U.S. Supreme Court held in Parham et al. v J.L. et al. that when parents or child custodial agencies seek to have children admitted to a mental health facility the following minimum due process requirements are needed:

(A) A thorough psychiatric investigation and inquiry by a "neutral factfinder" to carefully probe the child's background using all available sources, including, but not limited to parents, schools and other social agencies.

(B) The review by the independent factfinder must also include an interview with the child.

(C) It is necessary that the factfinder have authority to refuse to admit any child who does not satisfy the medical standards for admission.

(D) It is necessary that the child's continuing need for care be reviewed periodically through a similar independent procedure.

IV. MENTAL HEALTH ADMISSIONS AND COSTS

In FY 1978-79, 160 admissions of foster children were made to private psychiatric facilities. These mental health services comprise a projected 30% of DES' foster care Comprehensive Medical and Dental Program's 3.7 million dollar budget.

There were 91 admissions to the Children and Adolescent Unit of the Arizona State Hospital. Referrals and commitments from the Department of Economic Security, the Department of Corrections and the juvenile courts comprised 75% of these admissions. The cost of care for these children is estimated at $397,594 in FY 1978-79.

Eleven admissions were made from DOC's juvenile correctional institutions to private and state psychiatric hospitals. The cost of care to the Department of Corrections for the private mental health hospitalizations was approximately $17,360.

Admissions to private and state psychiatric hospitals for children in foster care, in DOC juvenile institutions, and committed by the county juvenile courts total approximately 235 in FY 78-79. The minimum cost to the state for this residential psychiatric treatment service is estimated at $1,380,194.

V. PLANNING FOR MENTAL HEALTH NEEDS

Since January 1979, an ad hoc Task Force of state agencies and juvenile probation departments has been meeting to discuss the prospect of expanding the Children and Adolescent Unit at the Arizona State Hospital.

The reasons for this focus include: 30% of DES' Comprehensive Medical and Dental Program's expenditures are now paying for in-patient psychiatric care; there is pressure to curtail this expenditure; and the Arizona State Hospital is willing to expand its program and accept all referrals from state and county child custodial agencies.

Other factors which could be considered in determining the merits of the Task Force's recommendation to expand the State Hospital's facilities are the following: The planning emphasis has been on in-patient services rather than out-patient alternatives; State Hospital services are free to the county and state agencies requesting admissions of children in their custody; there has been no evaluation made on the available treatment services at the State Hospital; State Hospital expansion might be providing a bigger "dumping ground" for unwanted youth; a less varied, perhaps more formal commitment process for children in custody might decrease the need for additional psychiatric beds; and impact of the expanding private hospital and post-hospital placements has not been evaluated.

VI. OPTIONS FOR LEGISLATIVE ACTION

A. Statutory Options.

OPTION (1) Status quo.

OPTION (2) Conform Title 8 to Title 36 and Parham requirements.

OPTION (3) All psychiatric commitments of children in custody should be made through the involuntary procedure pursuant to Title 36.

B. Planning for Mental Health Needs.

OPTION (1) Status quo.

OPTION (2) State Hospital expansion.

OPTION (3) Statutory change and planning.

The Joint Juvenile Justice Committee of the Arizona Legislative Council learned in December 1978 that the methods by which children were being committed to the Arizona State Hospital were allegedly contrary to the Mental Health Services Act as provided in Title 36 of the Arizona Revised Statutes. The implications of this charge were not clear. Due to the seriousness of the complaint, the committee decided not to take action hastily during the 1979 legislative session, but to research the problem during this interim period.

The goal of this interim study is to increase the committee's awareness of the problems and issues involved in the psychiatric hospital admissions of children in custody, in order to enable the state to provide the necessary psychiatric evaluations and treatment of children in custody through clear statutory guidelines for admissions to both state and private psychiatric hospitals.

To compile information, interviews were conducted with a number of persons including Central and District staff from the Department of Economic Security, the Presiding Judge of the Maricopa County Juvenile Court, juvenile probation staff in Maricopa and Pima Counties, Arizona State Hospital administrative directors and legal counsel, the Deputy Director and staff of the Department of Corrections, persons involved in the drafting of Arizona's Mental Health Services Act, and Maricopa Foundation for Medical Care Administrators. In addition, court orders and case records, and computer print-outs regarding costs and admissions were reviewed and analyzed.

The report is divided into six sections:

Section I. Current state law governing mental health commitments of minors. (page 3)

Section II. Major problems and findings surrounding commitments of children in custody to state and private psychiatric hospitals and the variety of different procedures used to commit juveniles. (page 5)

Section III. Implications of the recent U.S. Supreme Court decision in Parham on the Arizona psychiatric hospital admissions procedure for minors. (page 13)

Section IV: The number of youth in custody in mental health settings and the costs of care. (page 16)

Section V: Planning for the mental health needs of children in custody. (page 21)

Section IV: Options for legislative action and the planning options for the mental health needs of children in custody. (page 23)

The findings in the report are those of the committee staff and do not necessarily represent the opinions of the members of the Joint Juvenile Justice Committee.

It is hoped that this study will stimulate discussion regarding this most difficult issue and establish a basis for future legislative, judicial and administrative change.

I. STATE LAW GOVERNING MENTAL HEALTH COMMITMENT OF MINORS

In FY 1978-79, 160 admissions of children in foster care and seven admissions from the Department of Correction's juvenile institutions were made to private psychiatric hospitals. Another 91 admissions, mostly of children in custody, were made to the Arizona State Hospital.

There are several methods in Arizona by which children may be placed in a private or state psychiatric hospital. Two separate sections of state law relate to mental health commitments of children. A.R.S. 8-242, permits the juvenile court to order studies, reports, and hospitalize children in psychiatric facilities. In addition, A.R.S. 36-518 and 36-519 governs the voluntary admission and discharge of minors to mental health facilities. These sections of the Arizona Revised Statutes are as follows:

Title 8: CHILDREN-JUVENILE COURT

Sec. 8-242. Disposition of mentally ill or mentally retarded child.

A. If, at a dispositional hearing of a child adjudged to be delinquent, dependent or incorrigible, or prior thereto, the evidence indicates that the child may be suffering from mental retardation or mental illiness, the juvenile court before making a disposition shall order such study and report on the child's mental condition as the court determines is necessary.

B. If it appears from the study and the report that the child is mentally ill or mentally retarded, the juvenile court shall hear the matter, and if the child is found:

1. To be committable under the laws of this state as mentally ill, the juvenile court shall order the child committed to the appropriate institution for the mentally ill.

2. To be mentally retarded, such child shall be assigned by the juvenile court pursuant to Sec. 8-241. If a mentally retarded child is assigned by the juvenile court to the department of economic security, such assignment shall be subject to the provisions of Sec. 36-560.

C. If it appears from the study and report or hearing that the child is not committable as a mentally ill child or subject to assignment as a mentally retarded child, the juvenile court shall proceed in the manner as otherwise provided by this chapter.

Title 36: MENTAL HEALTH SERVICES ACT[1]

Sec. 36-518. Application for voluntary admission; admission to agency; minors and persons under guardianship; transportation.

A. Pursuant to rules and regulations of the department, any person may be hospitalized for evaluation, care and treatment who voluntarily makes written application on a prescribed form. The agency to which the person applies may accept and admit the person if the medical director of the agency or the admitting officer believes that the person needs evaluation or will benefit from care and treatment of a mental disorder or other personality disorder or emotional condition in the agency.

B. A minor fourteen years of age or older may seek voluntary hospitalization. Such application for voluntary hospitalization shall be signed by the minor and the parent or guardian of the minor.

C. The board of supervisors of the county of residence of a person who has submitted an application for admission to the state hospital pursuant to subsection A shall provide transportation to the state hospital for the person if it appears that the person is eligible for voluntary admission to the state hospital after consultation between the state hospital and the evaluation or screening agency.

Sec. 36-519. Discharge of voluntary patients.

A. The medical director at the agency shall discharge any patient admitted voluntarily who has recovered or who is no longer benefitting from the evaluation, care or treatment available, except as provided in subsection B.

B. A patient admitted voluntarily shall be given a discharge within twenty-four hours after he requests a discharge in writing excluding weekends or holidays unless the medical director of the agency has proceeded pursuant to Sec. 36-531, subsections B and C and Sec. 36-533. The costs of such proceedings shall be a charge against the county of the patient's residence.

C. If the medical director of the agency finds that a patient admitted voluntarily is gravely disabled and requires the service of a guardian or conservator or both for the protection of health and property, he shall proceed pursuant to Sec. 36-531, subsections B and C and Sec. 36-533 unless it is appropriate to discharge the patient to suitable alternative arrangements for care, treatment and protection.

[1]Appendix I are flow charts depicting the full evaluation and commitment process, including the involuntary procedure, as mandated by Title 36. A.R.S. 36-518 and A.R.S. 36-519 are the only sections which specifically refer to minors.

II. PROBLEM STATEMENT AND FINDINGS

Problem Statement: It appears that children in the custody of juvenile probation, the Department of Economic Security (DES) and the Department of Corrections (DOC) are being committed and admitted to both private and state psychiatric hospitals without clear statutory guidelines or administrative procedures. These admissions are most often based on the discretion of the individual judges, social workers, and staff involved and vary from agency to agency, from court to court and from county to county.

These commitments and admissions may be in violation of Title 8 requirements for a dispositional hearing. They may violate Title 36 procedures for admissions, if Title 36 applies to children in custody. They may violate constitutional due process requirements.

Furthermore, the variations in admissions procedure is not necessarily in the child's or society's best interests for it permits excessive use of psychiatric hospitalization at great expense to the state.

The following section will explore findings which exemplify ambiguous statutory guidelines and the variations in psychiatric hospital admissions procedures used for children in custody.

Finding 1: The term "study and report" in A.R.S. 8-242 is unclear. Court orders do not necessarily distinguish between commitment for evaluation from commitment for treatment.

A.R.S. 8-242, "Disposition of a mentally ill or mentally retarded child", allows the juvenile court to refer a child for "study and report" to determine mental illness. The term "study and report" is unclear. In court orders reviewed (Appendixes II and III), the courts do not necessarily separate ordering a study for evaluation from ordering a commitment for treatment. A.R.S. 8-242 attempts to first provide for "study and report" and later (in A.R.S. 8-242(B)) for a commitment hearing. But the lines of demarcation delineating evaluation from commitment for treatment are not clearly drawn. This has lead to varying interpretations of the term "study and report" and to varying guidelines and procedures under which the courts order evaluations or commitments for treatment.

Finding 2: Courts are committing children in custody to psychiatric hospitals prior to the adjudication hearing.

A.R.S. 8-242(A) clearly permits the court at the disposition hearing to order "a study and report" of a child adjudged to be dependent, incorrigible or delinquent. The law also permits this action to take place "...or prior thereto..." the disposition hearing. But it is not clear whether the "prior thereto" allows a "study and report" to be ordered even prior to an adjudication hearing. Present court practice appears to illustrate that judges are providing court orders for in-patient study of alleged dependent, incorrigible and delinquent children before an adjudication hearing has taken place.

The Presiding Judge of the Maricopa County Juvenile Court Center related two cases this past year where children were admitted to detention and were "on the verge of psychotic breaks." In each case the judge acted on the recommendation of a probation officer. The judge had not observed or interviewed the individual children. The youths had not been formally advised of their rights or assigned an attorney. The judge ordered that each child be admitted to a psychiatric hospital for treatment. A "considerable period of time passed" while each child was held by court order.

Presently, at the Pima County Juvenile Court Center, alleged incorrigible and delinquent children are referred first to the Kino County Hospital without court order. The hospital makes the decision as to whether in-patient or out-patient evaluation and/or care is needed.[2]

In another example, shown in Appendix V, the Maricopa County Juvenile Court ordered an alleged dependent child to be a "temporary ward of the court committed to the care, custody and control of the Department of Economic Security, placed in the temporary physical custody of the Arizona State Hospital." The date of this particular order was April 27, 1979. The first hearing on the dependency matter was scheduled for July 16, 1979---three months later.

Section 8-242(A) could be interpreted as permitting the court to order a "study and report" for only adjudicated children. It is clear, however, that the court is entering orders on the request of DES and juvenile court staff for children who are only alleged dependent, incorrigible or delinquent and who may be temporary wards of the court.

Finding 3: Court orders for commiting children to psychiatric hospitals are sometimes made without a hearing.

A.R.S. 8-242(B) delineates that after receiving the "study and report", "the Juvenile Court shall hear the matter," to determine appropriate disposition.

Court commitment orders after an adjudication hearing have been made by the Maricopa County Juvenile Court apparently without hearing. Appendix VI shows one example that the court made its decision "on the recommendation of the assigned probation officer" and vacated the dispositional hearing scheduled for a later date. This order contrasts with the dispositional hearing and minute entry filed (Appendix VII) by the Pima County Court. After a hearing with all parties and professionals involved, the judge determined that the child was in need of long-term psychiatric setting.

[2]Appendix IV is the Departmental Directive of Pima County Juvenile Court which describes this procedure.

Finding 4: Substantive and procedural safeguards may be lacking for children in custody committed to psychiatric hospitals by court order because A.R.S. 8-242(B) does not refer to Title 36.

A.R.S. 8-242(B)(1) provides that if a child is found "To be commitable under the laws of this state as mentally ill, the juvenile court shall order the child committed to the appropriate institution for the mentally ill."

As mentioned, various procedures are used for the commitment of children to institutions for the mentally ill. The only Arizona law dealing with civil commitment is the provisions of the Mental Health Services Act in A.R.S. Title 36 which provides substantive and procedural safeguards for both voluntary and involuntary placements. However, since A.R.S. 8-242(B)(1) does not specifically refer to Title 36, procedures vary from court to court and between different DES districts without complying with Title 36.

Children, both those alleged and those adjudicated, dependent, incorrigible or delinquent, do not have the same safeguards established by law to diminish inappropriate hospitalizations as do children under their parents care. Courts acting in loco parentis are not following the steps for commitment as provided in Title 36.

Finding 5: Youth committed under A.R.S. 8-242 may not be discharged by authorization of the medical director of the mental health treatment agency which is contrary to two Title 36 provisions.

A.R.S. 36-519(A) provides that "The medical director of the agency shall discharge any patient admitted voluntarily who has recovered or who is no longer benefitting from the evaluation, care or treatment available."

A.R.S. 36-543 permits the medical director of a mental health treatment agency to release a patient who has been admitted involuntarily by court order "prior to the expiration of the period ordered by the court when, in the opinion of the medical director of the agency the patient is...no longer a danger to self or a danger to others, or gravely disabled." Notification to the court is required, the court is mandated to terminate the court order.

Court orders from juvenile court made on the recommendation of a probation officer or DES social worker, do on occasion direct the hospital that "the child only be released from...hospital by further order of this court," (Appendix VIII). Such an order takes the discretion away from the medical professional as to the need for further hospitalization and the hospital must await court action to release a child.

There are reported instances where the hospital has recommended discharge and the judge, on recommendation of the probation officer, has refused to order the release. Under such an order, the hospital must await court action on a release which can often be delayed by weeks due to busy court calendars and the casework problems related to finding an alternative placement.

Finding 6: Admissions to psychiatric hospitals are being made by DES and DOC without the voluntary consent of the youth aged 14 to 18 as required by Title 36 and without court approval.

The Mental Health Services Act, in A.R.S. 36-518, mandates that a minor aged 14 to 18 must sign an application together with the parent or guardian, in order for the hospitalization to be considered voluntary.

If a child over the age of 14 or parent or guardian refuses to sign for a voluntary admission, then it is implicit, though not definitely stated, that an involuntary commitment procedure is necessary.

The Special Assistant Attorney General for the Behavioral Health Services observes that:

> "If the Department of Economic Security or the Department of Corrections is the acting guardian of the child, the procedures for voluntary admission remain the same [as in Title 36]...This is another area of the law which is violated with the "blessings" of the Juvenile Court. The Department of Economic Security or the Department of Corrections will apply for the voluntary admission of juveniles over the age of 14 and these individuals are from time to time admitted to the Arizona State Hospital against the will and without the consent of the child."[3]

Additionally, DES and DOC may be exercising more authority than permitted by case law. In Pima County Public Fiduciary v. Superior Court, for Pima County (26 Ariz. App. 85, 546 P.2d. 354 (1976)), the Arizona Appeals Court declared that a person's guardian was not competent to make a voluntary application for admission to a state hospital, and that due process would be violated if such was permitted. This decision, and Title 36, prohibit a guardian from committing his ward to a psychiatric facility solely on the guardian's recommendation.

The legislature, through A.R.S. 36-547.04, established duties and a process a guardian of a gravely disabled person must follow in seeking mental health care and treatment for his ward. The guardian must seek advice and assistance of qualified mental health professionals and give preference for treatment to a less restrictive placement than a mental health treatment agency while taking into account the ward's disabilities, illnesses, needs and preferences. In order to admit the ward to a psychiatric facility, notice, a court hearing, and a finding by the court

[3]Appendix IX, letter dated July 12, 1979 to staff of the Joint Juvenile Justice Committee, page 2.

that an alternative placement is not available must be made. The guardian is required to obtain a court order establishing the guardian's authority to place the ward in a mental health treatment agency.

The guardians of children in custody, DES, DOC and the juvenile probation offices, are not following similar procedures which case law, Title 36 and the U.S. Constitution may require.

Finding 7: Mental health admissions of children in custody of DES are not necessarily reviewed for approval by the juvenile court.

DES caseworkers in Maricopa County do not usually request court approval if a child in their custody is admitted to a private psychiatric hospital. Court orders are usually received by DES for State Hospital admissions of dependent children since this is considered a "change in custody" from one state department to another. Normally, DES will ask the natural parents of a child to approve a "voluntary admission." If the parents object, or if a child over age 14 objects, DES obtains a court order and a hearing may be held.

Through the court adjudication process, however, it has been determined that the parent should not or cannot responsibly care for the child and that the child should be "a ward of the court in the care, custody and control of DES." By allowing the natural parent to be a decision maker, DES maintains that parents can be closely involved in the casework needs and planning for a child.

DES in Pima County reports that all psychiatric hospitalizations are approved by the court. This is a new procedure established by the Presiding Judge this past spring. A prior hearing on the action will ordinarily be held. Under emergency situations the court will make the order on the recommendation of the social worker but set a hearing for review.

Apparently no specific law or regulation specifies that DES must obtain a court order for a psychiatric hospitalization. DES regulation R6-5-6012, however, requires a court order and, if possible, consent of parents for major medical and surgical treatment of an adjudicated dependent child. This regulation does not specifically refer to in-patient psychiatric hospitalizations which many professionals would consider major medical treatment, and therefore, in need of a court order.

Finding 8: Present psychiatric admissions procedures of youth in custody with the Department of Corrections allows staff to directly refer youth to the Arizona State Hospital.

Prior to several months ago, the Department of Corrections had no clear procedure for seeking in-patient psychiatric evaluation and commitment of a youth in custody at a juvenile correctional institution. According to DOC staff this led to confusion and the lack of treatment alternatives. The two facilities needing the resource were Adobe Mountain School in Maricopa County and Arizona Youth Center in Pima County. In most cases, youth were taken to the community mental health center or the county hospital for an evaluation, other times the juvenile correction's institutional staff sought the aid of a private psychiatrist for admission to a private psychiatric hospital. When admissions to the Arizona State Hospital were sought, it was difficult to place a youth in this facility; criteria for admissions were restrictive or the lack of an available bed led to rejection by the State Hospital.

Arizona State Hospital has since adopted a "flexible approach to admissions" which provides that "anybody who has to be evaluated is appropriate for admission," according to the Director of ASH's Children and Adolescent Unit. Therefore, any youth presently referred to the Arizona State Hospital by the Department of Corrections staff will be accepted for admission if space allows. The administrator of the juvenile correctional facility must authorize the placement and refer the youth. A "voluntary" admission is designated, as both DOC staff and the youth sign the admission form.

The Department of Corrections feels that although this procedure might not provide all the substantive and procedural safeguards that other mechanisms might, it does meet the youth's needs, as seen by the Department, more quickly.

Finding 9: A.R.S. 36-518 is unclear as to the procedure for admission of children under 14 to psychiatric facilities.

There is no law which states the process for "voluntary commitment" of a child under the age of 14 to a mental health facility. The provision in A.R.S. 36-518 which allowed parents or guardians to commit a child under age 14 to a psychiatric facility solely on the parent or guardian's application was deleted in 1979 amendments to Title 36.

Legal Analyst and Special Assistant Attorney General for the Arizona State Hospital states that since this provision was stricken:

> "I can only presume that it was the intent of the legislature to require court approval for the placement of minors under the age of 14 in a mental health treatment facility..." [4]

[4] Letter to JJJC staff, Appendix IX page 1.

The Director of the Southern Arizona Mental Health Center argues to the contrary and suggests the deletion of reference to the voluntary admissions of children under the age of 14 was stricken only to "set apart" an exception to the general rule. The general rule is that both parent or guardian and a youth over age of 14 must both agree to admission. Children under 14, he states, may be admitted to a psychiatric hospital (as before the deletion) through sole application of their parent or guardian.

Most private hospitals try to have a patient, even under the age of 14, to voluntarily sign himself in as part of the therapeutic admissions procedure. St. Luke's Hospital in Phoenix allows parents of children under 12 to admit their child to the hospital's children's unit. It appears hospitals have not substantially changed their procedure since the 1979 amendments deleted the provisions regarding the admissions procedure for children under age 14.

Finding 10: DES' Comprehensive Medical and Dental Program has been unable to control psychiatric hospitalizations of children in custody.

All children under the jurisdiction of DES, juvenile courts, or DOC who are "in foster homes, as prescribed by rules and regulations of the department [of economic security]" are eligible for medical services under DES' Comprehensive Medical and Dental Program (CMDP) for children, pursuant to A.R.S. 8-512

The Maricopa Foundation for Medical Care has administered this program under contract with DES since July, 1978. Responsibility is given to the Maricopa Foundation to determine medical necessity and payment for services through physician peer review. The Maricopa Foundation admits, however, that they have little control over children placed in hospitals for psychiatric evaluation and treatment. The Foundation is concerned because presently in-patient psychiatric services account for over 30% of the entire CMDP projected expenditures.

The Maricopa Foundation notes that pre-authorization is needed for non-emergency psychiatric hospitalization of a foster child. Although some children may be awaiting beds in psychiatric hospitals, rarely are pre-authorization forms filled out by the consulting psychiatrist. DES Rule R6-5-6007 (D)(6) permits an emergency psychiatric hospitalization for ten days. Maricopa Foundation pays for this ten day period and then reviews the request for extension. Almost all psychiatric hospitalizations are claimed as emergencies, even those of children who have been waiting for placement. This system does not allow the Maricopa Foundation to review the initial placement, often the most crucial decision-making point.

Additionally, court-ordered hospitalizations are not restricted by the Foundation's hospital authorization review. If the Foundation's review team or the staff physician responsible for the case believes the hospitalization is unwarranted, little can be done by the Foundation to seek release for the court-ordered hospitalized child.

An attempt in April 1979 was made by the Maricopa Foundation to reduce the extended periods judges were committing children into in-hospital psychiatric care. Some judges had been ordering commitments for 60-90 days with no opportunity for release. A letter (Appendix X) was sent by the Foundation asking "that all court-ordered hospitalization for foster children initially be no more than a 30-day maximum." The Foundation sought to limit the initial hospitalization and provide the court with information from both the review team and attending physician regarding the need for further hospitalization. It is reported that most initial lengthy court-ordered hospitalizations have stopped. Even so, there have been several instances where hospitalization was continued although not necessarily beneficial to the child or medically warranted. The Foundation had no authority to withhold authorization for payment in these cases due to the court order directing hospitalization.

III. IMPLICATIONS OF THE U.S. SUPREME COURT'S PARHAM DECISION

On June 20, 1979, the U.S. Supreme Court handed down its connected decisions in Parham et al v. J.L. et al,[5] and in Secretary of Public Welfare of Pennsylvania v. Institutionalized Juvenile et al.[6]

The Supreme Court held that when parents seek to have their child admitted to a mental health facility, due process does not require that there be a formal or quasi-formal hearing prior to commitment. However, in view of the liberty interest of children in not being confined unnecessarily for medical treatment, the rights and obligations of parents in acting for their children, the obligation and interest of the state in regard to the operation and use of its mental health hospitals, and the risk of error inherent in the decision to have a child institutionalized for psychiatric care; due process does require some kind of inquiry be made by a neutral factfinder to determine if the constitutional and the state's statutory requirements for admission of a child have been satisfied.

The majority opinion held that child custodial agencies acting in lieu of parents on behalf of the wards of the state, are subject to the same constitutional restrictions which govern natural parents regarding initial psychiatric hospital admission of children.

The court studied both the statutory and administrative schemes for admission of a child to a state psychiatric hospital. Case records indicated that the minimum due process requirements had been met. Georgia's procedures were not considered "arbitrary' in the sense that a single physician or other professional had the "unbridled discretion'"to commit a child to a psychiatric hospital.[7]

The dissenting opinions from Justices Brennan, Marshall and Stevens expressed the view that the Georgia procedure was unconstitutional in failing to accord pre-confinement hearings to juvenile wards of the state committed by the state. The justices stated the social worker-child relationship should not deserve the special protection and deference accorded to parents by the court's majority decision.

The majority decision indicated that "a state is free to require such a formal or quasi-formal hearing, but due process is not violated by use of informal, traditional medical investigative techniques."[8]

[5] Parham et al v. J.L. et al, 47 U.S.L.W. 4740 (1979).

[6] Secretary of Public Welfare of Pennsylvania et al v. Institutionalized Juveniles et al, 47 U.S.L.W. 4754 (1979).

[7] 47 U.S.L.W. 4740, 4748. (1979)

[8] 47 U.S.L.W. 4740, 4746. (1979)

All admissions of children to psychiatric facilities must follow at least the following minimum due process requirements ordered by the court, in Parham:

(A) A thorough psychiatric investigation and inquiry by a "neutral factfinder" to carefully probe the child's background using all available sources, including, but not limited to parents, schools and other social agencies.

Decisions regarding commitment must be reviewed by a neutral factfinder who is responsible for making a concerted effort to involve all parties and sources in the decision to accept or reject a child's admission for treatment.

The Supreme Court permits that the neutral factfinder could be a staff physician of a hospital.

Implications of this standard for Arizona would appear to require that a decision to commit a child to a psychiatric facility must be based on more than a recommendation by a probation officer or social worker.

(B) The review by the independent factfinder must also include an interview with the child.

The decision-maker, therefore, whether it be a judge or a medical professional, must not base the commitment decision solely on the opinions of others, (e.g., parent, or social worker). Interviews with the child must be conducted.

(C) It is necessary that the factfinder have authority to refuse to admit any child who does not satisfy the medical standards for admission.

Whoever the factfinder is, this person, based on the medical and social evidence presented and an interview with the child, must be able to refuse to admit or to discharge a child.

Juvenile court orders being received by hospitals in Arizona do not always permit "a neutral factfinder" or the medical director to use discretion in rejecting or continuing the court ordered hospitalization.

(D) It is necessary that the child's continuing need for care be reviewed periodically through a similar independent procedure.

The Supreme Court did not specify in its decision what factors and procedures for review are necessary to justify continuing a child's confinement, but suggested that the District Court on remand should consider whether the procedures required in reviewing a ward of the court's need for continuing care should be different from a child under his parents authority. The Supreme Court speculated that the absence of a caring, natural parent may have some effect on how long a child will remain in a hospital.

IV. MENTAL HEALTH ADMISSIONS AND COSTS

Foster Care Admissions[9]

Out of approximately 2,866 eligible foster care children in Arizona, there were 160 admissions to private psychiatric facilities in fiscal year (FY) 1978-79 according to data from the Maricopa Foundation for Medical Care. (See Table 1). An estimated 25 foster care children are hospitalized in psychiatric hospitals daily.

Fifty-eight (58) alleged and adjudicated incorrigible or delinquent children were committed from the Juvenile Probation Office (JPO) of the Maricopa County Juvenile Court. In December 1978, it was estimated that this court was committing 20% of the eligible children, this rate decreased to 9.5% as of June 1979.

In comparison, the Pima County Juvenile Court committed only seven (7) children to private psychiatric facilities in the same year. In December 1978, 5.6% of the eligible children had been committed, this rate decreased as of June 1979 to 3.5%[10]

In FY 1978-79, in Pima County, twenty-nine (29) children in foster care under the jurisdiction of the Department of Economic Security were admitted to private psychiatric hospitals at a rate of 5.6% of the eligible children in December 1978; this dropped to the rate of 3.5% by June 1979.

Thirty-eight (38) of Maricopa County's eligible dependent foster children experienced psychiatric hospitalization. In December 1978, this figure represented 2.3% of the eligible population whereas by June 1979 this rate decreased to 1.0%

Lengths of Stay

Average length of stay in psychiatric care paid for through CMDP funds was 39 days for both Maricopa and Pima County children from the juvenile probation departments; and 36 days for Maricopa and 46 days for Pima County children under the supervision of DES.

[9]Comparable, accurate CMDP data for previous fiscal years is not available. Blue Cross-Blue Shield which had administered the CMDP program prior to July 1978 did not have the computer capacity to store the data.

[10]Pima County Juvenile Court refers alleged incorrigible and delinquent children to the Kino County Hospital for psychiatric evaluation which is not paid for out of CMDP funds but through county resources. There were 11 referrals in FY 78-79.

TABLE 1. NUMBER OF ADMISSIONS TO PRIVATE PSYCHIATRIC HOSPITALS FOR FISCAL YEAR 1978-1979
Paid for through CMDP Funds as of June 30, 1979

AGENCY JURISDICTION	MARICOPA	PIMA	OTHER COUNTIES	TOTAL ADMISSIONS
DES Admissions*	38	29	17	84
JPO Admissions**	58	7	9	74
DOC Admissions***				1
BMR Admissions****				1
TOTAL COMMITMENTS	96	36	28	160

TABLE 2. COMPREHENSIVE MEDICAL AND DENTAL PROGRAM
DES, FOSTER CHILDREN'S PROGRAM
CLAIMS PAID THROUGH JUNE 30, 1979

	Out-Patient Psychiatric	In-Patient Psychiatric
Maricopa DES*	$ 274,655.69	$ 266,585.15
Pima DES	4,946.12	33,503.61
Other DES Districts	130,590.22	224,958.82
TOTAL DES	$ 410,192.03	$ 525,047.58
Maricopa JPO**	$ 38,323.72	$ 369,643.58
Pima JPO	9,755.55	29,844.97
Other JPO	21,624.83	28,425.99
TOTAL JPO	$ 69,704.10	$ 427,914.54
DOC***	$ 35,625.90	$ 12,277.69
BMR****	$ 141.08	$ 0.00
TOTAL FY 78-79 (% of CMDP Expenditures)	$ 515,663.11 (16.2%)	$ 965,239.81 (30.3%)
TOTAL PSYCHIATRIC EXPENDITURES (% of CMDP Expenditures)	$ 1,480,902.92 (46.5%)	
TOTAL CMDP EXPENDITURES	$ 3,178,084.27 (100%)	

* Department of Economic Security, Administration of Children, Youth, and Families.
** Juvenile Probation Office of County Juvenile Court.
*** Department of Corrections, Community Services Division.
**** Bureau of Mental Retardation of the Department of Economic Security.
Source: Maricopa Foundation for Medical Care.

Costs of Care under CMDP[11]

Mental health services for foster care children are paid through the Comprehensive Medical and Dental Program. As of June 30, 1979 CMDP expenditures for FY 78-79 for all allowable medical and dental services were approximately 3.1 million out of a 3.7 million dollar budget. In-patient psychiatric services cost over $965,000 or 30.3% of the entire expenditures, total in-patient and out-patient psychiatric care comprised 46% of the CMDP expenditures.[12]

Table 2 represents CMDP costs for both in-patient and out-patient services in FY 78-79 as of June 30, 1979. In-patient services are far more expensive than out-patient costs. It is interesting to note, however, the variance in use of both types of resources.[13]

- Maricopa County Juvenile Probation Office's (JPO) psychiatric in-patient costs are nearly ten times greater than their CMDP paid out-patient expenditures.
- Pima County Juvenile Probation Office's (JPO) CMDP in-patient claims were three times greater than their use of CMDP paid out-patient psychiatric services.
- In Maricopa County, the DES psychiatric expenditures for dependent children were very close in terms of both in-patient and out-patient services.
- CMDP expenditures for dependent children in Pima County realized greater costs for in-patient psychiatric services than the costs for out-patient resources. This three to one ratio is similar to the expenditure ratio for incorrigible and delinquent children in this county.

[11] Expenditures noted are those paid through June 30, 1979. DES has recently switched program budgets from date of payment to date of service incurred. Therefore, an additional $600,000 is budgeted for bills received after 6/30/79.

[12] DES reports that between $150,000-$200,000 is expected to be collected primarily from medical insurance companies of children's families during FY 78-79 for all services rendered under CMDP. The CMDP program administrator stated that it was highly unlikely much of these reimbursements were received for psychiatric services since insurance for this service area is extremely restrictive. The monies collected are reverted to the state's general fund.

[13] It should be noted that all four agencies have other sources of funding for out-patient services (e.g. county funds and DES' protective services funds.) This comparison is made only in reference to CMDP expenditures.

Arizona State Hospital Admissions

Admissions to the Arizona State Hospital are not differentiated, as in the CMDP admissions, according to whether a child is in the custody of DES, DOC or the juvenile probation department. Data available indicate the referral admissions process, according to whether a child has been admitted "voluntarily" or by juvenile court order.

Table 3 reveals that there were 91 admissions to the Children and Adolescent Unit of the State Hospital. The 91 admissions account for 84 children, some of whom had been admitted more than one time.

Sixty-six percent (66%) or 60 of the admissions were from Maricopa County. Of these 60 admissions, 29 admissions or 48% were under order of the juvenile court. In comparison only 5 admissions or 5% were from Pima County; 3 of which were court ordered. The remaining 26 admissions were primarily from rural juvenile county courts.

TABLE 3. ARIZONA STATE HOSPITAL ADMISSIONS, CHILDREN AND ADOLESCENT UNIT

	MARICOPA	PIMA	OTHER COUNTIES	TOTALS
Voluntary	31	2	5	38 (42%)
Juvenile Court Order	29	3	21	53 (58%)
TOTAL ADMISSIONS	60 (66%)	5 (5%)	26 (29%)	91 (100%)

Source: Department of Health Services, Behavioral Health Services. Bureau of Planning and Evaluation.

Referrals from DES, DOC and the juvenile courts comprise approximately 75% of the admissions to the State Hospital. The Arizona State Hospital estimates that of the "voluntary" admissions slightly less than half are referred by these state or county agencies.

Taking an estimated 15 DES, DOC, or juvenile probation office referred children (less than half of the 38 voluntary commitments) and the 53 court-ordered children, about 68 of the 91 commitments to the State Hospital are children referred and/or committed by DES, DOC or the juvenile courts.

Costs of State Hospital Care

The cost for care in the Child and Adolescent Unit of the Arizona State Hospital in FY 78-79 was $110.32 for a patient day. (This cost increased to $128.72 as of July 1, 1979.)

Average length of stay in the State Hospital is approximately 53 days. Total cost of care for foster care, DOC, and court involved children in FY 78-79 committed to the State Hospital is estimated at $397,594.[14]

DOC Psychiatric Admissions and Costs

Ten youths were committed from DOC juvenile correctional institutions to psychiatric hospitals comprising a total of eleven admissions. Four of the eleven admissions were made to the Arizona State Hospital at no cost to DOC. Seven of the eleven admissions were to private psychiatric hospitals.

For two of the private psychiatric hospitalizations, the family's insurance covered all or most of the cost of care. The three admissions to ASH were at no cost to DOC. The estimated cost of care in private hospitals to the Department of Corrections, (which is paid out of the correctional institution's budget) was approximately $17,360.

Summary: Private and State Psychiatric Admissions and Expenditures

Admissions to private and state psychiatric hospitals for children in foster care, in DOC and committed by the court total approximately 235 in FY 78-79. The minimum cost to the state for this residential psychiatric treatment service was approximately $1,380,194.

In FY 78-79, the average length of stay in a private facility for foster child admissions was 40 days. The State Hospital's average length of stay was 53 days. The average length of stay in a private hospital for a youth under DOC custody is 33 days. The average cost of care in a private hospital was $6,033 per foster child. DOC's average cost per youth admitted to a private psychiatric hospital was approximately $2,480.[15] The average cost of care per admission at the Arizona State Hospital was $5,847.

[14]The Arizona State Hospital's Children and Adolescent Unit has received approximately $71,918 in reimbursements from children's private insurance company benefits. It is not known what percentage of these reimbursements to the state is from foster care, DOC or court-involved children. Full expenditures of the Children and Adolescent Unit will not be available and exact until late September or October.

[15]This low average was due to two admissions to private psychiatric hospitals which were paid for by the family's insurance.

V. PLANNING FOR MENTAL HEALTH NEEDS

Since January, 1979, an ad hoc Task Force representing DES, DOC the Maricopa County and Pima County Juvenile Probation Offices and the Arizona State Hospital has been meeting periodically to discuss the prospect of the State Hospital expanding their Children and Adolescent Unit to meet the alleged needs of more in-patient psychiatric beds for adolescents.

There are several reasons for this focus:

- DES has projected that the out-patient and in-patient psychiatric services for foster care children are 46% of their 3.7 million dollar Comprehensive Medical and Dental Program. In-patient services alone account for 30% of this figure.

- The Juvenile Courts, particularly Maricopa County, are experiencing some pressure from DES to curtail the over-use of these funds.

- The availability of more beds at ASH would decrease DES' and Juvenile Probation Offices' use of CMDP funds for this purpose.

- At this time, ASH seems amicable to expanding their adolescent facilities. ASH has already adopted a "flexible approach to admissions." The evaluations and recommendations of the court or agency are now accepted as being sufficient criteria for admission. ASH will accept children whom the court, DES or DOC feel are in need of hospitalization.

- There are waiting lists for admission to the children's unit at private psychiatric hospitals.

- Post-psychiatric-hospital residential care is lacking and difficult to obtain for seriously disturbed children. The state presently has approximately eight children in out-of-state long term residential psychiatric care.

Related Issues to the ad hoc Task Force Planning Proposal for Mental Health Services

The above circumstances spur the ad hoc Task Force planning process. Other factors which could be considered in determining the merits of the Task Force's recommendation to expand the State Hospital's facilities are the following:

- The Task Force planning emphasis is primarily focused on in-patient beds rather than out-patient services or community based residential care.

- Alternatives to State Hospital expansion have not been seriously explored. Expansion of the in-patient adolescent unit at ASH has practically been the only discussed option of the ad hoc Task Force. This seems to be based on the fact that per diem costs at the State Hospital are presently free to other state and county agencies. It should be remembered, however, that the average cost of care to the state is not that much different because the average length of stay at ASH is longer than private hospital care.

- No evaluation has been completed regarding the effectiveness of treatment available at the Arizona State Hospital. It is not known whether expanding their capacity will fulfill treatment needs rather than just provide a bigger "dumping ground" for unwanted youth. DES workers usually consider ASH "the end of the line placement."

- There has been no discussion as to whether the need for psychiatric bed space is increasing as speculated or would decrease if the evaluation and commitment process for DES, DOC and juvenile court-involved youth followed a less varied perhaps more formal commitment process such as the State's Mental Health Services Act in Title 36.

- In Phoenix, the number of private psychiatric beds for adolescents is increasing. Camelback Hospital will be expanding their present 15 bed capacity to 27 beds by October 1979. St. Luke's Adolescent Unit will be expanding their 24 bed unit to 30 beds by September 1, 1979. As of June 1979, Arizona State Hospital increased their adolescent bed capacity by 7 through the re-opening of one of their cottages. Their capacity is now 23 children. The expected impact of these additional resources has not been evaluated.

- There has been little effort to speed the hospital discharge planning process. One of the serious problems related to the lack of sufficient psychiatric bed space is the lack of speedy post-hospital placements. Children await placement to other residential facilities while still hospitalized at extreme expense and while medically unnecessary. This tends to take up bed space for other more needy youth.

- DES has worked with agencies to develop long-term residential post-hospital treatment for seriously emotionally disturbed youth. One such facility, Youth, ETC., an intensive care group home in Phoenix begun operation recently for 8 boys. Welcome Home Community is expected to open by October 1979 and will house 10 seriously disturbed girls. The Menninger Foundation is expected to open at least 10 group homes with total capacity of 60 in rural parts of the state for moderate emotionally disturbed children. The future impact of these new additional resources is not known.

VI. OPTIONS FOR LEGISLATIVE ACTION:

The options for change are presented as basic guidelines. It is recognized that many variations of these themes could be proposed and adopted. These recommendations have not been adopted by the committee, but are introduced as a springboard for discussion.

A. STATUTORY OPTIONS

OPTION (1) Status Quo:

In light of the Supreme Court decision, it seems that the process for commitments of children in custody to psychiatric hospitals cannot remain the same. Either statutory or administrative schemes permitting psychiatric hospital admissions need to be revised.

OPTION (2) Conform Title 8 to Title 36 procedures and Parham minimum due process requirements:

The Arizona legislature has most recently reviewed Title 36 and its commitment and discharge procedures in relation to an individual's liberty rights. If the juvenile courts were mandated to follow the safeguards established in Title 36 for both voluntary and involuntary evaluation and commitment of minors, it appears the state would be on the road to complying with the Supreme Court decision in Parham. This should be seriously considered.

This option could be established with the following guidelines:

(A) Court ordered hospitalizations should distinguish evaluation from treatment.

(B) Out-patient services should be the preferred choice over in-patient hospitalization.

(C) In order to comply with the U.S. Supreme Court Parham decision, some procedure is required which establishes the role of a "neutral factfinder" who may independently review the need for in-patient psychiatric care, probe the child's background, interview the child, and be able to refuse to admit any child who does not satisfy the medical standards for admission.

(D) Alleged dependent, incorrigible or delinquent child.

1) Before a petition is filed:

a) No DES or juvenile court-ordered psychiatric hospitalization should be permitted, since their jurisdiction is not established unless an involuntary court ordered commitment is made as provided in Title 36.

b) Procedures should follow Title 36, which allows parents (with consent of child, if over age 14) to apply for voluntary psychiatric admission.

2) After a petition is filed and a child is declared a temporary ward of the court.

a) Temporary guardians for the child should follow guidelines as established in A.R.S. 36-547.04 for admission and Parham requirements.

b) If a child over 14 years of age objects to hospitalization, then the court should follow involuntary procedures as established in Title 36.

c) Since the child is a temporary ward of the court, the legislature should determine parental rights in this action. (i.e., if a parent objects, the law could mandate that a court hearing be held and involuntary commitment procedures be followed.)

(E) Hospitalizations of adjudicated dependent, incorrigible and delinquent youth.

1) The court should have the opportunity to order an evaluation of a child who is thought to be mentally ill in order to determine the appropriate disposition.

a) The evaluation should be on an out-patient basis unless determined through evidence submitted at a court hearing that an inpatient evaluation is necessary. A court hearing could be waived if all parties agree.

b) No hospitalization for evaluation should exceed 10 days. (This is the tentative recommendation from DES and the Maricopa Foundation for Medical Care.)

c) The disposition hearing should be scheduled no later than 10-15 days after the date in which the in-patient evaluation was initiated.

2) A court hearing should be held to determine an appropriate disposition.

a) A child should be placed in the chosen non-psychiatric hospital disposition within 14 to 21 days of admission for evaluation. (This is also a tentative recommendation of DES and the Maricopa Foundation for Medical Care.)

b) If the court determines that the child would benefit from in-hospital care then the court may elect a "voluntary" admission, which should include the minimum standards of Parham, if all parties including the child, the child's attorney and parents agree.

c) If any of the parties disagree to the commitment, then the involuntary commitment process established in Title 36 should be initiated by the court.

(F) All safeguards and protections established in Title 36 should pertain to children in psychiatric hospitals.

(G) The legislature should determine whether there is sufficient need to warrant specific statutory reference to the voluntary commitment procedure for children under the age of 14.

(H) The mental health treatment agency should be required to provide treatment program plans, and periodic reports to the court and guardians. A.R.S. 36-511 establishes the availability of these reports to the guardian, but only "upon request."

(I) In light of Parham's requirements for review of admissions, the disposition could be reviewed 30 days (as suggested by the Maricopa Foundation for Medical Care); or at least every 60 days if the minor is a danger to self, and at least every 180 days if the minor is a danger to others as established for involuntary commitments by A.R.S. 36-540 and 36-542.

(J) No adjudicated minor should be admitted "voluntarily" to a psychiatric hospital by DES, DOC or the probation office without court knowledge and approval. These agencies could go through the procedures established for guardians in A.R.S. 36-547.04.

(K) Emergency situations should be handled in the same manner as provided in Title 36.

OPTION (3) No "voluntary" commitments by court:

All orders for evaluation and treatment of children who are in custody must be made through the involuntary process as established in Title 36.

B. PLANNING FOR MENTAL HEALTH NEEDS OF CHILDREN IN CUSTODY: OPTIONS

OPTION (1) Status Quo:

OPTION (2) State Hospital Expansion:

Comply with the suggestion of the ad hoc Task Force of agencies to expand the State Hospital Children's and Adolescent Unit by an additional 14 beds. This would not necessarily cost DES or the counties any more money. It is expected that the Arizona State Hospital's appropriation from the legislature may need to be increased, or CMDP funds could be used for contracting State Hospital services. This might just be shifting money around. The attached letter from the ad hoc Task Force Chairman to Dr. Suzanne Dandoy, Director of the Department of Health Services, expresses this desire of the committee. (Appendix XI).

OPTION (3) Statutory Change and Planning:

If the legislature adopts either options #2 or #3 of the possible statutory changes, or variations thereof, it will be necessary to assess this impact on the numbers of children hospitalized and their length of stay. The result of such a change may alleviate the need for expansion of in-hospital state psychiatric facilities for children.

This option would suggest:

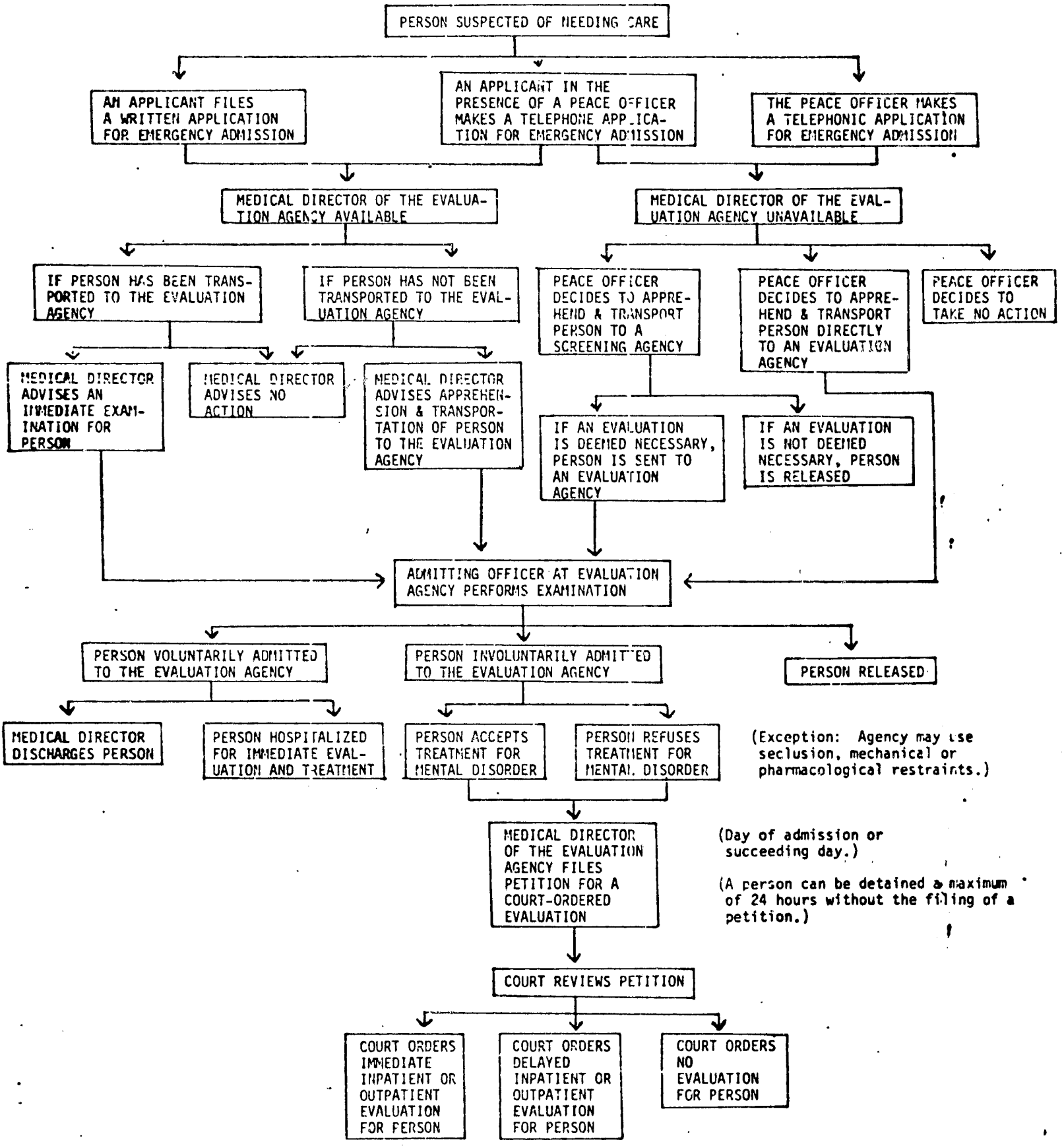
a) That the State Hospital's Children's and Adolescent Unit not be hastily expanded.

b) That an evaluation be made of the quality of care at the State Hospital versus private psychiatric facilities.

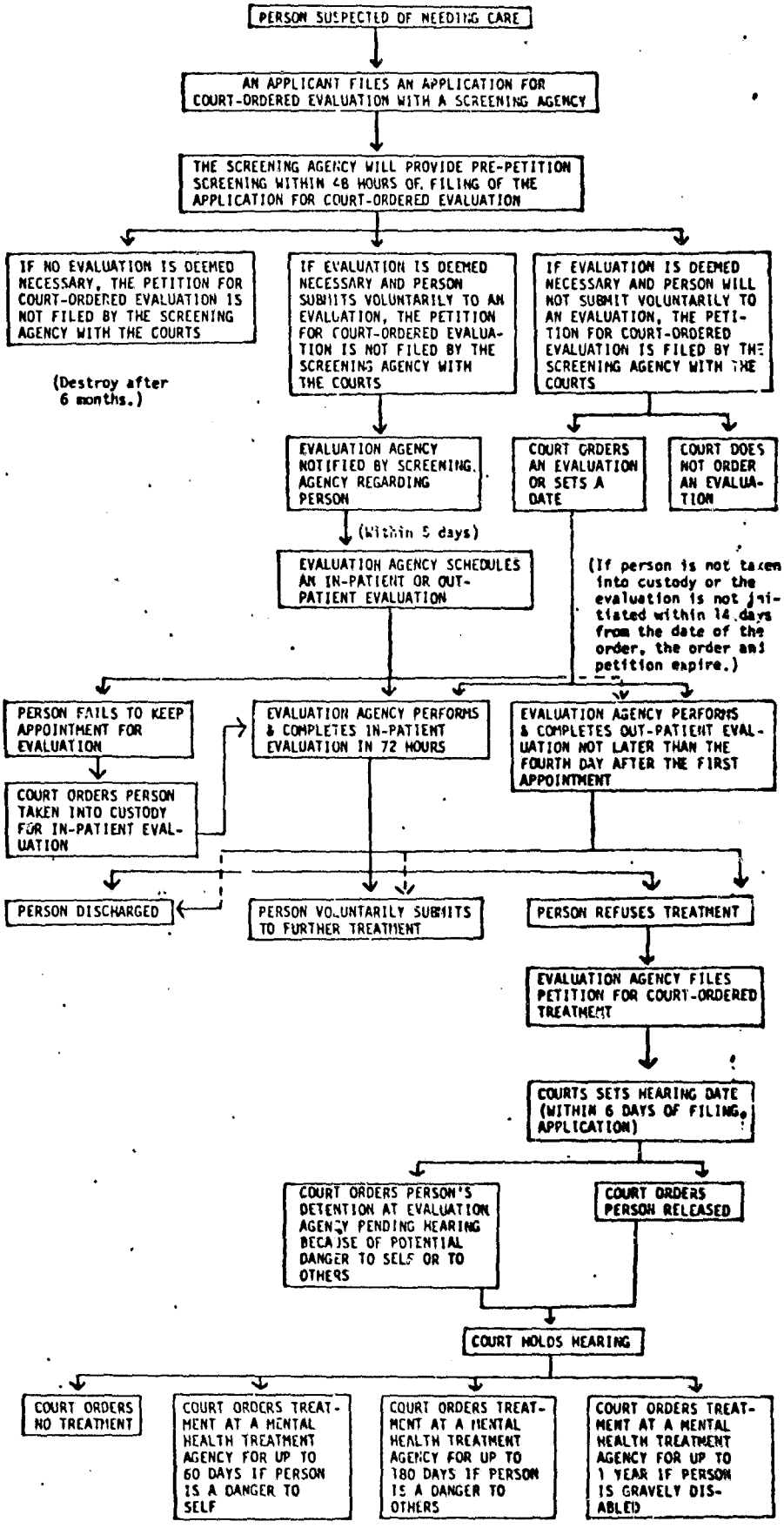
c) That an assessment of the impact of possible statutory changes be made, in order to determine the actual bed space need and long term and short term program need.

d) That an assessment of the impact of the current expansion of private facilities' psychiatric beds and post-hospital bed situation be made.

FLOW CHART FOR EMERGENCY ADMISSION INTO A MENTAL HEALTH EVALUTION AGENCY AS ESTABLISHED BY ARIZONA REVISED STATUTES, TITLE 36



FLOW CHART FOR ADMISSION INTO A MENTAL HEALTH TREATMENT AGENCY



APPENDIX II

OFFICE DISTRIBUTION

APPEALS	
BOND'S REFUND	
FORFEITURE	
CHANGE OF VENUE	
JURY FEES	
REMANDS	
SENTENCING	

IN THE SUPERIOR COURT

OF

MARICOPA COUNTY, STATE OF ARIZONA

JUVENILE (CV) July 12, 1979 (DATE) HON. C. KIMBALL ROSE (JUDGE OR COMMISSIONER)

WILSON D. PALMER, Clerk
jj toydemir Deputy

D-

IN THE MATTER OF

DANIEL

Attorney General
By: Eileen Bond, Esq.
Post Office Box 6123
Phoenix, Arizona 85005

FOSTER CARE REVIEW BOARD
1812 West Monroe, Suite 201
Phoenix, Arizona 85006

Research and Planning
Juvenile Court Center

Department of Economic Security
By: Hugo Peart
Juvenile Court Center

Department of Economic Security
By: Susan Murphy
Juvenile Court Center

Daniel
c/o
Department of Economic Security
Juvenile Court Center

SUNNYDALE CHILDREN'S HOME
1625 West Dobbins
Phoenix, Arizona

RECEIVED JUL 17 1979 REGISTRAR

CLERK OF THE COURT
MAIL DISTRIBUTION CENTER
Received: JUL 13 1979
Processed: JUL 13 1979

(continued)

OFFICE DISTRIBUTION

APPEALS
BONDS REFUND
FORFEITURE
CHANGE OF VENUE
JURY FEES
REMANDS
SENTENCING

IN THE SUPERIOR COURT

OF

MARICOPA COUNTY, STATE OF ARIZONA

JUVENILE July 12, 1979 HON. C. KIMBALL ROSE

DATE JUDGE OR COMMISSIONER

WILSON D. PALMER, Clerk
jj toydemir

DANIEL (continued)

02-17-28
Alamo

Child Adolescent Unit
ARIZONA STATE HOSPITAL
2500 East Van Buren
Phoenix, Arizona 85008

Merritt & Lela
1617 West Carson
Phoenix, Arizona

Placement in Arizona State Hospital having been filed by the Arizona Department of Economic Security, and good cause appearing,

IT IS ORDERED that the child be removed from Sunnydale Children's Home and child be placed in the Child-Adolescent Unit of Arizona State Hospital for evaluation and treatment.

IT IS FURTHER ORDERED that upon termination of evaluatio and treatment child only be released from the Child-Adolescent Unit of Arizona State Hospital by further Order of this Court; all in accordance with the formal written Order signed by the Court this date.

CLERK OF THE COURT
MAIL DISTRIBUTION CENTER

Received: JUL 13 [illegible]

APPENDIX III

OFFICE DISTRIBUTION

APPEALS	
BONDS - REFUND	
FORFEITURE	
CHANGE OF VENUE	
JURY FEES	
REWARDS	
SENTENCING	

IN THE SUPERIOR COURT

OF

MARICOPA COUNTY, STATE OF ARIZONA

5

Juvenile (DIV) July 12, 1979 (DATE) HON. C. KIMBALL ROSE (JUDGE OF COMMISSIONER)

WILSON D PALMER, Clerk
jj toydemir Deputy

D-C

IN THE MATTER OF

ROBERT

Attorney General
Post Office Box 6123
Phoenix, Arizona 85005

Department of Economic Security
Juvenile Court Center H Peart

Department of Economic Security
Juvenile Court Center Richard Johnson

Research and Planning
Juvenile Court Center

ARIZONA STATE HOSPITAL
2500 East Van Buren
Phoenix, Arizona 85008

RECEIVED JUL 17 1979 REGISTRAR

A verified petition having been filed invoking the jurisdiction of the Court on behalf of above named dependent(s), and it appearing that the interest of the child(ren) requires immediate action;

IT IS ORDERED setting hearing on said petition on August 27, 1979 at 3:30 p.m. before Referee Budoff, Juvenile Court Center, 3125 West Durango Street, Phoenix, Arizona.

IT IS FURTHER ORDERED that pending said hearing, BRIAN is/are hereby made temporary ward(s) of the Court committed to the care, custody, and control of the Department of Economic Security ~~in accordance with format Order signed by the Court~~

43-J-7 DEPENDENCY HEARING SETTING MAIL DISTRIBUTION CENTER (continued) 20

Received: JUL 13 1979

Dictated: JUL 13 1979

IN THE SUPERIOR COURT

OF

MARICOPA COUNTY, STATE OF ARIZONA

APPEALS
BONDS REFUND
FORFEITURE
CHANGE OF VENUE
JURY FEES
REMANDS
SENTENCING

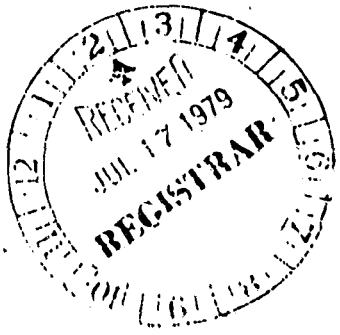
JUVENILE (DIV) July 12, 1979 (DATE) HON. C. KIMBALL ROSE (JUDGE OR COMMISSIONER)

WILSON D. PALMER, Clerk
jj toydemir Deputy

JD-[illegible]3

(continued)

placed in the temporary physical custody of Arizona State Hospital for observation and treatment; all in accordance with the formal written Order signed by the Court this date.



CLERK OF THE COURT
MAIL DISTRIBUTION CENTER
JUL 13 1979
Received: _____
JUL 13 1979
Processed: _____

May 28, 1979 DD - 6

DEPARTMENTAL DIRECTIVE

RE: PSYCHIATRIC EVALUATION OF JUVENILES

During office hours (8 a.m. to 5 p.m., Monday through Friday), the Probation Officer will contact Terry Ridier, secretary to Dr. Santiago at Kino Hospital, telephone number 294-4471. The officer will explain the child's situation, behavior, and arrange for an evaluation with the Kino Psychiatric Diagnostic Unit.

The juvenile will be transported to the Kino Emergency Room and a Psychiatric Social Worker will make an evaluation. The Social Worker will make a decision as to the need for hospitalization and further evaluation. If the decision is not to hospitalize, the officer will transport the juvenile back to the Pima County Juvenile Court Center. If the Social Worker decides to hospitalize, Kino will provide the service or refer the juvenile to an appropriate Psychiatric Evaluation Unit in the community.

EVENING AND WEEKEND PROCEDURE

The Intake/Probation Officer will contact the Psychiatric Social Worker at Kino Hospital and explain the juvenile's situation and behavior. The juvenile will be transported to Kino for evaluation. The Psychiatric Social Worker will do an evaluation and decide as to hospitalization or release back to Juvenile Court.

If the Intake/Probation Officer on duty cannot obtain cooperation for evaluation by the Psychiatric Social Worker, please contact the medical doctor on duty at Kino Hospital and explain the situation. If this does not resolve the situation, then contact the presiding judge or alternate. The Judge will then contact Dr. Santiago, Chief of Psychiatric Services for Kino Hospital.

PSYCHIATRIC EVALUATION BY COURT ORDER

Any juvenile referred for psychiatric or medical evaluation by a Court Order to Kino Hospital will be accepted for evaluation and treatment. The Kino Hospital administration has requested that we notify the appropriate hospital department, by telephone, prior to physically referring the juvenile for an evaluation.

It is very important that the Intake/Probation Officer use descretion and good judgment prior to making a referral of the juvenile for psychiatric/medical evaluation at Kino Hospital.

Richard R. Wilson

RICHARD R. WILSON
DIRECTOR OF COURT SERVICES

RRW:jmr DISTRIBUTION: ALL PROBATION OFFICER AND INTAKE OFFICERS

APPENDIX V

LS-013 (12-74)

Torsed No. JD 294
d WILSON D. PALMER, Clerk
At 1:58, Apr 27 1979
By M. ELLIS Deputy

THE SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

JUVENILE COURT

In the Matter of:

_____)
_____)
_____)
_____)
_____)

NO. J-D _____

ORDER FIXING TIME AND PLACE FOR HEARING AND COMMITMENT PENDING HEARING ON JUVENILE PETITION

person under 18 years of age.

It appearing to the Court that a verified petition has been filed invoking the jurisdiction of the Court on behalf of _____ _____

alleged to be a dependent child and that the interests of the child require immediate action;

IT IS ORDERED THAT at 2:30 P.M., on the 16 day of July, 1979, in said Court at 3125 West Durango Street, Phoenix, Arizona, shall be and the same is hereby fixed as the time and place of the hearing of said petition;

IT IS FURTHER ORDERED that pending said hearing the said _____ _____ is hereby made a temporary ward of the Court committed to the care, custody and control of the Arizona Department of Economic Security. placed in the temporary physical custody of Arizona State Hospital.

Parties given notice of the hearing on this petition have the right to have legal counsel represent them. Counsel will be appointed by the Court for those persons showing a lack of financial ability to retain their own attorney. Any party to this petition intending to contest the relief sought, in whole or in part, shall give notice of this intent to the Court and to the assigned caseworker at least one (1) week prior to the hearing. The assigned caseworker is _____ and may be reached by telephone at No. 269-1401.

DATED this 27 day of April, 19 79

APPENDIX VI

OFFICE DISTRIBUTION

APPEALS
BONDS REFUND
FORFEIT
CHANGE OF VENUE
JURY FEES
REMARKS
SENTENCING

IN THE SUPERIOR COURT

OF

MARICOPA COUNTY, STATE OF ARIZONA

JUVENILE (DIV) July 3, 1979 (DATE) HON. C. KIMBALL ROSE (JUDGE OR COMMISSIONER)

WILSON D. PALMER, Clerk
jj toydemir Deputy

IN THE MATTER OF

F-224895

• County Attorney
By: Laura Houseworth, Esq.
Juvenile Court Center

Public Defender
By: Rebecca Albrecht, Esq.
• Juvenile Court Center

Probation Office
By: Jean Gedney
Juvenile Court Center

• Research and Planning
Juvenile Court Center

Finance Department
Juvenile Court Center

Child Placement Unit
Juvenile Court Center

ARIZONA STATE HOSPITAL
2500 East Van Buren
Phoenix, Arizona 85008

Judy Reighard
1278 West Palomino Drive
Chandler, Arizona 85224

On recommendation of the assigned probation officer,

IT IS ORDERED committing to the Arizona State Hospital for a period of not more than 60 days without further order of the Court.

(continued)

FORM 11-7

IN THE SUPERIOR COURT

OF

MARICOPA COUNTY, STATE OF ARIZONA

OFFICE DISTRIBUTION
APPEALS
BONDS REFUND
FORFEITURE
CHANGE OF VENUE
JURY FEES
REMANDS
SENTENCING

JUVENILE (DIV) July 3, 1979 (DATE) HON. C. KIMBALL ROSE (JUDGE OR COMMISSIONER)

WILSON D PALMER, Clerk
jj toydemir Deputy

(continued)

F-224895

IT IS FURTHER ORDERED that upon time for release from the Arizona State Hospital that only be released to an agent of the Juvenile Court Center.

IT IS FURTHER ORDERED that remain in detention pending Arizona State Hospital admission.

IT IS FURTHER ORDERED vacating the Disposition Hearing set on July 18, 1979, at 2:30 p.m., before Referee Hill at the Maricopa County Juvenile Court Center; Order approved by the Court this date.

ISSUED: TWO CERTIFIED COPIES.

The [illegible]
[illegible]

July 5 79

By P. Hunt

APPENDIX VII

IN THE SUPERIOR CO . OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF PIMA

FILED
MAR 1 11 01 AM '79
JAMES N. CORBETT
CLERK
BY Linda K. Albert
DEPUTY

LILLIAN S. FISHER
JUDGE of the Juvenile Court

NO. _____

DATE 1 March 1979

IN THE MATTER OF

COURT INTAKE WORKER

Polly Miller-ASAG

A PERSON(S) UNDER THE AGE OF EIGHTEEN YEARS

William Langen-Atty. for Minor

D.O.B. 8-3-61

HEARING RE MINUTE ENTRY

MOTION FOR COMMITMENT:

Minor not present.

Mother is present.

Jack Stockslager and John Chambers, Department of Economic Security, are present.

Andrea Azar, Occupational Therapy Assistant, is present.

Jinny Greenway, Registered Nurse, is present.

Guy Edgerly, Mental Health Technician, is present.

Ms. Miller states that the minor is not present at this time but that his attorney is advising him that he has the right to be present for this hearing.

Minor is present and makes statements to the Court.

Jack Stockslager, Dorothy Graves, Keith Treptow and Frederick McCabe are sworn.

Keith Treptow, previously sworn, is examined.

Mr. Treptow is excused by the Court at this time.

Minor not present.

Frederick McCabe, previously sworn, is examined and cross-examined.

Ms. Miller states that the clinical records on this minor

18-69

JAMES N. CORBETT, Clerk

Linda K. Albert
DEPUTY CLERK

MINUTE ENTRY

Page No. 2 Date 1 March 1979 Case No. _____

are available at this time and could be presented into evidence.

Frederick McCabe is excused by the Court.

Jack Stockslager, previously sworn, is examined and cross-examined.

Ms. Miller calls Dorothy Graves to the witness stand and Mr. Langen objects because he was not aware of the fact that she was going to testify. Said objection is overruled by the Court.

Dorothy Graves, previously sworn, is examined.

Counsel make closing arguments to the Court.

Based on the evidence adduced in Court and based on a personal observation of the minor in and out of Court,

THE COURT FINDS:

1. THAT the minor is incapable of caring for himself.

2. THAT the minor is a danger to himself.

3. THAT the minor is a danger to others.

4. THAT the minor requires extended long term hospital treatment.

5. THAT the present facility at which the minor is presentl domiciled in and being treated at can no longer offer any additional treatment or therapy.

6. THAT the Arizona State Hospital is an appropriate facility in which to commit the minor at this time for long term residential treatment and therapy.

Wherefore,

IT IS HEREBY ORDERED that _____ be committed to the Arizona State Hospital for such period of time as the hospital deems appropriate for his care and treatment or until further order of the Court.

IT IS FURTHER ORDERED that the Arizona State Hospital report to the Department of Economic Security, the minor's attorney,

Linda K. Albert, Deputy Clerk

William Langen, and to the Court, reports of the minor's progress on a bi-monthly basis (every other month).

IT IS FURTHER ORDERED that the Department of Economic Security make the appropriate arrangements for transporting the minor to the Arizona State Hospital.

IT IS FURTHER ORDERED that the prior order that the natural mother pay to the Department of Economic Security the minor's veterans benefits and social security benefits is continued.

IT IS FURTHER ORDERED that the Department of Economic Security monitor the matter in all other appropriate ways.

IT IS FURTHER ORDERED that if the Department of Economic Security requires the care and assistance of the Sheriff of Pima County to transport the minor that appropriate arrangements be made.

IT IS FURTHER ORDERED that three (3) certified copies of this Minute Entry Order be provided to the Department of Economic Security.

IT IS FURTHER ORDERED that a Review Hearing be scheduled five (5) months from this date or not later than August 1, 1979.

IT IS FURTHER ORDERED that an earlier review may be held on petition of any of the parties.

DATED THIS 1 DAY OF MARCH, 1979.

Lillian S. Fisher
JUDGE

cc: Social File/CRT
DES/ASAG
William Langen, Esq., 145 E. University Blvd., Tucson, AZ
Pearl McGraw, Court Administrative Aide
Arizona State Hospital, 2500 E. Van Buren, Phoenix, AZ 85008(1 Ce
Wilmot Psychiatric Hospital, 355 N. Wilmot Rd., Tucson, AZ (1 Cer
Sheriff of Pima County (1 Cert.)

Linda K. Albert, Deputy Clerk.

APPENDIX VIII

OFFICE DISTRIBUTION	
APPEALS	
BONDS REFUND	
FORFEITURE	
CHANGE OF VENUE	
JURY FEES	
REMANDS	
SENTENCING	

14

IN THE SUPERIOR COURT

OF

MARICOPA COUNTY, STATE OF ARIZONA

ENILE — APRIL 13, 1979 — HON. EDWARD C. RAPP

DIV — DATE — JUDGE OR COMMISSIONER

WILSON D. PALMER, Clerk
M. D. Vega, Deputy

ated
e:

IN THE MATTER OF

RECEIVED
APR 18 1979
REGISTRAR

Child Placement Unit
Juvenile Court Center

Arizona State Hospital
2500 East Van Buren
Phoenix, AZ 85008

William ., Sr.
Arizona State Prison
Florence, AZ 85232

Attorney General
By: Melinda Garrahan
P. O. Box 6123
Phoenix, AZ 85005

County Attorney
Juvenile Court Center

Public Defender
By: William Culbertson
Juvenile Court Center

Probation Office
By: Eric Gibson
Juvenile Court Center

Research & Planning
Juvenile Court Center

Kenneth L. Abrams, Esq.

Department of Economic Security
By: Hugo Peart
Juvenile Court Center

Department of Economic Security
By: Bamer
Juvenile Court Center

Eighth Place
By: Tim Dunst
1652 East Moreland
Phoenix, AZ 85006

On motion of the Arizona Department of Economic Security, and attorney for the child in the delinquency action, Mr. Culbertson,

CLERK OF THE COURT
MAIL DISTRIBUTION CENTER

Continued 4

Received: APR 16 1979 Page

Processed: APR 16 1979

IN THE SUPERIOR COURT

OF

MARICOPA COUNTY, STATE OF ARIZONA

14

APPEALS
BONDS REFUND
FORFEITURE
CHANGE OF VENUE
JURY FEES
REMANDS
SENTENCING

VENILE (Div) APRIL 13, 1979 (Date) HON. EDWARD C. RAPP (Judge or Commissioner)

WILSON D. PALMER, Clerk
M. D. Vega Deputy

IN THE MATTER OF •Continued

e d..
ase:

having no objection based upon the •information available, and for good cause appearing,

IT IS ORDERED that the Juvenile Court Center release the above-named child and child be placed in the Arizona State Hospital Child-Adolescent Unit for long-term treatment.

IT IS FURTHER ORDERED that upon termination of treatment child only be released from the Child-Adolescent Unit of the Arizona State Hospital by further Order of this Court, all in accordance with the formal written Order signed by the Court on the 13th day of April, 1979.

CLERK OF THE SUPERIOR COURT
MAIL & DISTRIBUTION CENTER

Received: APR 16 1979

Processed: APR 16 1979

Page 5

ARIZONA DEPARTMENT OF HEALTH SERVICES

Division of Behavioral Health Services

BRUCE BABBITT, Governor
SUZANNE DANDOY, M.D., M.P.H., Director

July 12, 1979

Ms. Beth Rosenberg
Joint Juvenile Justice
Committee
Committee Staff Room
106 Old State Capital
Phoenix, Arizona 85007

Dear Ms. Rosenberg:

Re: Juvenile Justice and Mental Health

Ted Williams has asked me to reply to your letter dated June 22, 1979, concerning the above referenced matter. I have discussed the questions raised in your letter with our Bureau of Planning and Evaluation, specifically with Randall W. Adams. Within the next week or two we will hopefully have additional data to forward to your committee.

In response to question one of your letter, voluntary admissions to a mental health treatment agency, including the Arizona State Hospital, are governed by A.R.S. § 36-518. Voluntary means just what it says, that the proposed patient knowingly and intelligently consents to mental health hospitalization and accompanying treatment. Under present law, minors under the age of 14 may be "voluntarily" hospitalized upon the written consent of their parents; the child need not consent to treatment. Juveniles between ages 14 and 18 may consent to voluntary hospitalization, providing that their parents likewise authorize inpatient treatment by joining their child in the signing of the application for voluntary admission. In summary, the under 14 year old child may be hospitalized solely upon the consent of their parent or guardian, while the hospitalization of 14 to 18 year old children requires the consent of both parent and child or guardian.

A.R.S. § 36-518 has been amended by the recently passed Senate Bill 1160. All reference to voluntary admissions of children under the age of 14 has been stricken from this statute. Therefore, I can only presume that it was the intent of the legislature to require court approval for the placement of minors under the age of 14 in a mental health treatment facility. While this does not seem to be a mandate of federal due process, in light of the recent Supreme Court decision, Parham, et al. v. J.L. et al., No. 75-1690 (June 20, 1979, U.S. S.Ct.), based upon my own juvenile court experience I feel that it is a good idea to have the courts involved in the placement of minors in mental health treatment facilities, where there is a significant infringement upon the child's liberty and the stigma of mental health hospitalization is great. Also, the dictates of due process as incorporated in the Arizona Constitution may require notice and an opportunity for a hearing with respect to the hospitalization of minors by their parents.

"Court ordered treatment" as used in Randall W. Adams' report refers to involuntary hospitalization as provided for in A.R.S. §§ 36-501 et seq. "Juvenile commitments" refers to the placement of juveniles in a mental health treatment facility pursuant to A.R.S. § 8-242. In my legal opinion, the procedures used by the juvenile courts in this type of placement is a misinterpretation of the mandates of A.R.S. § 8-242 and is unlawful. A.R.S. § 8-242 (B) (1), states as follows:

1. To be committable under the laws of this state as mentally ill, the juvenile court shall order the child committed to the appropriate institution for the mentally ill. (Emphasis added).

The only laws of the State of Arizona dealing with civil commitment are the provisions of the Mental Health Services Act, previously cited. Therefore, if the juvenile courts are to civilly commit a child, they must afford that child the full gamut of substantive and procedural safeguards provided for by Arizona law. If the legislature intends otherwise, A.R.S. § 8-242 should be further clarified.

If the Department of Economic Security or the Department of Corrections is the acting guardian of the child, the procedures for voluntary admission remain the same, but the Department of Economic Security or the Department of Corrections acts in lieu of the parent. This is another area of the law which is from time to time violated with the "blessings" of the juvenile court. The Department of Economic Security or the Department of Corrections will apply for the voluntary admission of juveniles over the age of 14 and these individuals are from time to time admitted to the Arizona State Hospital against the will and without the consent of the child. Once again, it must be emphasized, that for minors over the age 14, voluntary admission requires the consent of the child for hospitalization, in addition to the recommendation and consent of the parent or guardian.

Looking to question number two in your letter, I have discussed this matter at length with Randall W. Adams. A cursory inspection and review of our data indicates that there is no significant correlation between referral source and legal status, and the individual's diagnosis, length of stay or discharge placement. Mr. Adams has indicated that during the course of the next couple of weeks, he will attempt to secure additional data for your further analysis. It is quite difficult for us to ascertain the actual source of referral without an actual case by case inspection of all juvenile patient files and a thorough review of each patients' history. This data is often times misleading; by way of example, a ward of the Department of Economic Security may in fact be referred to us by a private physician, the juvenile courts or a third party source. Our data gathering and analysis has not been this involved.

Looking to your third request, I will attempt to meet with Dr. Fine of our child/adolescent treatment unit and obtain various copies of court orders. The commitment process does vary considerably from county to county and from judge to judge.

This largely is dependent upon the courts interpretation of A.R.S. § 8-242 and the inherent powers of the juvenile courts. It must be pointed out that the juvenile justice system is not an outgrowth of the common law system of juris prudence and is strictly the creature of statute. Therefore, the juvenile courts' powers are only as broad as permitted by statute. In addition, there are varying interpretations by the court as to what the mandates of due process are with respect to juveniles.

Your final inquiry is of great concern to our treatment staff. As a result of opening the lines of communication between ourselves, the Department of Economic Security, the Department of Corrections and the juvenile courts, some of the problems associated with proper hospitalization and unreasonably lengthy stays have been resolved. In a few incidents, during the last year, the State Hospital has been used as a place of last resort for the "incarceration" of children with discipline problems, management problems or incorrigible and antisocial behaviors. Correctional facilities have been largely responsible for placing labels of mental illness upon anyone who represents a significant management problem who exhibits "bizarre" behavior. We have had difficulty discharging inappropriately placed individuals or individuals who are appropriately placed, but who have obtained maximum benefit from their hospitalization. It is improper under law, for the State Hospital to treat anyone on other than a voluntary basis if they are not "dangerous" or "gravely disabled" as the result of a substantial mental disorder. It is absolutely inappropriate for us to treat anyone, on a voluntary or involuntary basis, who is not mentally ill and not in need of psychiatric treatment.

I feel that it would be useful if the Juvenile Court Act literally spelled out what is meant by a "study and report", as used in A.R.S. § 8-242, and whether or not this includes inpatient evaluation in a mental health treatment facility. Additionally, any such evaluation should be strictly limited in time, and treatment should be distinguished from the "study and report". If the child is unable or unwilling to consent to voluntary treatment, there should be an articulated mechanism available for the implementation of court ordered treatment other than the haphazard and inconsistent procedures now used by the juvenile courts. Additionally, after an order for involuntary inpatient treatment is issued, the courts should be required to request, and the treatment facilities should be compelled to supply, periodic written progress reports of the patient's condition. If from these reports it appears that an individual is no longer mentally ill and or in need of treatment, the courts within a specific time period should be mandated to conduct a review hearing, rather than permitting a child to remain in the facility for a lengthy period of time prior to review.

I am hopeful that the information and comments provided herein will be useful to you and the Joint Juvenile Justice Committee. Within the next couple of weeks you will be receiving some supplemental information as previously indicated.

Thank you,

Paul A. Katz
Legal Analyst and Special Assistant
Attorney General

PAK:sas

Copy: Dr. Barry Fine
Dr. R. Robertson Kenner
Ted Williams

MARICOPA FOUNDATION FOR MEDICAL CARE

ACADEMY OF MEDICINE
2025 NORTH CENTRAL AVENUE
PHOENIX, ARIZONA 85004

TELEPHONE: 257-9090

April 24, 1979

Honorable William W. Nabours
Yuma County Superior Court
Division #1
168 South Second Avenue
Yuma, Arizona 85364

Dear Judge Nabours:

The administration of the medical review and claims payment for the Arizona Foster Children Program has been handled by the Maricopa Foundation for Medical Care since July 1, 1978.

Because of the unique problems presented by this program administratively and medically, the Foundation medical reviewers have been faced with non-medical situations which nevertheless impact upon the provision of medical care. One of these situations is the court-ordered hospitalization of persons covered by the Arizo Foster Children Program.

It is the considered opinion of the Medical Reviewer Committee, approved by the Board of Trustees of the Foundation, that a recommendation be made to the Department of Economic Security that all court-ordered hospitalization for foster children initially be no more than a 30-day maximum. If additional time is medically indicated, the providing physician (psychiatrist) should request that time from the courts. If there are conflicting opinions, i.e., provider vs. reviewer, the judge should have the benefit of both opinions prior to issuing the court order.

We feel this mechanism will provide for a more realistic and timely appraisal of the continuing need for hospitalization and will permit the patient to be discharged in a manner that is medically appropriate and cost effective. The Foundation would be happy to discuss this decision with you at any time.

Sincerely,

Laurance B. Nilsen, M.D.
P R E S I D E N T

LBN/hg

cc: Larry Mosley
Chief Juvenile Probation Officer

Alice McLain
CMPD Administrator
Arizona Dept. of Economic Security

MARICOPA COUNTY JUVENILE COURT CENTER

3125 WEST DURANGO • PHOENIX, ARIZONA 85009 • (602) 269-4011

C. KIMBALL ROSE, PRESIDING JUDGE
JUVENILE DIVISION - SUPERIOR COURT

EDWARD C. RAPP, JUDGE
JUVENILE DIVISION - SUPERIOR COURT

ERNESTO GARCIA, DIRECTOR OF COURT SERVICES

August 23, 1979

Suzanne Dandoy, M.D., M.P.H.
Director
Arizona State Department of Health Services
1740 West Adams Street
Phoenix, AZ 85007

Dear Dr. Dandoy:

In January of this year, a group began meeting to discuss mutual concerns and issues regarding the individual agencies and the Arizona State Hospital Children's and Adolescent Unit. The membership of this group includes individuals from the Arizona State Hospital, the Arizona State Department of Corrections, the Arizona State Department of Economic Security, the Maricopa County Juvenile Court Center, and the Pima County Juvenile Court Center. The most recent meeting was on August 2, 1979. Part of our agenda was to discuss the need for additional psychiatric beds for children and adolescents at the Arizona State Hospital. The discussion centered specifically around a copy of your memo to Dr. Kenner regarding budget justifications and dated July 12, 1979. As a result of our discussions, it was a consensus of the members of the Task Force that there is ample need existing to support the expansion of the Children and Adolescent Treatment Unit. The Task Force endorsed the expansion of up to fourteen additional beds by use of the opening of two additional cottages.

In examining the current need and use of psychiatric hospitalization for children and adolescents both at the Arizona State Hospital and in private hospitals, it was the further consensus of the group that not only should the expansion be considered as a budgetary issue for FY 80/81, but should be an issue for immediate consideration. The Task Force's recommendation is that an examination be made of current State funding with the possibility of transferring funds from existing State budgets allocated to psychiatric care to the State Hospital to allow immediate expansion. It is our understanding that funds

in the area of $275,000 to $295,000 for the coming fiscal year would provide the needed resources. A somewhat lesser amount of funds would be required if implemented yet this fiscal year.

Examples of types of funds considered by the Task Force members which might be looked at as potential sources were DHS subvention funds and DES comprehensive/medical and dental funds. These or similar funds are currently being used for the care of emotionally disturbed children and adolescents including the payment of private psychiatric hospitalization of State wards. If such a joint effort and venture were successful, the fourteen additional beds at the Arizona State Hospital could serve a portion of the children and adolescents currently being paid for by State money in private hospitals at a significantly reduced actual cost to the State.

To reaffirm and summarize the consensus of the ASH Task Force members, we do endorse the expansion of State Hospital capacity for an additional fourteen beds and feel strongly that attempts should be made for immediate expansion with the transfer of currently budgeted State funds. We also endorse and encourage inclusion of such expansion in the current budgetary planning in process to assure such consideration in FY 80/81.

If you need further information, data or have questions, please let me know.

Sincerely,

Don Shaw

Don Shaw
Assistant Director of
Court Services

DS:mt
pc: Standard Distribution
ASH Task Force