

**Community Facilities for Juvenile Offenders
in Washington State**

Christopher Murray & Associates

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A separate appendix describing individual facilities is available from the Institute: "Community Facilities for Juvenile Offenders in Washington State " (document number 98-12-1201A).

Special thanks to the facility managers for their cooperation and assistance with this project, as well as Sid Sidorowicz and Robin Cummings from the Juvenile Rehabilitation Administration. Legislative staff members also provided valuable assistance in understanding legislative intent for this study.

EXECUTIVE SUMMARY

In September 1997, a resident of a Juvenile Rehabilitation Administration (JRA) community facility walked away from his job in the community and raped and murdered a young girl. In response to this tragedy, the 1998 Legislature significantly revised state laws regarding these facilities (E2SSB 6445).

As a further step in preventing similar tragedies, the legislature directed the Washington State Institute for Public Policy to examine each facility's operation and security procedures. The direction also required a review of recidivism rates of certain juvenile offenders and a feasibility analysis of statewide standards for detention facilities.¹

Two types of community facilities house juvenile offenders that have been committed to the state: private facilities that contract with JRA and state-run group homes staffed by JRA employees. Collectively, they are referred to as *community facilities* in this report.

OVERALL ASSESSMENT

As a group, the 22 community facilities were found to be well-run organizations that pay strong attention to public safety. The *procedural* changes that have been enacted by state policymakers and JRA administrators have strengthened this emphasis on public safety.

COMMUNITY VIEWS TOWARD FACILITIES

The study included extensive consultation with stakeholders who regularly interact with a program, its staff, and residents. Law enforcement, courts, schools, and employers had very positive assessments of the facilities. Views by neighbors were more diverse, but the overall assessment was also positive. To investigate neighbors' views, mailed surveys were sent for the 12 of 22 facilities in populated areas, with a return rate slightly under 50 percent. Of the returned surveys, the average ranking was 4.0 on a scale of 1 to 5 (with 5 being the most favorable). No facility scored below a 3.

SIGNIFICANT POLICY CHANGES ASSOCIATED WITH PUBLIC SAFETY

Policy changes by the 1998 Legislature, coupled with management decisions by JRA, caused significant changes in the day-to-day operation of community facilities, changes that provide an increased focus on public safety. The study revealed the following:

- The rate of *escapes* from community facilities *declined by 50 percent* in the last fiscal year.

¹ A separate report on the topic of juvenile detention standards is available by request from the Institute (document number 98-12-1202).

- Juvenile offenders who are committed to the state *are no longer eligible for a direct placement* to a community facility and must spend at least ten percent of their sentence, but not less than 30 days, in a secure institution.
- Off-site activities by juveniles now require *prior approval* by JRA and are subject to increased documentation requirements.
- *Risk assessments* are performed by a team, rather than by individuals, reducing the chances of errors or omissions. Since the risk assessment determines eligibility for community residential facilities, as well as levels of freedom within the program, a group process provides more checks and balances.

CRIME RATES AND MANAGEMENT OF RESIDENTS

To investigate the statewide patterns of crimes committed by facility residents, facility staff were surveyed regarding the time period between July 1, 1996, and June 30, 1997. Of the 765 youth in residence, 19 percent committed a crime while in the program. More than half of these crimes were escapes. (As noted earlier, the escape rate has declined significantly in the last year.) The next most common crimes were misdemeanors and drug and alcohol offenses. Less than one percent of residents committed a felony crime against a person while in a community facility.

In terms of day-to-day operation of facilities, staff who work in programs with mixed populations of both JRA offenders and other juveniles (primarily dependent children) find without exception that the JRA population is considerably easier to manage. The offenders selected for community facilities have already demonstrated that they are willing to comply with rules, and any serious misconduct quickly results in a return to the institution.

RECOMMENDATIONS TO IMPROVE SECURITY AND OPERATIONS

The study identified four steps to reduce the public safety risks of community facilities.

Upgrade facility security. The degree of physical security in community facilities varies considerably. Most security is provided by early warning systems that immediately alert staff when an occupant is attempting to leave the building. The state building code severely restricts the use of locks on rooms or building exits as well as window security screens. Alarmed and time-delayed locks on exit doors, as well as window alarms that only allow partial opening, are approved by the Fire Marshall and are installed in some facilities. Alarms and other early warning systems could be added to facilities at a modest cost—approximately \$3,000 to \$5,000 per facility.

Add a night staff-person to state-run facilities. JRA requires its private vendors to have two staff on duty at night in community facilities, while the state-run facilities have only one person on duty. This staffing level is seriously inadequate and it is easy to imagine situations where public safety, and the safety of residents, could be compromised.

Revise the reporting form for violations and infractions. At present, the key information on this form is recorded in narrative. To be useful as a management tool, this portion of the form needs to be standardized for data entry.

Revamp the referral process. While not directly related to risk, the referral process for placements needs to be overhauled. The current process of placing eligible youth in specific facilities is chaotic. JRA community staff recruit for placements, and programs compete among themselves for referrals.

BENEFITS AND RISKS OF COMMUNITY FACILITIES

Community facilities are viewed as a valuable component of a state juvenile justice system by many experts in the field. Proponents for such facilities argue that the recidivism rate for facility residents is lower than the rate for juveniles who exit directly from an institution. We tested this argument with Washington State data, comparing two groups of juveniles matched on risk: those released directly from an institution and those who spent time in a community facility.

We found *no significant differences* in recidivism between the groups, with one exception. Juveniles who remained in a community facility for more than six months *did show* significantly lower rates of recidivism. Further research is needed to determine if this difference is due to the positive effects of the programs, or if the long-term residents represent the lowest-risk group, with the others returned to the institution for misconduct.

OVERSIGHT COMMITTEES

The 1998 Legislature established community oversight committees to assist in improving public safety and accountability. These committees are to be established by 1999. The study assessed alternative models for these committees, examining options that would improve the quality of the referral process without compromising treatment issues or the timeliness of decisions.

Two methods could accomplish this goal: the Advisory Model or the Quality Assurance Model. Under the Advisory Model, committees would review placement decisions made by the Secretary of DSHS. If a committee votes against a particular placement, the Secretary would either accept the recommendation or override it through a structured process prior to placement. Under the Quality Assurance Model, the committees would meet less frequently and review all aspects of the placement process, including conformance of past placement decisions to policy. Their actions could include periodic reports to the legislature about the quality of the process.

If committees can meet frequently and take action expeditiously, either model can be effective. If the committees cannot reasonably keep pace with the referral process, the Quality Assurance Model is recommended.

SECTION I: CAPACITY OF COMMUNITY FACILITIES

Two types of community facilities house juvenile offenders in Washington State: state-run group homes that are staffed by JRA employees, and private facilities that provide residential and related services under contract to JRA. Collectively, these are referred to as community facilities in this report. When it is necessary to distinguish between these two types of facilities, the terms "state-run group homes" and "private community facilities" are used. Shorthand versions, like "state facilities" and "private facilities," are also used.

While there are features common to all community facilities, not all are alike. This is particularly true for the private facilities as they serve both JRA youth and other clients who are not juvenile offenders, whereas state-run facilities only serve juvenile offenders.

Table 1 lists the community facilities that house juvenile offenders as of November 1998. Those that serve both JRA clients and non-JRA clients sometimes, or always, have circumstances where JRA clients and non-JRA clients share the same bedrooms.

TABLE 1: COMMUNITY FACILITIES HOUSING JUVENILE OFFENDERS
(As of November 1998)

Facility (Listed in alphabetical order)	Location (County)	Type	Licensed Capacity	Maximum JRA Beds	Non-JRA Clients?
Aloha House	King	Private	8	6	Yes
Canyon View Group Home	Chelan	State	16	16	No
Dyslin's Boys Ranch	Pierce	Private	26	20	No
Excelsior Youth Center	Spokane	Private	85	8	Yes
Griffin Home	King	Private	24	15	Yes
Morning Star Boys Ranch	Spokane	Private	19	4	Yes
Oakridge Group Home	Pierce	State	22	22	No
Our Sister's House	Pierce	Private	8	6	Yes
Parke Creek Group Home	Kittitas	State	16	16	No
Puget Sound Center	Pierce	Private	20	18	No
Ridgeview Group Home	Yakima	State	16	16	No
Riverview Youth Center	Spokane	Private	17	17	Yes
Ruth Dykeman Children's Center	King	Private	32	4	Yes
Safeco – Safe House	King	Private	10	4	Yes
Secret Harbor School	Skagit	Private	34	13	Yes
Selma R. Carson Home	Pierce	Private	23	23	No
Sunrise Group Home	Grant	State	16	16	No
Touchstone Group Home	Thurston	Private	16	16	No
Twin Rivers Group Home	Benton/Franklin	State	16	16	No
White Swan Job Corps	Yakima	Private	225	3	Yes
Woodinville Group Home	King	State	15	15	No
Woodlawn Faith Home	Pierce	Private	5	4	Yes
Total		Total	669	278	
		State	117	117	
		Private	552	161	

CAPACITY OF PRIVATE FACILITIES

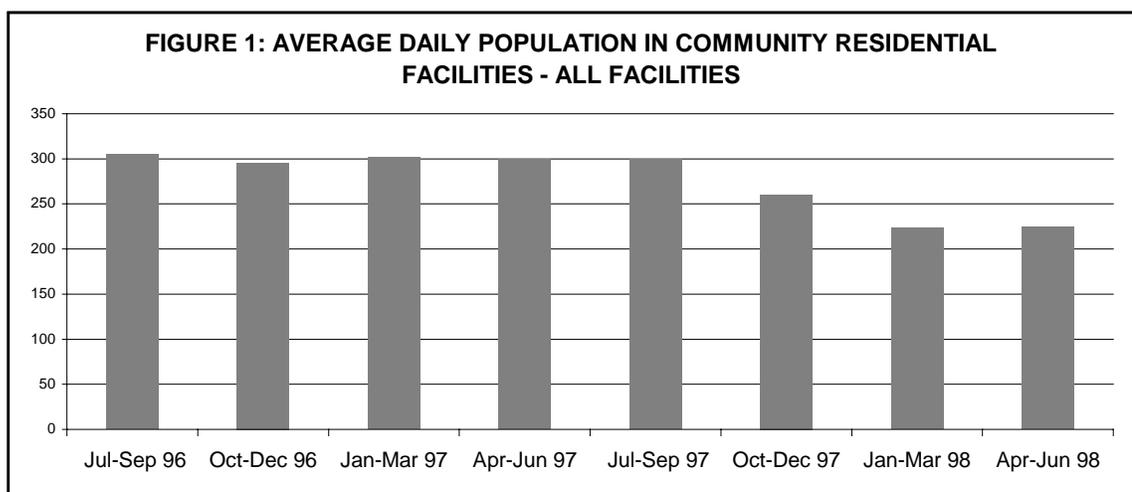
The overall capacity of all private community facilities to house juvenile offenders has been decreasing for some time. At its peak in 1996, JRA had private community residential capacity for 264 and state-run group home capacity of 117 juveniles. Between the start of FY97 and November 1998 at least nine private programs stopped providing community residential services to JRA. Some of these terminations have been at the initiative of JRA, others have been brought about by decisions of the contracting agency.

We were advised that JRA intends to continue to reduce the overall capacity of its private community facilities to 126 beds. Current contracts with Excelsior Youth Center, Morning Star Boys Ranch, Secret Harbor School, and Woodlawn Faith Home will be reduced to zero. If possible, JRA would like some, or all, of these contracts to remain open, i.e. JRA could place referrals if space is available but would not have guaranteed access as it presently has.

It is also possible that some private community facilities may cease to provide residential services to JRA in the future. For example, several private operators voiced concern about community participation in placement decisions and stated that implementation of such a policy might cause them to go out of the business of taking JRA referrals. Another vendor was recently awarded a contract for 10 secure Crisis Residential Center (CRC) beds for youth and will likely eliminate all but one of its JRA contract beds.

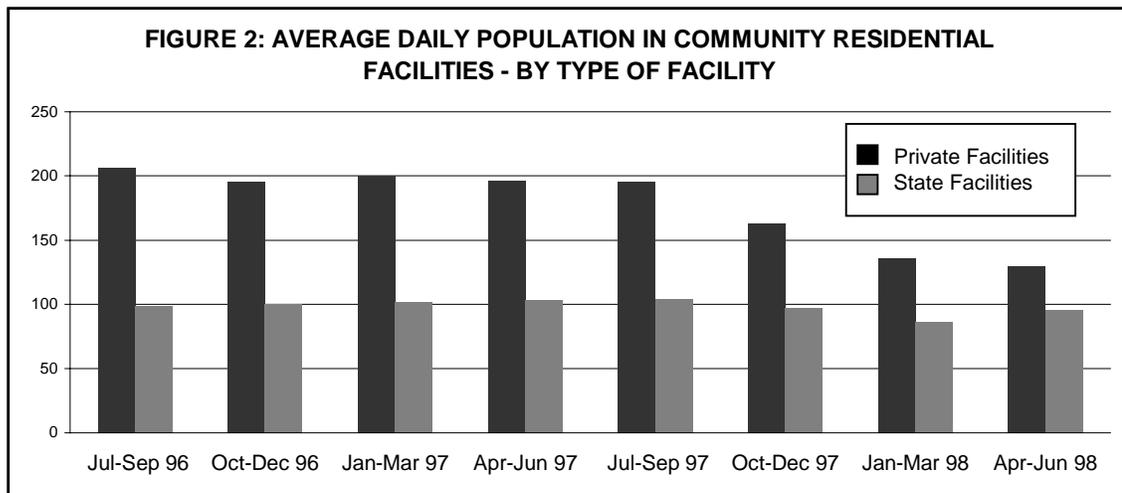
DECLINE IN PLACEMENTS

The average daily population of juvenile offenders in community facilities remained essentially unchanged throughout FY97 and through the first quarter of FY98. Following the incident where a resident committed a horrific crime, the number of juveniles placed in community facilities began a sharp decline. This trend is clearly visible in Figure 1.



This reduction in population was mainly accomplished by decreasing placements in private facilities. This conclusion is inescapable when one looks at Figure 2, where the average daily population of private facilities and state facilities are shown separately. By the end of FY98 (April – June 98 in Figure 2), the average daily population of private facilities had decreased by

a third from population levels at the beginning of the fiscal year. While state-run group homes experienced temporary downturns (notably in the third quarter of FY98 when the average daily population was down by 16 percent), population levels in the state-run facilities had largely rebounded by the end of the fiscal year.



The decline in community facility placements was influenced by several factors, including:

- reduction in juveniles committed to JRA (17 percent reduction in the last year);
- elimination of the direct placement in a community facility as an option for JRA offenders; and
- reduction in institutionalized juveniles who were found eligible by JRA for placement in a community facility.

As the referral and placement population declined, some private providers decided to close facilities in FY98. Gateways for Youth, the largest private provider of community residential facilities for JRA closed its facility with the most beds (Forest Ridge) plus an additional building at a second location. Forest Ridge had an excellent reputation, but the Board of Directors determined that they were losing too much money to continue operating the program. Similarly, the Board of Directors for Ryther Child Center elected to terminate their JRA contract for its Launch Program and for a residential chemical dependency program. Their decision was partly based on economics, along with uncertainty about the effects of new JRA restrictions regarding co-mingling populations and community notification requirements for sex offenders.

During this same time period, JRA terminated contracts with some providers due to concerns about the quality of services.

Thus, the decline in community facility placements and providers was caused by a constellation of factors. Ideally, the reduction should have been managed in a more strategic manner, with JRA setting a bed target and having the discretion to select the strongest programs. As it was, significant decisions were made by the "market," as well as JRA's decision to honor existing contracts with most of their providers.

NEXT STEPS

JRA administrators are taking steps to stabilize the supply and demand for community facility beds. Managers have identified a few contracts that will be terminated and reviewing others for potential termination. The agency's supplemental budget request includes funds to extend some contracts for a limited time period; these "bridge contracts" could assist the private vendors with their financial planning, while allowing the state flexibility during this period of fluctuating population levels.

SECTION II: COMMUNITY PERCEPTIONS

The legislative directive for this study specified that it include consultation with "nearby residents, local sheriffs and police chiefs, courts, probation departments, schools, and employers in the community in which the community facility is located."² This consultation proved to be one of the most useful and insightful parts of the study. While comments from neighbors and stakeholders tended to reinforce perceptions gained from other parts of the study, the opinions of people who are close to these facilities add robustness to our findings that would otherwise not be there.

As will be seen, community perceptions of these facilities are generally very favorable, and the facilities have strong reputations as well-run, safety-conscious organizations.

This section summarizes findings from these consultations. More detailed discussion and findings relating to individual facilities can be found in the Appendix. In the case of criminal justice and education professionals, the consultation was primarily accomplished over the telephone. Mail surveys to neighbors were used for approximately half the community facilities.

COMMENTS FROM JUSTICE SYSTEM STAKEHOLDERS³

Sheriffs and police chiefs often referred inquiries to other supervisory or line staff. This referral, in itself, may indicate that most community facilities have not had reason to be high on local law enforcement agendas.

No law enforcement agency expressed significant concern about any existing community facility. The strength of this assessment of current facilities can be contrasted by descriptions of facilities that no longer exist; in some cases, these were cited as having been troublesome. A few jurisdictions noted that the calls for service at community facilities may have been above average compared to a residence, but they were within the range of normal expectation, given the clientele.

Several law enforcement agencies were very complimentary of the community facility in their jurisdiction. The officer we spoke with in Fife said that the Selma Carson Home was a big, and welcome, change from the previous group home tenant at the same address. He said that "any facility we have with as many kids usually has many more calls for service."

The Olympia Police Chief referred our requests for information about Touchstone Group Home to a police lieutenant who serves on the facility's advisory committee. The lieutenant contrasted Touchstone with previous group home tenants at the same address and called it a "completely different entity." He said that the communication with Touchstone was excellent and that their "cooperation was better than any I've had with lots of different groups in the city." In his words, "they run a tight ship."

² E2SSB 6445 Sec. 17(2)

³ Comments here, and throughout this section on community perceptions, are intended to be representative of the range of comments received. More description of the comments about each facility is found in the Appendix; this separate document is available through the Institute.

In many jurisdictions, law enforcement has historically been notified by the community facility whenever a new juvenile offender arrives. Others have been notified only as required by law, for example, when sex offenders and certain violent offenders are placed in the facility. As of September 1, 1998, all JRA institutions and community facilities have been directed to inform law enforcement of all new placements in community facilities.

Law enforcement is always notified when an escape occurs. In at least one jurisdiction, law enforcement wished the notification was earlier. One facility said that local law enforcement had suggested that they wait longer before reporting an absence as an escape.

Few juvenile courts and local probation departments interact with the juveniles during their stay in these facilities, as the youth are under JRA's jurisdiction during this time. As a result, not many had comments about these facilities. All, of course, are affected by detentions and prosecutions associated with escapes or other crimes committed by juveniles who live in local community facilities. None of the jurisdictions identified these activities as causing significant problems.

In a few instances, local courts use the same facilities to place some juveniles under local control. For example, King County places some girls at Aloha House and some emotionally disturbed juvenile offenders at Ruth Dykeman Children's Center. The county's chief of probation was pleased with both programs. Grant County has a contract with the local state-run group home to hold their residents prior to transfer to a JRA institution. The Grant County Juvenile Court also provides parole services for juveniles discharged from the local group home. While the Juvenile Court Administrator in Grant County is concerned with the impact of eliminating parole supervision on many juvenile offenders, no concerns were expressed about the group home itself.

An unusual situation was encountered in Kittitas County where, in the past, the county often used the direct commitment process to place juveniles in the substance abuse program operated at the Parke Creek facility. Now that direct commitments are no longer permitted, juveniles who formerly would have been placed at Parke Creek spend substantially more time in the Yakima Juvenile Detention facility at substantially more cost to the county.⁴ This is a situation where the community facility formerly provided a benefit to the community that it can no longer offer.

COMMENTS FROM TEACHERS AND SCHOOL ADMINISTRATORS

In general, teachers and administrators had very positive comments about students who reside in a community facility and the relationships with the program staff.

All high school representatives seem to know whom to contact if a problem surfaces with a group home student and all reported good cooperation with group home staff. It was common to have school administrators characterize these staff as "better than average parents." Noting the positive and rapid response to occasional problems with students from Dyslin's Boys Ranch, a counselor from the high school that serves this facility said, "I wish I could send some of my regular students there."

All were using the school agreement forms required by JRA. None of the high schools had any difficulty with the form, but one high school ceased providing classes for group home residents at

⁴ Kittitas County does not have its own juvenile detention facility.

their regular or alternative high school because they decided that the monitoring expectations of the group home administrator could not be met. (Residents at this facility now attend an on-site school.)

Community colleges generally had more reservations about the school agreement forms than high schools. A common theme was that the faculty expected more independence on the part of college students and saw a conflict between the spirit of higher education and the high care-taking requirements in the form. Nonetheless, agreement forms were reportedly being used wherever we were able to contact college teachers. However, one post-high school institution ceased to be an education provider to JRA offenders when it refused to use the form.

COMMENTS FROM EMPLOYERS

With few exceptions, employers rave about the workers they hire from the community facilities. "Rave" is not too strong a word. This is particularly true for entry-level positions where little training is required. In these situations employers often said their community facility workers were among their best and most reliable employees, often "much better than we hire off the street." There were quite a few situations where group home residents were lead workers. A comment from a Pizza Hut in East Wenatchee is not untypical. The manager of this restaurant called the group home residents "hard workers who don't call in sick and [who] are always on time."

While there are not too many situations where this is the case, it appears that employers needing more skilled workers or who require longer periods of training to make workers productive, are less likely to be as satisfied as employers needing entry-level employees. Several employers, including one who has decided not to hire any more group home workers, were unhappy about the length of service they can expect from a group home resident. This situation may increase if the average length of time a juvenile offender stays in a community facility goes down.

At the same time, many employers noted that not all hires from community facilities are success stories. Some are not good workers. Some cannot get along with others. In each situation where this was the case, the employers reported good cooperation with the community facility and indicated that the employee was terminated and returned to the facility. One employer reported that about half the group home residents he has hired have failed to work out.

Most, but not all, employers were aware that their community facility workers were being monitored by staff at the facility. In some cases the monitoring was quite intense (multiple checks per day). In others, the facility seemed to rely mainly on time records faxed to the group home. A few employers found monitoring calls and/or on-site checks by group home staff to be a business inconvenience.

Most employers said they intend to continue to hire juveniles from the community facilities. Most would recommend the facility they were familiar with as a source of employment to other businesses.

All employers reported using written agreement forms as are now required by JRA. None of the employers had any difficulty with these forms.

COMMENTS FROM NEIGHBORS

A mailed survey was used to solicit comments from nearby residents in just over half of the neighborhoods. For other sites in lower density neighborhoods, calls were made to apartment managers or others. One facility has no neighbors within several miles, and thus, no neighborhood contacts were made.

The survey included specific questions about neighborhood problems and open-ended questions about personal experience or knowledge of problems with the facility. Other questions tried to assess the relationship between facility staff and neighbors. The survey also asked for an overall rating of the facility on a five-point scale that ranged from "excellent neighbor" (5) to "very poor neighbor." A number of opportunities were provided for respondents to write in comments, including a final question, "Is there anything else you would like to share about the group home?" A copy of the survey instrument is included in the Appendix.

The survey was generally addressed to "resident" and sent to the nearest known residential addresses. Some facilities have very few neighbors. Consequently, the number of surveys sent to each facility ranged from four to 28. To encourage responses, each survey was stamped and pre-addressed. All respondents had to do was answer the questions, fold the survey, tape it shut, and put it in a mailbox.

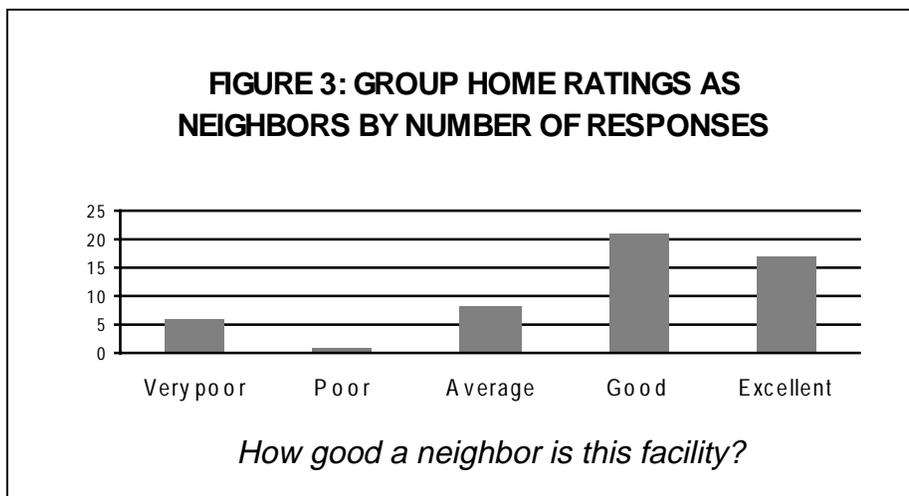
Surveys were used for 12 of the 22 community facilities. A total of 127 surveys were mailed and 54 were returned. This is equal to a 43 percent return rate. Return rates for individual facility surveys ranged from zero to 100 percent. Table 2 lists the facilities that were surveyed, the number of surveys sent and returned, the return rate, and the average rating of the facility.

TABLE 2: SURVEY OF NEIGHBORS

(Average ratings on a 5 point scale: 1 = very poor neighbor, 5 = excellent neighbor)

Facility	Surveys Sent	Surveys Returned	Return Rate	Average Rating as Neighbor
Aloha House	17	7	41%	Average/Above average (3.6)
Dyslin's Boys Ranch	12	3	25%	Average + (3.3)
Morning Star Boys Ranch	5	3	60%	Excellent (5.0)
Our Sister's House	9	4	44%	Average (3.0)
Parke Creek Group Home	4	3	75%	Good (4.0)
Puget Sound Center	17	5	29%	Good + (4.3)
Riverview Group Home	4	1	25%	Excellent (5.0 - 1 response)
Selma Carson Home	4	0	0%	No surveys returned
Sunrise Group Home	10	5	50%	Good/Excellent (4.8)
Touchstone Group Home	28	14	50%	Average (3.1)
Twin Rivers Group Home	5	5	100%	Good + (4.2)
Woodlawn Faith Home	12	4	33%	Good + (4.3)
Total / Average	127	54	43%	Good (4.0)

When all ratings were averaged, no facility received lower than an average rating. The distribution of ratings by neighbors paints a very clear picture that, for the most part, these facilities are accepted, and often admired, members of their communities. Figure 3 shows the combined distribution of ratings for all community facilities that were surveyed.



Only seven respondents rated a facility as a "poor" or "very poor" neighbor. These below-average ratings were received by three of the 12 facilities where the survey was used. These three facilities were Aloha House in Seattle, Our Sister's House in Tacoma, and Touchstone Group Home in Olympia.

For two of these facilities, the below average ratings were outliers; i.e. they were significantly different from ratings by other respondents from the same neighborhood. One respondent (out of seven) rated Aloha House a "very poor neighbor." This respondent had numerous complaints, including a belief that the conversion of a garage to offices and an efficiency apartment was "illegal." The average rating of Aloha House by the other six respondents was 4.0, or a "good neighbor." One person (out of four respondents) rated Our Sister's House a "very poor neighbor." This person had numerous complaints, including negative comments about staff. Despite this person's written statement that "every neighbor has similar complaints," two of the three other respondents rated the facility as a "good neighbor." One person rated the facility an "average neighbor."

This leaves Touchstone Group Home. The "average" rating of Touchstone is a deceptive figure. This is a neighborhood that is clearly polarized over the issue of a group home in its midst. Indeed, the unusually high number of surveys sent to the Touchstone neighborhood is due in part to written complaints by one neighbor about the survey methodology.⁵

To illustrate the polarized nature of neighborhood opinion, seven of the 14 respondents rated the Touchstone Group Home as a "good" or "excellent" neighbor, while five rated it a "poor" or "very poor" neighbor. The remaining two respondents rated the facility an "average" neighbor.

It is important to note that the Touchstone neighborhood has a history of bad experiences with group homes. The facility currently occupied by Touchstone was once known as the OK Boys Ranch. The OK Boys Ranch was the scene of serious sexual abuse of boys by other residents of the facility. Multi-million dollar judgments were made against the state and the operators of the program. Following closure of the OK Boys Ranch, the facility was occupied by a group home

⁵ After an initial mailing of 21 surveys, one neighbor complained to the Institute about uneven coverage of the survey. Following this complaint, a title company was used to identify the addresses of property owners near the facility, and seven additional surveys were mailed.

servicing the Division of Children and Family Services (DCFS), not JRA clients. By all reports, this was a very poorly run facility. According to a lieutenant in the Olympia Police Department, a computerized printout of calls for service at this address during the time that it was a group home for DCFS clients resulted in "reams of paper."

Given this history, the decision to move into this facility is perhaps unfortunate, but the circumstances were complicated. Touchstone lost its lease on a Tumwater facility they had long occupied, and they were subsequently unable to find a new site in Tumwater. While some of the neighbors noted in written comments that the difference between the present program and previous occupants is "like night and day," given the history of group homes at this address, it is understandable that some neighbors are angry and genuinely fearful.

Telephone calls were made to people in neighborhoods where the written survey was not used. There was only one location where people contacted in this manner had any negative comments about the facility—that was with Secret Harbor School on Cyprus Island.

A program for emotionally disturbed youth has been on Cyprus Island since the 1940s when a summer camp was started for children from the Ryther Child Center in Seattle. As the Secret Harbor School, it now serves JRA, DCFS, and private pay clients. JRA clients are a relatively small part of the program's client population.

While the program enjoys strong support from its only nearby neighbor, relations with a community of vacation homes on the other side of the island have long been troubled. Following a series of break-ins and vandalism, this community brought suit against the school in 1978 as a public nuisance. While a verbal order was made that caused the plaintiffs to believe they won the case, the judge died before a written order was issued. Conditions—and relations—improved and no attempt was made by the plaintiff to intervene when the case was dismissed in 1986.

While supervision of clients by Secret Harbor School has apparently greatly improved (a resident to staff ratio of 4 to 1 is reportedly maintained during all waking hours), juveniles still run away from the facility from time to time. Sometimes this involves JRA youths. The community on the other side of the island continues to be a popular destination for runaways and has continued to have occasional break-ins and vandalism. There was even an instance several years ago when several (non-JRA) runaways stole guns from a cabin and attempted to get off the island by abducting a school employee. While the incident ended without anyone getting hurt, it is hard to imagine a more frightening situation short of violence. The fact that the island has no police protection (other than what can be dispatched by boat from the mainland) adds to people's anxiety.

The community association and the Secret Harbor School have been working for some time to devise and improve procedures to increase the safety of community residents and their property. For example, the school now dispatches an employee to the neighborhood on the other side of the island whenever there is a runaway. The sole full-time resident of the community has a cellular telephone paid for by the school. While differences of opinion still remain, by all reports, relations between the school and community representatives are cordial and professional and channels of communication are open.

SECTION III: SECURITY, STAFFING, AND OPERATIONS

Security in prisons, jails, and detention facilities has a commonly understood meaning that implies certain building construction and security hardware features. For reasons that are discussed later in this section (see "Barriers to Increasing Security"), community facilities can never meet these security expectations. Most importantly, because of emergency exit requirements, doors in community facilities cannot be locked, including both bedroom doors and building exits. Significant limitations therefore exist on the level of physical security that can be provided.

Physical security in community facilities therefore consists of early warning systems that alert staff as soon as someone attempts to leave the building. A variety of such systems are currently being used by some community facilities. Table 3 (next page) summarizes the security features in place during the summer of 1998.

As a careful review of this table reveals, state-run group homes generally have more physical security features than private community facilities. For example, all state-run facilities have door and window alarms or features that eliminate the need for window alarms.⁶ Six of the seven state-run group homes also have video cameras. The only private community facilities with comparable levels of physical security are Aloha House and Safeco-Safe House. Only the Ruth Dykeman Children's Center makes use of video cameras to assist staff in monitoring places that are difficult to see.

ALARMS AND CAMERAS

While it was noted above that no community facility housing JRA offenders locks residents in their bedrooms or building, different door alarm systems provide various levels of security. Most of the door alarms in use simply make a loud noise when the door is opened. The best systems have a delay between the time someone first tries to open the door and when the door actually unlocks. These are generally tied into the fire alarm system which goes off when someone pushes the panic bar on an exit door. Meanwhile, the device keeps the door locked for 15 or 20 seconds, giving staff a chance to get to the door before anyone leaves. This kind of door has been approved by the fire marshal in Pierce County for use in the Oakridge Group Home.

Window alarms are generally a type of burglar alarm found on some residences and businesses. When the window is used for ventilation or temperature control, devices permit the partial opening of the window before the alarm goes off. No one can leave (or enter) the room using a window without setting off the alarm.

Intrusion systems are also essentially burglar alarms and include motion or other types of detectors. They play a dual role in community facilities. First, they act like a burglar alarm and detect encroachment by unauthorized persons at the sides or back of the building. In addition, they can detect someone leaving the building.

Video cameras can either be taped or not. Some state-run facilities make continuous tapes to preserve evidence, not of escape attempts, but of violations or misbehavior that occur out of sight

⁶ Window alarms are not needed in situations where the window does not open, does not open very wide, has a security screen, or is very small.

of staff. Video cameras in correctional settings, as well as other environments, have earned a reputation as having strong deterrent effects. The possibility of being taped while committing some transgression causes some people to improve their behavior. For example, some school districts rely on video cameras on school buses to reduce misconduct.

TABLE 3: SECURITY FEATURES BY FACILITY
(AS OF JULY/AUGUST 1998)

REGION / FACILITY	SECURITY FEATURES				
	Alarms			Video Monitors	Other
	Doors	Windows	Intrusion		
REGION 1					
Canyon View Group Home	Yes	na*	No	Yes	
Excelsior Youth Center	Interior	na	No	No	
Morning Star Boys Ranch	No	No	No	No	
Riverview Youth Center	No	No	No	No	
Sunrise Group Home	Yes	na	No	Yes	
REGION 2					
Parke Creek Group Home	Yes	na	No	No	
Ridgeview Group Home	Yes	na	No	Yes	
Twin Rivers Group Home	Yes	na	No	Yes	
White Swan Job Corps	No	No	No	No	Isolated site
REGION 3					
Secret Harbor	No	No	No	No	Island
REGION 4					
Aloha House	Yes	Yes	Yes	No	
Griffin Home	No	No	No	No	
Ruth Dykeman Center	Some	na	No	Yes	
Safeco-Safe House	Ordered	Ordered	Ordered	No	
Woodinville Group Home	Yes	Screens	No	Yes	Fully fenced
REGION 5					
Dyslin's Boys Ranch	Yes	No	Yes	No	
Oakridge Group Home	Yes	Screens	No	Yes	
Our Sister's House	Yes	No	No	No	
Puget Sound Center	Yes	No	Yes	No	
Selma Carson Home	No	No	No	No	
Woodlawn Faith Home	No	No	No	No	
REGION 6					
Touchstone Group Home	No	No	No	No	

na = not applicable

STAFFING LEVELS

Since community facility buildings cannot be made physically secure so as to prevent unauthorized departures, security is primarily a function of the staff. The number of staff, their job expectations, and how well they perform those expectations are all factors that affect the security of the program and of the community.

The number of staff at each state-run facility is generally identical. Most have two staff on duty during the day shift (plus administrator, secretary, and cook), three during the swing shift, and one at night. Higher staffing levels during the swing shift are needed because most juveniles are present at this time. During the day, many are at school or work. Daytime staff monitor those in residence and make telephone or on-site checks of juveniles in the community.

Oakridge, which is a little larger than other state-run group homes, usually has more staff during the swing shift and weekends. Parke Creek, which offers a residential chemical dependency program, has more staff during the day. None of the state-run group homes has more than one person on duty at night.

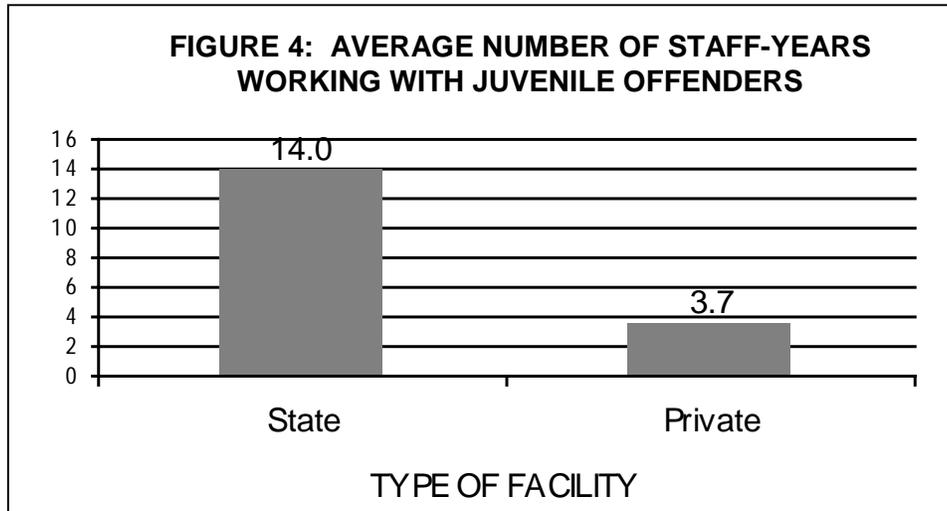
Only the smallest private facilities operate with only one staff on duty at night. JRA's standard contract for community facilities requires that two staff be on duty at night in any facility that has more than eight youths. This is a clear case where private facilities are held to a different standard than state-run facilities.

Private community facilities never have fewer staff on duty than state-run group homes. Usually, they have more, often many more. This is particularly true for programs that are treatment oriented. Secret Harbor, for instance, generally has 10 staff on duty during the day and seven during the evening. While the program is twice as large as the typical state-run group home, it has four times as many daytime staff. (This does not include administrative staff and other staff with no direct client contact.)

STAFF EXPERIENCE

While private facilities generally have more staff than state-run facilities, it is not uncommon for administrators at state-run group homes to speak unfavorably about staff at the private facilities. Since none of the administrators seem to visit the private facilities, it appears that their impressions are formed during their periodic responsibility as the region's duty officer on nights or weekends. People who call the duty officer generally have a problem that they do not know how to handle. If the problem is something that the administrator's own staff know how to handle, the caller may leave a poor impression on the duty officer. This apparently happens with some frequency.

After reviewing the data, the impressions of differential experience between state and private facility staff are quite valid. The average full-time employee at a state-run facility has 14 years of experience working with juvenile offenders. In contrast, the average full-time employee at a private facility has less than four-years experience working with juvenile offenders. This difference is illustrated in Figure 4.



In addition, people hired by state-run group homes tend to remain in this position. The average full-time employee at the seven state-run group homes has worked *at the same facility* for 9.6 years. Staff retention is much lower in the private facilities, where the average full-time employee has worked 3.6 years. It is no wonder that private facility staff sometimes seem ill prepared when an administrator compares their performance to those of his own staff.

This difference in experience undoubtedly works to the favor of state-run group homes and makes their lower staffing ratios manageable.

The higher staffing ratios at private facilities may, in fact, work to their disadvantage. A perverse circular logic may be working here. Since there are more staff at private facilities, total personnel costs are higher. Because total personnel costs are higher, average salaries are lower. Because average salaries are lower, people don't stay as long. Because people don't stay as long, there is less experience. Because there is less experience, they need more staff.

VISITING PROCEDURES

Visiting policies and procedures appear to be fairly uniform throughout the community facility system. All programs have some mechanism for screening and pre-approving visitors, although the quality of these procedures was not assessed. Visiting takes place in public areas of the facility or grounds. These public spaces are generally frequented by staff, but are not always under constant staff supervision.

Most programs use a level system which determines, among other things, how many and what kind of visitors a resident may have. Under these level systems, new residents, or residents who have failed to live up to program or behavior expectations, are generally limited to occasional visits from immediate family members. Residents who have demonstrated positive program participation and good behavior can receive more visits from a wider variety of visitors. Those with the highest privileges can usually receive visits from a girl friend or boy friend.

Anecdotally, it appears that visits by residents to family or friends outside the facility have become much less frequent. There have always been rules and restrictions on such visits, but fewer such visits are now being approved. Some programs, like Touchstone, do not permit unsupervised

visits even to family members. When a Touchstone resident visits his family, he is accompanied by a staff person.

ESCAPE PROCEDURES

JRA's escape policy has been defined in a bulletin for some time. Community facility administrators are aware of the bulletin and, while there may have been instances in the past, we found no evidence of non-compliance. However, given the limited experience of some staff at private community facilities, it is quite likely that errors or oversights sometimes occur during pressure situations such as escapes. Inexperienced staff are often assigned to the graveyard shift when more experienced staff are unavailable or hard to reach. During times like these, the consequences of inexperience are most likely to manifest themselves. If the frequency of escapes continues to decline (as it has over the past year) the combination of inexperienced staff and low frequency events could influence the error rate.

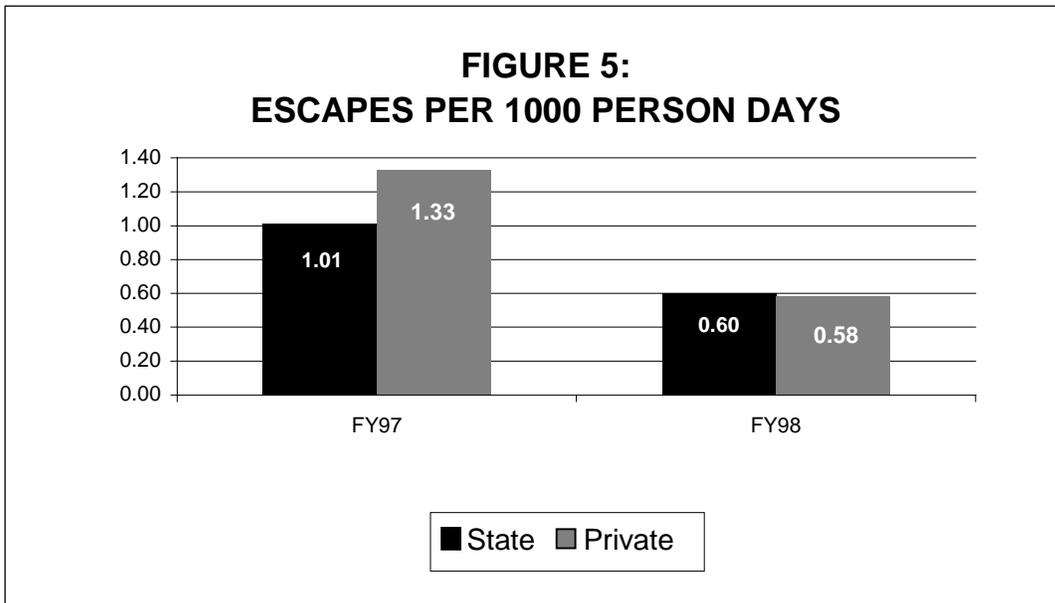
To outsiders not familiar with JRA terminology, some confusion is caused by the concept of "Unauthorized Absence II." An Unauthorized Absence II starts out looking exactly like an escape, indeed, it may well be an escape. However, if the youth voluntarily returns to the facility within four hours, and commits no other offense while absent, the escape may be cancelled. A cancelled escape meeting these criteria is an Unauthorized Absence II.

In some circumstances the unauthorized absence may be entirely innocuous. For example, a bus might break down in a place where the youth has no access to a telephone. In others, the youth may have participated in some other unauthorized activity (such as a visit to a girl friend) and then returned to take the consequence. Or, the youth may have intended to run and then had second thoughts. It is up to the program staff to determine what happened and to take appropriate action. In the current environment, it is likely that the youth in the second example would be returned to a JRA institution. It is almost certain that the youth in the third example would be returned.

This distinction between an escape and an Unauthorized Absence II has created anomalies in the escape reports generated by JRA's MAPPER computer system. All escape reports are entered immediately and the group home can cancel those it later determines to be an Unauthorized Absence II. If this change is not made, the JRA data will overstate the number of escapes from community facilities.

ESCAPE STATISTICS

With this caveat, there were a total of 116 escapes from community facilities in FY97 and 48 in FY98. This impressive 58 percent decrease in the number of escapes is partly caused by the reduction in the number of juveniles placed in community facilities. However, the rate of escapes per 1,000 person days in community facilities has also declined by 50 percent — from 1.20 escapes per 1,000 person days in FY97 to .59 escapes per 1,000 person days in FY98. No matter how you look at it, this is a significant decline.



As Figure 5 illustrates, prior to FY98 the state-run group homes had a significantly lower escape rate than the private facilities. At present, the rates are essentially identical.

MONITORING JUVENILE OFFENDERS IN THE COMMUNITY

Because most juvenile offenders housed in these facilities spend much of their day in the community, either going to school or working, monitoring them away from the facility may be the single most important security function performed by staff. Indeed, the tragedy that precipitated this study involved a youth who committed a rape and murder after leaving his job, not after leaving the facility where he lived.

In the last year, substantial changes have occurred in how offenders are monitored in the community. There are perhaps no monitoring procedures that are entirely new—all appear to have been in use in one or more facility in previous years. What is new is that procedures are standardized and required at all facilities.

Standards and Forms

All schools must now sign a "Conditions of School Involvement" form whenever a JRA student is enrolled. Employers are required to sign a "Conditions of Employment" agreement when they hire someone from a facility. Similar forms are needed for volunteer activities. All schools and employers that we were able to contact indicated they are familiar with, and are using, these forms. Copies of what are believed to be the latest versions of these forms are included in the Appendix.

Minimum standards for community checks have been established. For example, all juveniles in the community must be checked at least once a week at random times. More frequent checks are required for new residents or when a resident is experiencing stress. The number of additional checks is left to the discretion of the program staff.

All residents must now be transported to and from jobs or school by facility staff during the first 30 days of their stay. Approved transportation plans are required for all other off-site movement. In practice, many facilities appear to have significantly curtailed unsupervised off-site movement.

Documentation and approval requirements have also been significantly increased. For example, JRA's revised *Community Facility Program Standards* state that "the Community Facility must document ... allowable activities outside the facility and whether such activities must be supervised or may be unsupervised. The reports must specify the types of activities, frequency, and treatment purpose... The JRA Community Facility Coordinator must approve all plans."⁷

While minimum standards are being uniformly applied, individual programs often exceed minimum standards. In some cases this appears to result from a local interpretation of a new requirement. In others, former practices that exceed minimum requirements have been continued or expanded.

Individual Program Variations

Some variation was found among the programs in terms of monitoring. For example, the Touchstone Group Home continues its regimen of very high frequency monitoring of juveniles in the community. Most Touchstone residents who are working or who are in school are checked daily, rather than weekly. Most of these checks are on-site checks, rather than by telephone. When the facility was visited in August, the program had already made 1,037 community accountability checks for the year. This is a lot of checks for an average daily population during this time of just under 10 residents. Touchstone also has a half-time school monitor who acts as liaison with the school and who checks on students every day.

The Selma Carson Home not only does not allow unsupervised transportation within the first 30 days of residence; they do not allow new residents to leave the facility at all during this time period.

Griffin Home has an advisory committee that reviews its plans and activities and another group that screens juveniles for admission to high school. The school screening group includes representatives from the school district and law enforcement. Youths not admitted to the regular or alternative high school attend classes at an on-site school.

The requirement to use the Conditions of School Involvement form appears to have been interpreted by the administrator at Oakridge Group Home so conservatively that the local school district has stopped providing education to Oakridge residents at its regular and alternative high schools. According to the school principal, they could not meet the supervision expectations of the group home. All Oakridge students now attend class in an on-site school located next door to the facility at the Child Study and Treatment Center.

While JRA's new minimum standards are an improvement over prior practices, it is clear that individual programs are doing things from which other programs (and JRA) might learn.

⁷ JRA *Community Facility Program Standards*, August 1998

BARRIERS TO INCREASING SECURITY

There do not appear to be legal barriers to "hardening" community facilities by adding alarms and other detection systems. However, a practical barrier emerges if locks are added to prevent occupants from exiting their rooms or the building without staff assistance. These issues are discussed below under "Building Code Issues."

A review of zoning codes in Seattle and Spokane did not identify circumstances where locks on the doors and windows of a building affected a facility's zoning category, thereby making siting more difficult.

Emergency Exit Requirements

RCW 19.27.031 requires all counties and cities to have in effect the state building code which consists, among other things of the Uniform Building Code and Uniform Building Code Standards, published by the International Conference of Building Officials. While RCW 19.27.060 permits amendments to the state code, such amendments may not decrease the minimum performance standards and objectives in the state code.

To install locks on individual rooms or building exits and thus prevent occupants from leaving without staff assistance, brings along a host of other requirements. First of all, the building will be classified a Group I, Division 3 occupancy under the Uniform Building Code. Among other things, these occupancies must be constructed of fire-resistive materials. As a practical matter, this generally means concrete or concrete block with special provisions to prevent the transmission of smoke or fire through attics, crawlspaces, and the like. In addition, various smoke and fire detection and alarm systems are required along with a means to rapidly unlock doors and effect the rapid evacuation of occupants away from danger. The building code has quite specific requirements relating to safe evacuation from buildings, including permissible number of stories in the building, number of exits, distance to exits, width of exit corridors, type of doors, etc. It is frequently impossible, and rarely economically practical, to retrofit an existing building constructed for some other purpose to a Group I, Division 3 occupancy.

As an alternative security measure, alarmed and time-delayed locks on exit doors have been approved by fire marshals for use in several group homes. These special exit doors have a panic bar that trips a fire alarm when first pushed, but the panic bar must be pushed continuously for a short period of time (15 to 20 seconds) before the door will open. This time-delay allows staff to rush to the exit before the door opens.

Security screens on windows are generally prohibited by the fire marshal in most residential facilities. Indeed, newer residential buildings must be built with emergency egress windows to facilitate evacuation in case of need. Despite the general restriction on blocking window egress, two state-run facilities have them. According to the administrator at one of these group homes, the local fire marshal has approved training occupants to throw a chair through a fixed glass window next to the screened one in order to create an egress window during an emergency. It seems unlikely that many fire marshals would consider this an acceptable practice.

Philosophical Views

During the visits to facilities, some (perhaps most) program operators expressed reservations about an emphasis on physical security measures for community facilities. Some reservations are philosophical, some are practical, and some may have a financial component.

Philosophical objections are generally connected to the perceived program mission. Two issues that were the most frequently referenced were increased restrictions on community access and automatic return to a JRA institution whenever a juvenile's urine test shows drug or alcohol use.

Many programs view their mission as assisting the reintegration of juvenile offenders into the community. For some, the new restrictions on community access run counter to their perception of this mission. These programs have historically rewarded juveniles with increased freedom of movement as they demonstrate increased personal responsibility. Some operators believe the greater restrictions on community access reduce both the opportunities to demonstrate, and reward, increased responsibility.

Many operators expressed the view that automatic return to a JRA institution for a single positive urinalysis test for alcohol or drugs was not appropriate in all cases. This is particularly true for programs that focus on substance abuse treatment using the relapse prevention model.

Several operators were concerned about the message conveyed by increased physical security. How do video cameras, for instance, affect program objectives to build trust and promote personal responsibility? The example of video cameras is purposeful. Most other security features discussed in this report can be made to be very unobtrusive. It is important to note that this objection is far from universal. Indeed, a number of operators would welcome new and better ways to monitor activity in their facilities.

Practical Issues

There are also practical components to some of the resistance we observed. In programs that serve both JRA referrals and other clients, the different requirements for supervision, community access, and documentation create a number of headaches for program operators. For example, in every single program that serves a mixed population, it was very clear that JRA clients are much easier to manage than non-JRA clients.⁸ Despite this, JRA youths now have many more restrictions on community access than non-JRA youths. This creates conflict with JRA residents when less well behaved residents are perceived as having more privileges. It creates conflict with non-JRA residents when the group is prevented from doing something because the JRA resident cannot.

Program operators also pointed out the practical limitations of increasing the physical security of community facilities. As many noted, most juveniles spend part of each day in the community where the best security features on the community facility have no relevance.

Some programs have also chafed over requirements for increased documentation and prior approval of community activities. There are at least two components to this objection. First, it is more work. Sometimes this additional work duplicates things the program is already doing. In

⁸ There were consistent reasons given why JRA youths are easier to manage than non-JRA youths. First, referrals are screened by JRA and require demonstration of compliance with rules, so those who are referred have a good chance for success. Second, non-compliance or rule violation carries significant consequences for JRA youths (i.e. return to an institution), which is not the case for other clients.

some cases (for example, the new JRA incident reporting system), the new paperwork requirements are inferior to systems some programs developed on their own and have used for some time. Indeed, these objections were heard, not from programs with poor documentation, but from programs with a pattern of extensive documentation.

The other objection to increased documentation and prior approval is perhaps philosophical. In essence, this objection boils down to the idea that "if it's not broken, don't fix it." One program that has been housing juvenile offenders without serious incident for more than 40 years cited these new requirements as one of the reasons they intend to reduce their JRA contract from 15 beds to one.

Finally, it does not appear that anyone is getting rich providing community residential services to juvenile offenders in Washington State. The cost of new security systems and increased documentation is a real issue for some of these programs. For programs that operate very close to a break-even point, even relatively modest security investments can be difficult to fund.

COST TO UPGRADE SECURITY

The costs are modest to add alarms and other features to help staff monitor residents in the facility and activities outside the building. A typical system might consist of a main control panel, a monitoring panel, door sensors, window sensors, exterior door alarms with time-delayed unlock, and exterior lights with motion detectors. It is estimated that a full package of security features can be added to the typical community facility for between \$3,000 and \$5,000. Adding a video monitoring system could double this price. Table 4 shows the estimated component cost of a high-end residential security system.

**TABLE 4
ESTIMATED COMPONENT COST OF A HIGH-END
RESIDENTIAL SECURITY SYSTEM**

System Component	Approximate Cost
Main Control Panel capable of monitoring up to 87 separate zones	\$450
Monitoring Panel for programming purposes and alarm displays	\$175
Door sensors (per door)	\$55
Window sensors (per window)	\$55
Exterior light with motion detector (per fixture)	\$350
Exterior door alarm with time-delayed unlock (per door)	\$675

A video camera monitoring system consists of a television set, a device that allows split screen viewing or sequential monitoring of cameras, cameras, and an optional VCR. A commercial grade system like this costs about \$4,000 (installed) for a two-camera system without VCR. Additional cameras cost about \$750 each. A good VCR would add another \$1,000.

SECTION IV: JRA MONITORING OF COMMUNITY FACILITIES

The legislature wanted the following questions answered regarding the monitoring done by JRA of community facilities:

- *How often does JRA staff visit the community residential facilities?*
- *How many visits are random, unannounced, or conducted at night or on weekends and holidays?*
- *What does the JRA staff person investigate when conducting these visits?*
- *How often does the JRA staff person contact neighbors, schools, employers, and law enforcement to determine whether juvenile offenders in the facilities are disruptive or that staff is responsive to community concerns?*⁹

JRA conducts two major types of activities in its monitoring role: formal audits and reviews and periodic on-site work by the Community Facility Coordinator. These activities are confined entirely to private community facilities. Formal audits of state-run group homes occur sporadically; for example, following a change in management at a facility or where financial irregularities are observed. JRA has recently implemented a peer review system for the majority of state-run group homes. Since this is a recent innovation, the study could not examine the effectiveness of this system.

FORMAL AUDITS AND REVIEWS

By policy, JRA requires annual performance audits on private community facilities.¹⁰ Audits are generally based on a review of compliance with JRA's Community Residential Facility Program Standards. The extent of these reviews varied considerably. Some audits included written reviews and comments on all of JRA's program standards. Most were not as elaborate, but rather discussed major issues and highlighted specific deficiencies.

The JRA standards cover the following program areas:

- Administration
- Fiscal management
- Personnel
- Facility
- Program
- Food service and nutrition
- Medical care
- Community involvement
- Special procedures
- Volunteer involvement
- Records
- Liaison functions
- Exceptions

⁹ E2SSB 6445 Section 17(3)(a)(v)

¹⁰ Regions 1 and 2 did not complete all facility audits last year.

While each area is important to overall program management and accountability, a subset affect community safety. These include:

- Minimum qualifications of various staff positions and minimum staffing levels,
- Basic custody policies and procedures,
- Policies and procedures governing community access, and
- Incident reporting.

The most recent audit of each facility was reviewed for this study. With regard to issues that potentially affect community safety, several audits identified staff who did not meet minimum education standards or training. Occasional problems were reported with basic custody policies and procedure, mainly logging and proper use of forms. One incident was documented where improper procedures allowed an escape to occur and go unreported until the following shift. The negligent employee involved in this incident was fired. An incident at another facility that serves both teenage boys and girls involved sexual contact between two residents (neither of whom were JRA residents). An intern employee was disciplined as a result of this incident.

A facility with an unusually high number of escapes (in FY97) was found to have inadequate community accountability checks and a broken motion detector outside a back door. The number of escapes at this facility were greatly reduced in FY98.

There were no reports of formal audits that took place on an unannounced basis or of auditing occurring at any time other than during normal business hours.

COMMUNITY FACILITY COORDINATORS

In addition to formal audits, significant oversight of community facilities is provided by the Community Facility Coordinators. These people, who are JRA employees, perform a number of duties, including:

- monitoring the program for contract compliance,
- traveling to JRA institutions to attend staff meetings, advocate for the group home, and identify and interview potential new residents,
- keeping institutions posted about the progress of juveniles who have gone to the community facility,
- communicating with parents,
- getting sign-offs on school and employment agreements,
- completing community risk assessments,
- recommending, reviewing and signing off on treatment plans,
- finding volunteer jobs,
- reviewing program logs, case files, and reports,
- preparing release papers.

Many coordinators also carry part-time parole caseloads.

Because the number of JRA youth at a facility can vary considerably, the amount of time a coordinator spends at the facility also varies. There may be times at small facilities, or facilities that mainly serve clients other than JRA, when there are no JRA youth in a program. At other facilities, especially those where the only residents are from JRA, the coordinator may spend half time, or more, at the facility. One coordinator may be responsible for several small

programs, or one large one. In regions where there are few (and small) community facilities, the coordinator may be a part-time position.

JRA does not require coordinators to visit sites at any time other than during normal business hours. There were, however, a few reports of coordinators visiting sites in the evening or on weekends.

As the number of referrals for community facility placement has declined, the role of the coordinator in helping find youths for facility(s) to which he or she is assigned has become more important. A significant amount of the coordinator's time is spent in what can only be called "recruitment." Many times we were told of situations where juveniles eligible for community placement were being recruited by more than one program. In these situations, the youth often made the choice, with final approval in the hands of JRA.

There appears to be a form of competition between Community Facility Coordinators to get juveniles placed in "their facilities." More recently, as state-run group homes have begun to feel the pinch of fewer referrals, they too have joined in the competition for new placements. All the coordinators we talked with complained about this process. Many feel pressure to "keep the beds full." Several find this process to be stressful.

We view the dual role of Community Facility Coordinator as both a watchdog and someone who helps maintain the placement levels as a potential conflict of interest. Some of the watchdog functions, such as returning a youth to a JRA institution for misconduct, run counter to the facility responsibilities regarding population. Returning youth to the institution can also conflict with the responsibility of recruiting new placements. It also has negative financial consequences for the operator with whom the coordinator must interact almost every day. The coordinator should not be placed in situations where a decision affecting public safety can be influenced by these other considerations.

The coordinator's position requires significant skills, and the current salary level (RA2) may undervalue the responsibilities. To the extent that JRA observes high turnover in this position, or an inadequate hiring pool, thought should be given to revising the job classification.

CONTACT WITH NEIGHBORS, SCHOOLS, EMPLOYERS, LAW ENFORCEMENT

Through E2SSB 6445, the legislature asked the following question: "*how often does JRA staff contact neighbors, schools, employers, and law enforcement to determine whether juvenile offenders in the community residential facilities are disruptive or that staff is responsive to community concerns.*"¹¹

The primary contact between JRA and these constituents occurs through the administration and staff of each community facility. At state-run group homes these are, of course, JRA employees. At private facilities, while the JRA Community Facility Coordinator may play a role in these contacts, the staff at the facility are essentially contract representatives of JRA. However, the question posed by the legislature seems to suggest that the contact should be made by JRA regional or headquarters staff, rather than by the staff of the facility.

¹¹ E2SSB 6445, Section 17(3)(a)(v)(D)

Narrowly defined, the short answer to this question is therefore "never," but this leaves entirely the wrong impression.

While there is only occasional contact between most of these facilities and their neighbors,¹² frequent contact occurs between the facilities and schools, employers, and law enforcement. In many cases, the contact with schools and employers is daily. In every case where we were able to contact schools, employers and law enforcement, it was clear that the lines of communication between the facility and these community representatives were open and the working relationships were good. In other words, it is not necessary for the facilities to formally inquire about these matters because communication is occurring on a more or less constant basis.

Furthermore, JRA is not a huge agency. There are only 22 community facilities statewide with a capacity for less than 300 juveniles. Certainly the Assistant Regional Administrators (who have oversight responsibility for private community facilities in their region) had detailed knowledge of individual facilities, programs, facility staff, and individual offenders whenever we had occasion to discuss such issues with them. We certainly did not discover anything that was a surprise to them. In other words, knowledge about how juveniles are doing, and the relations between staff and community representatives appears to be quite thorough.

While there are exceptions, surveys of neighbors and calls to school administrators, teachers, employers, and law enforcement also convey an overall impression of general acceptance of juvenile offenders and high regard for community facility staff. As was mentioned earlier, it is very clear that almost all of these facilities are well integrated into the fabric of their local community.

¹² Some community facilities hold open houses from time to time. At least one is a member of the local block watch.

SECTION V: OFFENDER INTAKE AND ASSESSMENT

Two risk assessment tools are used by JRA—the Initial Security Classification Assessment (ISCA) and the Community Risk Assessment (CRA).

As implied by the name, the *Initial Security Classification Assessment* is an assessment of a juvenile offender at the *beginning* of his or her state commitment. It contains two measurements: risk level and offense seriousness level. This assessment is generally conducted only once.

The *Community Risk Assessment* is a tool designed to measure the rehabilitative *progress* of a juvenile offender and the *potential* risk he or she poses to public safety. This assessment is conducted every 90 days.¹³ The instrument generally measures dynamic factors related to an offender's behavior, but also includes points based on the youth's initial risk assessment and offense seriousness. The latter two factors never change. A copy of the CRA instrument is included in the appendix.

A recent validation study by the Washington State Institute for Public Policy found that "the ISCA is a valid predictor of 18-month felony recidivism..." and that "preliminary results indicate that the CRA adds to the predictive capability of the ISCA."¹⁴

By JRA policy, a youth must have (among other things) a CRA score of 20 or less for two or three consecutive 90-day periods in order to be eligible for placement in a community facility. The number of consecutive low scores that are required depends on the type of offender. The risk assessments that determine a youth's initial eligibility for community placement are conducted while the youth is in a JRA institution.

ASSESSMENT BY TEAMS: A RECENT INNOVATION IN STATE INSTITUTIONS

The process used to complete CRAs in the institutions has changed significantly in recent months. Institutional CRAs had been conducted primarily by individual counselors and reviewed by the program manager in the youth's cottage. Relying on individuals to complete the assessment was generally quite satisfactory in scoring some factors, but the scoring of recent behavior was problematic. Individual counselors could be heavily influenced by their last two or three encounters with the juvenile, rather than viewing the behavior over a longer period.

By using a team approach, the organization can take account of a greater range of experiences with the juvenile, and team members can challenge one person's view and offer additional information. Following team action, the CRA is reviewed by a supervisor prior to finalization. Several people at community facilities spoke favorably about the team approach now used at Maple Lane School.

¹³ Community Risk Assessments may be conducted sooner (but no sooner than 30 days from the previous assessment) if there is identified rehabilitative progress or other indicator of reduced risk. The assessment may also be conducted sooner if there is an indication of increased risk.

¹⁴ *Juvenile Rehabilitation Administration Assessments: Validity Review and Recommendations*, Robert Barnoski, September 1998, Washington State Institute for Public Policy.

The study team examined Community Risk Assessments for individuals that were on file in community facilities. Occasional obvious errors in old CRAs were found, including unscored items and incorrect addition. These CRAs with obvious errors were at least a year old, indicating that the quality of these assessments has probably improved.

In discussions with facility staff, the study team learned about some of their reservations regarding risk assessments done in institutions. Because the study focus was on community facilities, no effort was made to systematically review these concerns or verify whether they are widely held views. JRA may wish to conduct further investigations on this topic.

Some facility managers, primarily of state-run group homes, reported receiving new residents who, when assessed for risk by their own staff, scored higher than in the recent assessment at the institution. Some staff also said that they believe the CRA can be too easily manipulated and that some difficult to manage juveniles score reasonably well on the instrument. For example, passive-aggressive youth, or those whose aggression is just below the surface (the "bumpers" and "insulters") may not have been involved in incidents that can be scored by the instrument, but they still affect everyone in the facility in a negative way.

In addition, some staff would like better ways to indicate other areas of non-compliance. For example, some would like to see a factor scoring unauthorized leaves that are not classified as escapes. Others felt that some of the factors had too few scoring options. For example, the difference between "Usually displays patterns of appropriate response to problems," and "Rarely displays patterns of appropriate response to problems" leaves out both extremely good problem solving skills and gray areas between "usually" and "rarely."

ASSESSMENTS DURING FACILITY PLACEMENT

The lead responsibility for the CRA during an offender's placement in a community facility rests with the Community Facility Coordinator (in private facilities) or the youth's primary counselor (in state-run group homes).

Until recently, the process used by Community Facility Coordinators to complete risk assessments varied widely. Some coordinators completed risk assessments on their own, with little or no formal input from others. Others used a team approach, involving counselors and other staff who were familiar with the youth's recent experiences and behavior. The most conscientious of these occurred at regular staffing meetings where everyone familiar with the youth was present at one time and the CRA form was discussed and filled out.

All the community facilities now use the team approach to complete Community Risk Assessments. Standardization of the team approach is an obvious and excellent improvement over past practice.

The CRA has a training and reference manual with good operational definitions. With sufficient information, the factors included in the risk assessment are relatively easy to score. Table 5 shows the factors and factor scores in the Community Risk Assessment.

**TABLE 5:
COMMUNITY RISK ASSESSMENT FACTORS AND FACTOR SCORES**

A. Escapes/Attempts 0 – None 10 – Escaped, attempted, or considered escape	G. Peer Victimization 0 – Does not victimize peers 3 – Victimizes peers
B. Assaultive Behavior 0 – None 6 – One or more incidents	H. Progress in Specialized Training 0 – Moderate progress or not required 6 – No or minimum participation
C. Chemical/Alcohol Use 0 – None 10 – Evidence of use	I. Adjudications/Pending Charges 0 – None 12 – One or more
D. Compliance with Facility Regulations 0 – High level of compliance 3 – Moderate level 6 – No or minimal compliance	J. Initial Risk Assessment Score 0 – 0 to 20 6 – 21 to 30 12 – 31 or more
E. Problem Solving Skills 0 – Generally appropriate response 3 – Rarely or never appropriate response	K. Initial or Modified Offense Seriousness 0 – Low 3 – Medium or high
F. Hostile Response to Frustration 0 – Usually does not act out 3 – Frequently hostile responses	The maximum possible score is 74. The minimum possible score depends on factors J and K.

While it is theoretically possible for a juvenile placed in a community facility to maintain a CRA score below 20 while scoring maximum points for escapes or chemical/alcohol use, by revision to WAC 275-46-070, any escape (or attempted escape) or evidence of drug or alcohol use now requires automatic return to a JRA institution.

None of the Community Facility Coordinators we interviewed had any difficulty using the instrument. Some, however, expressed a wish that there be a wider range of choices for scoring some items. For example, some noted that the scoring choices for factor E, Problem Solving Skills, were too limited given the difference between "Generally appropriate response" and "Rarely or never appropriate response." Similar comments were made about factor F, Response to Frustration, where some reviewers thought that other rating besides "Usually does not act out" and "Frequently hostile responses" would be useful.

The ISCA form is the source of information for items J and K in the Community Risk Assessment. This form is included in the juvenile's legal file which accompanies the youth as he or she moves from place to place. A copy of the ISCA is usually kept in the youth's case file at the community facility. The original is kept in the files at JRA's regional offices.

Now that a team approach is used to score CRAs, scoring other factors in the instrument always involves obtaining information from several people. Those practices are discussed in the next section.

OBTAINING INFORMATION FROM OTHERS

A number of assessment items in the CRA measure behavior that can occur either at the community facility or while the youth is off-site at school, work or engaged in some other activity not supervised by program staff. Indeed, essentially all of the factors other than items I (adjudications or pending charges), J (initial risk assessment score), or K (initial or modified offense seriousness) can be assessed in whatever environment the youth is found. Whenever

a youth spends time outside the supervision of program staff, others must be contacted to get a complete picture of the youth's behavior.

CRA teams always include the Community Facility Coordinator (or primary counselor at a state-run group home) plus one or more counselors. The program administrator is also usually involved. Some programs try to make certain that night staff have input to the assessment process. At treatment oriented programs, the review team can be quite large.

It is through communication with schools, employers, and others that the staff at the community facilities obtain information about the behavior of juveniles in the community. By having a team approach to CRA scoring, that information is brought to the table by program staff.

As has been reported elsewhere in this report, communication between program staff and schools and employers appears to be frequent and collaborative. Random community accountability checks are required for every youth that participates in activities outside the facility. These checks must take place at least weekly. From dozens of conversations with teachers, school principals, school counselors, and employers, it is clear that some form of accountability checking is taking place everywhere. Relations between high schools and community facilities are, without exception, characterized as positive by teachers and school administrators. While we found employers who were dissatisfied with the performance of individual youths, none expressed dissatisfaction about their relationship with the community facility.

In addition, with only a few exceptions, most of these facilities have 20 or fewer youth in residence. The people who work with and monitor these youth every day know them well. By including these people in the assessment team, the chance of inappropriate scoring is greatly diminished.

FINANCIAL PRESSURES: CAN THEY INFLUENCE RISK ASSESSMENT?

While our assessment of the team approach to risk assessment is very positive, a factor in the current environment remains troublesome.

The issue is this. During the rapid decrease in community placements that started in September 1997 (and continues through the writing of this report), almost all private facilities were operating at least part of the time with utilization rates below the financial breakeven point of the program. In short, they had too few residents to pay their bills. A number of programs went out of business during this time. Almost all of them felt financial pressures.

When a program is operating below its financial breakeven point, there is a significant economic disincentive to take actions that further reduce the facility population. Since youths receiving a CRA score greater than 20 are returned to a JRA institution, during times of economic distress, a program might be faced with the choice of sending a youth back to an institution or going out of business. Such circumstances might tempt programs to consciously or unconsciously suppress or discount information that leads to further loss.

We know of no situation where this has happened. However, one program operator expressed open concern about this issue. According to this director, financial matters are often discussed when risk assessments are being made at her facility—not as pressure to keep youths

inappropriately, but to make certain that decisions are not affected by financial concerns. As this person put it, "I'd rather lose money than lose the program." At the same time, the program is fortunate that its parent organization has the financial resources to weather the storm. But as this director noted, other programs may not be so fortunate.

The standardized reporting of violations and infractions is likely to mitigate some of this risk, since incidents will be documented and cannot be overlooked during the scoring process. Stabilization of the supply and demand of community facility beds across the state will also mitigate this risk as programs will operate in a more predictable economic environment.

CONFIDENTIALITY LAWS AND RISK ASSESSMENT

Because the information used in the current Community Risk Assessment instrument is based on the juvenile's behavior during the preceding 90 days, there is no attempt (or need) to obtain historical information that may be in school, treatment, or other files that are sometimes subject to confidentiality restrictions. The current school and employer agreements require schools and employers to inform community residential facility staff about the juvenile's compliance with JRA conditions and about any "problematic behavior." By having frequent and open communication with teachers, school counselors and employers, the community facility staff should have good current knowledge of how a youth is behaving in the community. Conversations with dozens of teachers, counselors, and employers indicate that this communication is taking place at all locations. Confidentiality issues therefore do not appear to present a barrier to completing the current Community Risk Assessment.

In the investigation following the tragic crime that precipitated this study, the legislature found that "JRA did not have vital school record information and information regarding the juvenile's previous law enforcement encounters" for the youth responsible for this crime.¹⁵ The legislature further found that confidentiality issues regarding school records affects the timeliness and quality of certain types of information available to JRA for risk assessment, needs evaluation, and program planning for juveniles committed to its care and custody.

Setting aside issues of "public" disclosure and accompanying confidentiality concerns and focusing exclusively on disclosure between agencies, state law currently seems adequate to permit, if not mandate, disclosure of the sort contemplated in §17 of Ch. 269.

In RCW 13.50.050(4), the legislature has provided that records "maintained or produced by any juvenile justice or care agency *may* be released to other participants in the juvenile justice or care system only when a case or investigation involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile." (Emphasis added.)

The Juvenile Rehabilitation Administration is clearly "assigned responsibility for supervising" juveniles being considered for community placement. The definition of "juvenile justice or care agency" which appears in RCW 13.50.010 includes "police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of family and children's ombudsman, the department of social and health services and its contracting agencies, schools, persons or public or private agencies having

¹⁵ Final Bill Report, E2SSB 6445, Background

children committed to their custody, and any placement oversight committee created under RCW 72.05.415" [i.e., §9 of Ch. 269].

This comprehensive list appears to include all the agencies listed in §17(3)(b)(1) of Ch. 269. The only question which remains is an operational one: do juvenile justice or care agencies which "may" release records to other juvenile justice or care agencies under RCW 13.50.050 refuse to do so in certain cases, and thereby impede the operations of those requesting agencies?

Section 12 of Ch. 269 addresses the "may" question to some extent by providing that subject to limitations of federal law (see discussion below), school districts "shall make student records and information available to law enforcement officials, probation officers, court personnel, and others legally entitled to the information."

Sharing of records between agencies is not just a matter of state law. Federal law also imposes confidentiality requirements on several categories of records, including records on child abuse, substance abuse treatment, and education. An extended discussion of these laws and regulations begins on page 42 of this report. In general, these laws do not allow sharing of information between agencies simply on a need to know or request basis. However, they do not make sharing an impossibility but condition access generally upon a waiver of confidentiality from the juvenile and/or parent or guardian. Depending largely upon the ability of the JRA to obtain such waivers of confidentiality, obtaining records under the limitations imposed by federal law should not be particularly burdensome or costly.

Waivers may not even be necessary with regard to child abuse records. Federal law allows a state, by statute, to permit disclosure of child abuse records to "an agency authorized . . . to diagnose, care for, treat, or supervise a child who is the subject of a report or record of child abuse or neglect." 45 CFR Part XIII §1340.14(1)(2)(vii). Arguably, RCW 13.50.050 provides such authority although concurrence with this interpretation of the law should be sought from federal authorities.

Sharing of alcohol and drug abuse records and education records between state agencies is not so simple. Even interagency disclosure in this context is generally contingent upon a carefully drawn consent from the subject of the records or, in the case of minors, the parent or guardian.

Access to educational records, protected by the Family Educational Rights and privacy Act, 20 USC §1232g(b), may also be obtained through subpoena. Section 12 of Ch. 269 authorizes such subpoenas. Obtaining information through subpoena would be somewhat more cumbersome and possibly more costly than through waiver, especially if the parents of the juvenile contested disclosure.

If the Community Risk Assessment or the Initial Security Classification Assessment instrument were modified to add information now classified as confidential, legal issues regarding confidentiality will apply. Since the CRA focuses on behavior in the previous 90 days, use of additional historical information might more appropriately be included in the Initial Security Classification Assessment than in the CRA.

Adding information subject to rules of confidentiality will complicate the assessment process. Notwithstanding the legislative finding that certain missing information may be "vital," technical analysis of new data elements should first be done to ensure that they add to the predictive

value of the instrument. Increasing the difficulty of the assessment without increasing the quality of the result will only slow the process.

For a discussion of confidentiality issues relating to particular records, see "Legal Issues" starting on page 42.

SECTION VI: VIOLATIONS AND INFRACTIONS

The legislative direction for this study asked a question that should be simple to answer:

"How many violations, by type and seriousness level, have occurred or have been reported about juvenile offenders residing in community residential facilities during fiscal year 1997?"¹⁶

After visiting only a few programs it became quickly apparent that this question cannot be answered. In the summer of 1998, except for JRA's definition of serious violations, no uniform list of rules or infractions existed; neither did a method for documentation and reporting. While almost all programs had clear rules and expectations spelled out in writing, no two programs were exactly alike.

No program had what could be referred to as a system for reporting violations and infractions; rather, they had *incident* reporting systems. While incidents include behaviors that are violations and infractions, they also include other issues of importance to the program. Examples of such incidents include accidents (with or without injury to staff or residents), self-disclosed history of past physical or sexual abuse, suicide ideation, equipment failures, unidentified persons or vehicles on the property, etc.

Some programs had elaborate incident reporting systems and kept incident summaries so trends could be analyzed. Other programs had simple one-page forms with a few prompts to fill in narrative descriptions of pertinent details. Only a few programs kept copies of incident reports in a single place so a year's experience could be reviewed. Most programs kept incident reports in individual case files which, for FY97 incidents, were generally archived in some other location.

Where possible, infractions and violations were tabulated for individual programs. These results are reported in the individual facility reports in the Appendix. Because of the quantity of missing data, no attempt was made to summarize this information across the facilities.

ACTIONS TO STANDARDIZE REPORTING

On the positive side, JRA has recently developed a uniform list of violations for juveniles in residential facilities. Properly used, this policy should facilitate tracking the number and type of violations in the future. Serious violations include:

- Escape or attempted escape;
- Violence toward others with intent to harm and/or resulting in significant bodily injury;
- Involvement in or conviction of a criminal offense under investigation by law enforcement or awaiting adjudication for behavior that occurred during current placement;
- Extortion or blackmail that threatens the safety or security of the facility or community;
- Setting or causing an unauthorized fire with intent to harm self, others, or property, or with reckless disregard for the safety of others;
- Possession or manufacture of weapons or explosives or tools intended to assist in escape;

¹⁶ E2SSB 6445 Section 17(3)(c)(i)

- Interfering with staff in performing duties relating to the security and/or safety of the facility or community;
- Intentional property damage in excess of \$1,500;
- Possession, use, or distribution of drugs or alcohol, or use of inhalants;
- Rioting or inciting others to riot;
- Refusal of urinalysis or search; or
- Other behaviors which threaten the safety or security of the facility, its staff or residents, or the community.¹⁷

Under JRA's revised disciplinary standards, any juvenile who commits a serious violation must be returned to a JRA institution. Other sanctions may also be imposed.

Other violations include:

- Unaccounted for time when a juvenile is away from the community facility;
- Violation of conditions of authorized leave;
- Intimidation or coercion against any person;
- Misuse of medication such as hoarding medications or taking another person's medication;
- Self-mutilation, self tattooing, body piercing, or assisting others to do the same;
- Intentional destruction of property valued at less than \$1,500;
- Fighting;
- Unauthorized withdrawal of funds with intent to commit other violations;
- Suspension or expulsions from school or work;
- Violations of school, employment or volunteer work agreements related to custody and security concerns;
- Escape talk;
- Sexual contact or any other behavior, not defined as a serious violation, resulting in a referral to the department of licensing, child protective services, or law enforcement; or
- Lewd or disruptive behavior in the community.¹⁸

Sanctions for violations from this second list may include return to a JRA institution and must include one or more of the following:

- Loss of privileges;
- Loss of program level;
- Room confinement up to seventy-two hours;
- Change in release date;
- Reprimand and/or loss of points;
- Additional restitution; or
- Community service.¹⁹

JRA has also recently standardized its violation/incident reporting system. While this system now ensures that each community facility will provide consistent incident documentation, for reasons described below, we believe this reporting system needs improvement.

¹⁷ WAC 275-46-070

¹⁸ Ibid.

¹⁹ Ibid.

SHORTCOMINGS OF THE PRESENT SYSTEM

The adoption of a uniform list of violations and a sanctioning policy represent clear improvements over past practice. The reporting form for violations and incidents is a major step ahead of the previous uncoordinated and disparate systems. However, while the new form will provide solid documentation when used properly, it is seriously limited as a management tool. This limitation occurs because critical information about the incident is recorded as narrative.

While narrative descriptions are an essential part of incident documentation, they cannot be used to track trends, compare programs, or measure outcomes. In order to use information for these purposes, it must be converted to data. The new violation/incident reporting system does not do this. (A copy of the violation/incident report form is included in the Appendix.)

For example, the legislative request regarding FY97 violations by type and seriousness level proved impossible to answer. Under the new violation/incident reporting system, if the legislature were to ask for the same information next year, JRA would have great difficulty answering in any detail. Without physically reading each incident report and having someone determine the type of violation based on a narrative description, the best the new system can do is tell how many "serious violations" and "other violations" occurred. Not only is hand tabulation a lot of work, but anyone who has read reports like these knows that the precision and quality of narrative descriptions is highly variable and therefore subject to misinterpretation.

Similar limitations occur throughout the reporting instrument. Did the incident occur at the facility or in the community? This is treated as narrative. What sanctions were recommended? What sanctions were imposed? These too are narrative.

Technical correction of this problem is easy. All that is needed is to add codes or check boxes to record information that will be treated as data. For example, instead of having a narrative line to record the type of violation, a code could be entered, or a checkbox list of violations from WAC 275-46-070 could be added under the major headings of "serious violation" and "other violation." Checkboxes are recommended because they are more foolproof and easier to use.

This emphasis on accountability measures is hampered by the agency's antiquated computer information system. The limitations of this system will work against the agency's, and the legislature's, interest in using data to inform on policy decisions.

As JRA moves toward more centralization and standardization, the use of management information will become increasingly important. Indeed, JRA's laudable interest in moving toward outcome measures cannot occur without it. Finally, legislators and others interested in the agency will use this kind of information (or lack of it) to evaluate the agency.

APPEAL PROCESS

A juvenile offender in a community facility may appeal findings relating to violations/infractions in one of two ways: by using the Youth Complaint Form or, in limited circumstances, by requesting a formal administrative review.

The primary appeal mechanism is the "Youth Complaint Form." A resident can submit a complaint form to staff at the community facility. While the form can be used to register any kind

of complaint, it is used from time to time as an appeal of a finding or sanction relating to a violation. The program administrator is the final local authority in this process. Appeals can be (but rarely are) taken up the chain of command. While interviews with juveniles at the community facilities indicated that almost all of them are aware of the complaint process, review of case files found few instances where they were used to appeal a violation finding or sanction.

Use of the Youth Complaint Form does not stop or postpone the imposition of sanctions. Since sanctions for non-serious violations are generally minor or of short duration, this may explain why few findings or sanctions are appealed.

The second type of appeal—formal administrative review—is limited to sanctions that extend the release date of the juvenile. This process involves a formal hearing before a neutral reviewer. Written and oral statements may be presented and witnesses may be called. Decisions are made by the preponderance of the evidence and must be made in writing.

Unlike appeals through the Youth Complaint Form, use of the administrative review process does delay imposition of the sanction. However, since the only sanction that can be reviewed through this process is the extension of release date, by definition, the sanction has no effect until sometime in the future. Consequently, this delay has no practical effect.

SECTION VII: OFFENDER PLACEMENT: COMMUNITY NOTIFICATION AND PARTICIPATION

Notification to the community about juveniles placed in community facilities appears to be currently limited to situations authorized by state law,²⁰ although at least one neighborhood has obtained information about all juvenile offenders in a community facility through a public disclosure request.

As specified by state law, the responsibility for public notification about selected juvenile offenders in community facilities rests with local law enforcement following notification by the Department of Social and Health Services (JRA) about a juvenile offender's transfer to a facility in the jurisdiction.

In the past, some community facilities notified law enforcement about every new placement, but most programs only notified law enforcement about certain kinds of offenders. Under Section 9, paragraph 5 of E2SSB 6445, after September 1, 1998, local law enforcement is to be informed of new placements of *all* juvenile offenders in community facilities. JRA directed institutional superintendents, regional administrators, group home administrators, and others to implement this change in August 1998.

Schools and businesses learn that a new student or new hire is a juvenile offender through the school or employment agreements used by JRA. In most instances, facility or JRA staff also communicate this information personally. The schools and employers may, or may not, know the specific offense(s) for which the juvenile was committed to JRA.

LEGISLATIVE DIRECTION FOR 1999

Notification and participation by communities in facility placement decisions for JRA youth is expected to increase in the future. Section 9, paragraph 1, of E2SSB 6445 requires the secretary of the Department of Social and Health Services to ". . . develop a process with local governments that allows each community to establish a community placement oversight committee." These committees are to be implemented no later than September 1, 1999. Paragraph 2 of this section states:

"The community placement oversight committees may review and make recommendations regarding the placement of any juvenile who the secretary proposed to place in the community facility."

The challenges of implementing these committees will vary considerably depending on interpretations of their role as well as the number and type of members. Potential barriers

²⁰ The Department of Corrections and the Department of Social and Health Services (parent agency to JRA) are authorized by RCW 4.24.550 to release information to law enforcement regarding most sex offenders, kidnapping offenders, and stalking offenders. Each such offender is assigned to one of three levels, depending upon whether the offender is judged to be at low, medium, or high risk to reoffend. Law enforcement, in turn, may inform schools, neighbors, and other vulnerable groups about medium risk offenders. Law enforcement may inform the public at large about high-risk offenders. Law enforcement uses various notification strategies for different circumstances and types of offenders.

include legal issues (largely related to matters of confidentiality), practical matters, and concerns of the provider community. This section outlines several key choices that will be faced in the implementation phase, and examines their legal and practical ramifications. This discussion will review federal and state statutes on relatively complex topics. Readers may find it helpful to know the conclusion at the onset, thus making it easier to follow the discussion.

This section argues that sharing information with the general public about individual juvenile offenders is usually restricted, but there are no legal barriers to sharing it with people who are bound by an obligation of non-disclosure. Non-disclosure agreements can be required as a condition of participation on an oversight committee. In addition, waivers of confidentiality could be required of the juvenile offender (or parent or guardian) as a condition of placement in a community facility. These solutions should work in almost all cases. The exception would be concerning information about issues like child abuse where more than one party has a confidentiality interest. If there was significant value in having this information, it would presumably have to be obtained through subpoena.

LEGAL ISSUES²¹

Involving community members in individual placement decisions inevitably means that these members will have access to file material collected by the Juvenile Rehabilitation Administration. Such access raises issues of confidentiality.

Section 17 of Chapter 269 laws of 1998²² directs the Juvenile Rehabilitation Administration to gather information from schools, courts, law enforcement, and other DSHS programs including the Children's Administration and the Division of Alcohol and Substance Abuse. Much of this information is generally confidential under state and/or federal law. The JRA is to use this information in making community placement decisions. It is also to be shared with "the public" through methods not clearly specified.

Law enforcement and government social service agencies collect a great deal of highly personal, intimate information about persons, including juveniles suspected of committing crimes. Sharing such information between agencies is often beneficial to each organization's mission and has the potential to benefit the juvenile. At the same time, improper disclosure can have the opposite effect, damaging the juvenile or his/her family, and working against the mission of the agency. Thus, confidentiality restrictions typically accompany broader statutes which empower state or local government agencies to collect personal information.

The rationale for confidentiality of these records includes the following:

- Release of confidential information may increase the likelihood of discrimination against the individual; even if it is later found to be inaccurate.
- Confidentiality provisions may protect personal or family security or job security.
- Prejudice or differential treatment by teachers, school administrators, or other service providers may result following disclosure of some types of personal information.
- Personal information, if released to the public, can be very embarrassing.

²¹ This section of the report was prepared by William C. Collins, Attorney at Law, a subconsultant to Christopher Murray & Associates.

²² All chapter references are now generally codified in Chapter 77.05 RCW.

- Some individuals will seek help and from, and cooperate with, an agency only under a guarantee of confidentiality. In these circumstances, a guarantee of confidentiality can serve a greater public interest.

While sharing information *between* agencies can generally be accomplished through changes in state law, waivers, and/or through procedures, the possibility of sharing what has traditionally been confidential information about juveniles *with the public* may present concerns, depending on the *means* by which such information might be shared and the *extent* of the public dissemination of the information.

The approach taken in §9 of Ch. 269, now codified as RCW 72.05.415, allows public input into the placement process in a way that should avoid confidentiality barriers, if the individual committee members are required to treat information they receive as confidential.

The legislation does not address confidentiality of information provided by the Department to oversight committees. While the Department could adopt regulations addressing confidentiality, specific legislation could eliminate some possible concerns which could arise. Such legislation should address two issues:

- Information given to committee members is confidential and not to be disclosed further, unless the information is otherwise considered a disclosable public record under state law. A criminal or civil penalty can also be specified, if desired for violators.
- Statutory language could clarify that information gathered by the JRA from other confidential sources (drug treatment, education records, etc.) may be shared with the local oversight committees, subject to the confidentiality rule referred to in paragraph 1. Because federal agencies may take exception to such disclosures, a caveat in the law permitting disclosure of any information "to the extent permitted by federal law" would be prudent. See Ch. 269, §11 for an example of such a caveat.

Should some broader dissemination of protected information to the public be contemplated, additional privacy concerns arise. The discussion of these issues will follow, separated into three categories:

- State law;
- Federal protections on child and substance abuse; and
- Federal laws protecting educational records.

STATE LAW

The records addressed in §17(3)(b)(i) are generally confidential under a host of state laws. The most pertinent are as follows:

"Personal information" in the files of "students in public schools" and about "clients of public institutions" is exempt from public disclosure. RCW 42.17.310(1)(a).

Records maintained by "juvenile justice or care agencies" can be shared in certain circumstances between such agencies, but are generally confidential. RCW 13.50.050, .100. Juvenile justice or care agencies include police, court, detention center, the Department of

Social and Health Services and its contracting agencies, among others, RCW 13.50.010. Release of information between agencies is permitted when the receiving agency is "assigned the responsibility of supervising the juvenile." RCW 13.50.100.

Reports of child abuse and neglect received by the Department of Social and Health Services cannot be disclosed except "as authorized by state or federal statute." RCW 26.44.030(9). RCW 13.50.100, referred to in the preceding paragraph, would provide such authorization for sharing information between agencies.

Records of drug and alcohol treatment programs are confidential, RCW 70.96A.150, subject to disclosure with the written consent of the patient and in other limited circumstances.

Under the Criminal Records Privacy Act, "nonconviction data" about a person, such as bare arrest data from a rap sheet, is not disclosable to third persons outside the criminal justice system. RCW 10.97.030(2).

Each statute appears to permit limited public disclosure to a committee bound by confidentiality rules or could be amended to allow broader public disclosure as a condition of a admission to a community residential facility.

State appellate courts have interpreted confidentiality laws in light of state and federal constitutional laws. The key rulings are discussed below, organized by the relevant constitutional rights.

Right of Privacy. Government release of personal information can violate a constitutional right of privacy, *In re A, B, C, D, E*, 121 Wn2d 80 (1993), although personal information may be comprised when the state has a rational basis for doing so. Whether a particular release of information would violate the right of privacy would depend on balancing the state's interest in releasing the information against the extent of the dissemination and the nature of the information being released. Thus, in *A-E*, the court upheld HIV testing of juvenile sex offenders against the claim that it violated the right of privacy.

In upholding the statute, the court found strong statutory provisions for holding the test results confidential, but that the intrusion into the individual's privacy was minimal, and offset by the interests of the state in conducting the tests, including preventing the spread of a communicable disease, the management of inmates and probationers, and assisting the HIV positive individual. Had the test results been more broadly disclosed, the balance between the intrusion on the privacy interest of the individual and the competing interests of the state could have tipped in favor of the individual.

Ex Post Facto. Disclosure of traditional private information could be seen as a form of punishment toward the individual, and thereby subject to the limitation of the Ex Post Facto Clause of the state or federal constitution. Should this clause be relevant, the disclosure could occur only if the juvenile committed the crime after the effective date of the law specifying disclosure.

A key Washington case in this discussion is *State v. Ward*, 869 P.2d 1062 (1994), a Supreme Court decision which upheld the state's community notification provisions pertaining to felony sex offenders, but did so with reservations relevant to public disclosure of juvenile records. RCW 9A.44.130-140.

In deciding whether community notification violated the Ex Post Facto Clause, the court had to determine if community notification provisions were in fact punitive. In ruling they were not, the court added that "a public agency must have some evidence of an offender's future dangerousness, likelihood of reoffense, or threat to the community, to justify disclosure to the public in a given case." 869 P.2d at 1070. The court concluded that there were limits on what a public warning could contain: "A[n] agency must disclose only that information relevant to and necessary for counteracting the offender's dangerousness."

Thus, the court approved disclosure only for cases with evidence of future dangerousness and where limited facts were disclosed. Read literally and broadly, the potential public disclosure of traditionally confidential juvenile records envisioned by §17 of Ch. 269 would not be limited by dangerousness determinations nor as to the type of information revealed. In the absence of the limitations which were keystones in the *Ward* decision, the broad disclosure potential from §17 would appear open to legal attack, at least on Ex Post Facto grounds.

FEDERAL PROTECTIONS ON CHILD AND SUBSTANCE ABUSE RECORDS

In addition to disclosure limitations arising under state law, two federal laws related to child abuse and neglect and substance abuse are relevant to this discussion. These laws impose confidentiality requirements on records which §17 of Ch. 269 assumes will be disclosed to the Juvenile Rehabilitation Administration and in turn, to "the public" through some means.

If the "public" disclosure takes the limited form of disclosure to a local oversight committee created by state law and operating under confidentiality requirements, federal requirements should not prevent the committee from receiving the sort of information described in §17. If broader disclosure is intended, problems could arise.

The categories of records affected by federal law include records relating to child abuse and neglect maintained by the Division of Family and Children's Services, drug and alcohol treatment maintained by the Division of Alcohol and Substance Abuse, and educational records maintained by schools. We will cover the child and substance abuse records first, then comment on the educational records.

Child Abuse and Neglect. Federal regulations provide that states receiving federal aid for child abuse and neglect prevention and treatment programs must provide by statute that "all records concerning reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense." 45 CFR Part XIII, §1340.14. RCW 26.44.030(9) makes disclosure of child abuse or neglect records which is not authorized by state law a misdemeanor.

The regulations contain several exceptions to the basic principle of confidentiality. The only one which would appear applicable to this study allows a state, by statute, to permit disclosure to:

An agency authorized by a properly constituted authority to diagnose, care for, treat, or *supervise* a child who is the subject of a report or record of child abuse or neglect.
§1340.14(i)(2)(vii), (emphasis added).

Arguably, the Juvenile Rehabilitation Administration is such an agency as it supervises children, some of whom are the subjects of child abuse or neglect reports. Citizen members of a local oversight committee, subject to a confidentiality requirement, could be seen as part of JRA, as they would be involved in the supervision of a child. We use the qualifiers "arguably" and "could be seen" here advisedly, as federal authorities responsible for interpreting and enforcing the rule in question could read it differently. We suggest that if such oversight committees are implemented, DSHS explore this issue with the appropriate federal authorities.

Unlike other records which pertain to a single individual who is capable of making a knowing and intelligent waiver of his/her confidentiality rights, waivers would appear more difficult to obtain for records of child abuse and neglect which may contain personal information about various children, parents, and others.

Alcohol and Drug Abuse Records. It is assumed that reference to obtaining records from "other DSHS programs including . . . the Division of Alcohol and Substance Abuse" would include records covered by the federal regulations pertaining to records of patients in drug or alcohol treatment.

Federal statute and regulation make alcohol and drug treatment records confidential.

"Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall [except as provided in the statute] be confidential . . ." 42 USC sec 290ee-3(a). See also 42 CFR Part 2.

Similar statutory authority exists for alcohol treatment records, 42 USC §290dd-3.

Disclosures may be made with the patient's consent (or, in the case of a minor, by a person authorized to give consent—such as a parent or guardian), 42 CFR §2.3(2). Regulations apply various limitations and restrictions on such disclosures (§2.31) and dictate the contents of the consent form. Further disclosure of information by the person/agency to whom the information is initially disclosed is prohibited unless specific consent is given for such redisclosure, §2.32. The formalities related to obtaining consent for disclosure do not appear to present major procedural burdens.

A specific regulation addresses disclosure to persons in the criminal justice system who have made participation in a treatment program a condition of the disposition of criminal proceedings, parole, or other release from custody, §2.35. However, again such disclosure is contingent upon the patient's consent. Redisclosure of such information is allowed only "to carry out . . . official duties with regard to the person's conditional release or other action in connection with which the consent was given. §2.35(d).

Conditioning admission of an offender to a community residential program upon the offender's agreeing to release otherwise confidential information about drug treatment appears possible if the offender (or, in most cases, the parent or guardian) grants consent for such disclosure. In the absence of such consent, there do not appear to be feasible ways to access this type of information. Experience would show how many parents would refuse to give consent for the release of drug treatment related information.

FEDERAL LAWS PROTECTING EDUCATIONAL RECORDS

Educational records are deemed confidential by the federal Family Educational Rights and Privacy Act, 20 USC §1232g(b) but the Act includes several exceptions to its confidentiality provisions.

Subpoena. Ch. 269 anticipates complying with privacy restrictions from the federal Family Educational Rights and Privacy Act by taking advantage of its provisions regarding accessing information through subpoena.

Section 12 of Ch. 269 specifies that access to educational records is allowed only to the extent permitted by the federal law. The law allows disclosure to entities or persons "designated in . . . [a] subpoena issued for a law enforcement purpose." 20 USC §1232g(b)(1)(J). Regulations indicate that unless the subpoena is accompanied by an order prohibiting disclosure of information about the subpoena or records it requests, the parents of the child are to be notified before the educational agency turns over any records, so as to allow the parents the opportunity to challenge the subpoena. 34 CFR Subpart A, §99.31(a)(9)(ii).

Sec. 12 of Ch. 269 adopts a subpoena process for obtaining educational records. When a subpoena is issued for records following a juvenile's first conviction, the section provides that the court or agency issuing the subpoena "shall" order the school not to disclose the existence of the subpoena to anyone, thus trying to take advantage of the section of the federal law which allows such orders and which would preclude the parents of the child from challenging issuance of the subpoena. It is not clear what the reason is for excluding the parents from notification of the subpoena. There is not a similar provision in the situation of access to records of juveniles with prior convictions, where §12(2)(a) allows requests (or subpoenas) prior to conviction.

It would be simpler and less controversial to provide that subpoenas for relevant educational records may be issued and that parental notification occur in a timely manner, so parents can contest the subpoena, should they choose.

Waiver of Confidentiality. The federal educational law's confidentiality restrictions also are waivable with the consent of the parents, 20 USC §1232g(b)(1), creating a separate means of accessing the records. This might prove to be a more practical process should, for example, the subpoena process prove too time consuming or otherwise cumbersome. Presumably, participation in community residential programs could be conditioned on obtaining access to the educational records.

Under the heading of "burdens," note that the consent from the parents must specify the records to be disclosed, reasons for the release, to whom the disclosure is to be made, with a copy of the records to be disclosed given to the parents and the student, if requested. 20 USC §1232g(b)(2)(A).

Juvenile Justice (Prior to Adjudication). Disclosure without parental consent is permitted if the disclosure "concerns the juvenile justice system and such system's ability to effectively serve, *prior to adjudication*, the student whose records are released, 20 USC §1232g(b)(1)(E)(ii)(I). (Emphasis added.)

The "prior to adjudication" language would appear to make this exception of limited value, since the community placement comes after adjudication. It is unclear whether information gathered

prior to adjudication could be used for post-adjudication purposes. The regulations adopted under the statute shed no light on this question.

Records of Disclosures. Educational agencies releasing records must also document who receives released records, 20 USC §1232g(b)(4)(A), 34 CFR Subtitle A, §99.32.

Redisclosure. Redisclosure of educational records is not allowed without parental consent. 20 USC §1232g(b)(4)(B), except where the records are turned over pursuant to subpoena, 34 CFR Subtitle A, §99.3(c).

LIABILITY OF COMMITTEE MEMBERS

Members of the community placement oversight committee would receive limited, but not absolute, protection from liability pursuant to Sec. 9 of the Act, now codified as RCW 72.05.415(3):

"The community placement oversight committees, their members, and any agency represented by a member shall not be liable in any cause of action as a result of its decision in regard to a proposed placement of a juvenile unless the committee acts with gross negligence or bad faith in making a placement decision."

It should be noted initially that the committee does not make a "placement decision." It only makes "recommendations," RCW 72.05.415(2). The placement decision remains with the Department of Social and Health Services.

The most likely cause of action to arise from a placement decision is one claiming the decision was negligently made and as a direct result of that negligent placement, a third party was injured (e.g., when a youth from a facility absconds and assaults someone). Because committees do not make the final decision, they (or their members) would probably not be the primary defendants in such a "negligent placement" suit. However, it is conceivable that they could be named.

The provisions of RCW 72.05.415(3) provide only limited protection. Freedom from liability extends only to actions were the committee (not individual members thereof) does not act with "gross negligence or bad faith." A court could easily decide that the determination of whether gross negligence took place is a question for a jury to decide, since is it based on an assessment of the facts of the case. This would mean that the volunteer members of the committee could not be dismissed from the case prior to trial. While they would presumably be defended by the Attorney General (see RCW 4.92.060, requiring the state's attorney to defend volunteers in most situations) and indemnified for any damages, (RCW 4.92.075), the volunteer would still be subject to the rigors of the litigation itself, including depositions, trial, etc.

Since DSHS remains responsible for making the final placement decision, a question arises whether placement committees and their individual members ever should be subject to litigation and potential liability, even though the possibility of both remains somewhat remote as a practical matter. Completely exempting committees and their members from liability would not prevent an injured party from suing DSHS nor limit the amount of damages the party could collect. A complete exemption could easily be accomplished by simply deleting the "unless the committee" clause from RCW 72.05.415(3).

THE KEY ISSUE OF TIMING

While the operation of community placement oversight committees will undoubtedly identify several practical matters that will need to be resolved, two issues need immediate attention. These concern the *timeliness* of decisions and the *burden of financial risk* should placements be highly restricted. In some cases, these issues are interrelated.

The current process of placement takes a certain amount of time. A screening and risk assessment process first occurs in the institution. Next, offender needs and placement options are identified and a facility selected. Paperwork and logistics precede the physical transfer of the offender from the institution to the community facility.

If additional steps of review are added, the process will be slowed. To the extent that the arrival of a juvenile at the community facility is delayed, two things will happen. First, the offender will have less time to participate in the treatment or reintegration components of the program. To the extent that this is valued, this is a loss. Second, since the number of people in any residential program is a function both of admissions and average length of stay, the average daily population in these facilities will decrease.²³

Since JRA pays for private community beds on a per capita daily-cost formula, if the average length of stay in community facilities decreases, the cost of private community placements will go down and the cost of institutional placements will go up. Since lower population levels affect the financial performance of all facilities, both state-run and private facilities will incur higher per capita costs if populations go down. If this is sustained, private programs will most certainly push for higher reimbursement rates. If the reduction in demand is substantial, some private programs may go out of business.

The impact of delay can be reduced by making the additional steps either concurrent to other parts of the process, or the decisions could occur quickly and frequently. The more frequently these committees meet, and the faster they act, the less impact on the time required to move a juvenile offender from an institution to a community facility. Of course, what the committees actually do will also influence the speed of decision-making.

Financial risks become even greater if the oversight process not only slows down placements, but also actually reduces their total number. Depending on how the process is implemented, this could have system-wide effects, or it could occur only in individual communities. It would certainly be possible to implement these committees in a way that placements to specific programs, or to all facilities in general, become so restricted that community facility populations fall below the level of economic viability.

Currently, most JRA contracts with private providers include a guaranteed minimum number of beds for which JRA pays regardless of whether they are used. If population levels were to fall below this level, JRA would incur financial liabilities for which it received no benefit.

²³ Reduced populations due to reduced average length of stay can, of course, be obscured if admissions increase at a rate that hides the effects of changed length of stay. While hidden, it is nevertheless a fact that population levels are always affected by the combination of admissions and average length of stay.

For private providers, financial liabilities can be incurred long before the JRA guaranteed minimum is reached.²⁴ This is because the guaranteed minimum is always below (often far below) the financial breakeven point of these facilities. As we have seen elsewhere in this report, some community facilities have gone out of business during the current decline in community facility populations. This could happen again with additional population declines.

By structuring the process to reduce the likelihood of a general decline in placements or a "runaway" committee that starves a particular facility of placements, these risks can be contained. In the absence of these steps, or if they prove ineffective, decisions will be necessary on how to spread this financial liability. In the absence of public policy, market forces will make these decisions for the state.

CONCERNS OF THE PROVIDER COMMUNITY

The concept of community placement oversight committees was discussed during visits to individual facilities and at the July 1998 meeting of the Washington State Coalition for Children's Residential Services. Of course, private providers are concerned about the practical matters discussed in the previous section. Private providers also raised a number of other concerns. These include:

- potential interference with clinical decisions,
- implications for licensure and accreditation,
- indemnification from liability, and
- potential spillover to non-JRA programs.

Concern was expressed that such committees might interfere in clinical decisions. The first (and most realistic) concern was that placement decisions might be adversely affected. For example, some suggested that untrained committees might refuse, or inappropriately refer, juveniles for admission to a specialized treatment program. The second (and less likely) scenario is that such committees might extend their oversight function to the operation of the treatment program. It does not appear from the language of the bill that the legislature intended for the oversight committees to have such responsibility or authority.

Providers also noted that all programs have licensure requirements and some are accredited by nationally recognized organizations. These licensures and accreditations need to be reviewed as specific operating procedures for the oversight committees are developed, to ensure there are no conflicts.

While the statutory language is unequivocal regarding immunity for oversight committees and their members, this language provides little comfort to program providers.²⁵ As several providers pointed out, most already have hold harmless language for members of their boards of directors and this does not prevent them from being sued.

²⁴ This would not necessarily apply to programs that serve both JRA and other clients. In such programs it might be possible to replace the loss of JRA referrals with placements from other sources.

²⁵ Section 9, paragraph 3 of E2SSB 6445 states: "The community placement oversight committees, their members, and any agency represented by a member shall not be liable in any cause of action as a result of its decision in regard to a proposed placement of a juvenile unless the committee acts with gross negligence or bad faith in making a placement decision."

Finally, many providers of residential services to JRA also provide residential services to other clients. Grave concern was expressed that the use of placement oversight committees for juvenile offenders would be generalized to include other types of facilities and programs.

ALTERNATIVE MODELS FOR OVERSIGHT COMMITTEES

Community placement oversight committees could be implemented in a variety of ways. Some of the barriers that have been discussed clearly favor some strategies over others.

What Is Meant by "Community?"

E2SSB 6445, Section 9, paragraph 1 reads:

"The secretary [of the Department of Social and Health Services] shall develop a process with local governments that allows *each community* to establish a community placement oversight committee."

The language of the bill seems to imply that there should be multiple committees, but there is no indication about what constitutes a community. Is it the neighborhood around the facility? If it is, how big is a neighborhood? If not the neighborhood, is it the incorporated town or city within which the facility is located? Is it the county? Is it a JRA region or some other geographical area?

The answer to this question about a community may be affected by decisions regarding committee membership. To the extent that membership is diversified or includes representatives from stakeholder organizations (neighborhood associations, police, schools, employers, etc.), the definition of community may necessarily have to encompass more than the immediate neighborhood.

Depending on the definition used, some communities may have more than one community residential facility within their jurisdiction. Tacoma, for example, has three. Pierce County has six. In contrast, the entire western part of the state north of King County has only one.

An alternative would be to establish a single placement oversight committee for the entire state. Given the language of the bill, this model would presumably require legislative action. A single oversight committee perhaps works best with the quality assurance model discussed below.

How Large Are the Committees and Who Sits on Them?

The larger the committee, the less often it can meet and the less often it can assemble a quorum. Depending on its role, this may or may not be a problem. If placement decisions rest on the action of the oversight committee, frequent meetings and timely decisions will be necessary. Most models require timely decisions.

The bill is silent as to the composition of the committees. It would seem logical to include representatives from JRA, the provider community, law enforcement, schools, employers, and neighborhoods which host community facilities. Other possible representatives might include clergy, professionals with knowledge of treatment programs such as mental health or substance abuse, victim advocates, prosecutors, and public defenders.

Permissive Versus Mandatory Responsibility

The language of Section 9, paragraph 3 of E2SSB 6445 clearly comes down on the side of permissive, rather than mandatory, authority for community placement oversight committees. Specifically,

"The community placement oversight committees *may* review and make recommendations regarding the placement of any juvenile who the secretary proposes to place in the community facility." (Emphasis added.)

The liability exposure to committee members (legislative language notwithstanding) is presumably increased as responsibilities become mandatory. Failure to perform required duties can easily be attacked as negligence for gross negligence. Failure to perform optional duties is easier to defend. But regardless of the mandatory/permissive nature of the committee's duties, the actual recommendations are subject to second-guessing in litigation.

Committee Purpose: Four Alternative Models

A variety of models are possible for this committee. Some make more sense than others.

Screening and Decision-Making Model. This model is most worrisome to the provider community and one that seems to conform least to the language of the bill. Under this model, the committee would screen juveniles who meet the minimum eligibility criteria for placement and decide where (and whether) the youth should be placed. The language of the bill does not appear to support this model. According to Section 9, paragraph 3, it is clearly the secretary of DSHS—not the oversight committee—who proposes that a youth be placed in a community facility. Furthermore, the authority of the committee appears to be limited to recommendations, not decisions.

Veto Model. This model assumes that initial screening and placement decisions are made by some third party. (The bill says that the third party is the secretary of DSHS.) Under the veto model, the proposed placement is reviewed by the committee which then either supports or denies the placement. Again, the language of the bill does not appear to support this model. Section 9, paragraph 3 states that the committees "*may review and make recommendations*" regarding proposed placements. A veto is not a recommendation.

Advisory Model. The advisory model clearly conforms to the review and recommendation role described in the bill. The role of the committee under this model is to review proposed placements and make recommendations to accept or deny them prior to the time the juvenile is placed in the community facility. While the bill implies that the secretary of DSHS would have authority to override a recommendation to deny placement by the oversight committee, procedures would have to be established to govern the override process.

Quality Assurance Model. Under this model, the committee provides quality assurance to the placement process. The committee does not make placement decisions, rather, it reviews these decisions after they have been made to ensure that they conform to policy. The focus is on monitoring the integrity of the process.

The committee could set policy within legally established guidelines, or policy could be set by administrative code. The committee might also be required to make periodic reports to the legislature about the quality of the placement process. Such a committee need not meet as frequently as the other models require.

Since a proliferation of quality assurance committees might end up giving conflicting advice, this model perhaps works best if each encompasses a large geographical area, thus reducing the number of committees.

SECTION VIII: FACILITY SITING: COMMUNITY NOTIFICATION AND PARTICIPATION

Seventeen years have passed since JRA sited and opened a state-run community facility.²⁶ As a result, it is not surprising that JRA has only recently developed guidelines for siting new facilities.

In recent years, JRA expanded its community residential capacity by contracting with private providers. The last solicitation for new providers was issued in 1996. Among the published criteria for proposal evaluation was the following:

"Describe in detail how you will obtain and continue to maintain community acceptance and support within the local proximity of the group home site. Please submit letters of support from local government, community leaders, organizations, law enforcement agencies and/or neighborhood residents."

JRA also has published a one-page document titled "Community Residential Placements, Guidelines for Community Relations" (undated). Among other things, these guidelines require all vendors to notify neighbors and others of their intent to establish a community residential facility for JRA youth prior to signing a contract with the agency. At minimum, in addition to notifying local legislators, government, schools, and law enforcement, notification must go to neighbors who live within 300 feet of the proposed facility. Vendors who have not already been through a conditional use permit process are also required to hold at least one public meeting with advance notice of a week or more.

Each vendor must also establish a community advisory board, chaired and staffed by the vendor. Advisory board members are selected by the vendor from "interested community members." Finally, each vendor is to establish a Community Service Program for youth at the facility to "give back" to the community through some form of community service.

Newer facilities visited as part of this study did have community advisory boards and community service programs. It was also common to find community service projects at older facilities, but community advisory boards were very uncommon in these settings.

Almost all programs added as a result of the 1996 request for proposals were located in facilities that had historically been group homes and were therefore already permitted uses in their respective neighborhoods. As a result, almost none of these programs held hearings when they became JRA vendors.

We did not review proposals submitted in 1996 or their evaluation by JRA. It is clear, however, that the criteria in the 1996 solicitation would have been unlikely to identify the type of siting controversy experienced by the Touchstone facility in Olympia. As is documented in the review of the Touchstone facility (see Appendix A), it would be easy for Touchstone to provide glowing letters of support from many sources, including neighbors. At the same time, such a process would presumably not have uncovered the strong and vocal opposition to this program expressed by some of its neighbors.

²⁶ The "newest" state-run group homes were opened in 1981.

ALTERNATIVE SITING MODELS

A variety of strategies have been developed to site large controversial facilities like prisons or jails. Many publications are available on this subject. However, a literature review on facility siting failed to produce any information regarding small community-based facilities like group homes.

According to Peter Kinzinger, Executive Director of the International Community Corrections Association, very few new group home facilities are being sited anywhere in the United States. According to Kinzinger, siting facilities of this kind is "a national problem." Kinzinger did note that for-profit organizations seem to be more effective in siting facilities than public agencies or most non-profits. He believes that for-profit organizations are generally more willing to site facilities in non-residential areas. Kinzinger also described an elaborate and expensive campaign that has successfully sited community-based mental health facilities in some communities. Finally, Kinzinger noted that the operator of more than 700 not-for-profit community residential beds in the Cincinnati area is particularly effective at siting small controversial facilities.²⁷

The successful campaign to site a number of community-based residential beds for the mentally ill involved lengthy (and expensive) front-end public relations work. The basic approach was to build a constituency for the need that was local, energized, politically adept, and committed. Only when support for the idea was well established did the search for sites begin. While opposition to specific sites surfaced, people who were initially opposed found themselves in opposition to neighbors and respected leaders of the community who were strongly arguing in favor of the site. Since people tend to pay more attention to those they know and respect, most facilities were successfully sited. The ideas behind this process should sound familiar to elected officials. As Kinzinger described it, "It's not rocket science. It's hard work."

These ideas are also familiar to Neil Tillo, CEO of the non-profit agency mentioned by Kinzinger. Mr. Tillo expresses great enthusiasm for public participation in all aspects of siting and operating community-based facilities. In his experience, providing people with control reduces fear in the community.²⁸

Tillo has a comprehensive public relations policy. He and his organization, Talbert House, are very active politically. As he described it, they do everything they can with candidates and elected officials that is permitted by law. Emerging community leaders are asked to sit on various boards and advisory groups. If a neighborhood wants to have an advisory board for a facility, he sets up an advisory board. If they want to review offenders being placed in the facility, he empowers them to do so. (Although he always makes sure his contract covers the cost of empty beds if the advisory board cannot keep them full). He starts the siting process with presentations to the neighborhood council involving lots of information, plans, successes, and references. His policy is "no surprises." He says that siting a new facility usually takes less than a year.²⁹

Another factor in the Cincinnati siting process is unusual. The Cincinnati Municipal Code, Ordinance No. 225, permits various group home occupancies in many zoning areas without the

²⁷ Peter Kinzinger, personal communication, November 6, 1998.

²⁸ Neil Tillo, personal communication, November 11, 1998.

²⁹ Ibid.

need for a conditional use permit. This is true both for "homes for adjustment" and for drug and alcohol residential treatment facilities for persons under criminal justice control. In other words, there are few formal channels whereby the siting of one of these facilities can legally be stopped.

WORK RELEASE AND WASHINGTON'S DEPARTMENT OF CORRECTIONS

The Work Release Siting Policy for the state's Department of Corrections is based on RCW 72.65.220 and described in Chapter 137-57 WAC.

RCW 72.65.220 directs the department to establish "a process for early and continuous public participation in establishing or relocating work release or other community-based facilities." Opportunities must be provided for public meetings, written and oral comments, and wide dissemination of proposals and alternatives. Local hearings must be held in all communities where there is a candidate site under consideration. The requirements for widespread notification of hearings are detailed in the statute, including written notification to all residents and/or property owners within a one-half mile radius of the proposed site. The final proposed site must have at least one additional public hearing.

WAC 137-57 requires the secretary of the department to appoint a search committee and an advisory committee for the site selection process. The search committee identifies candidate sites for the facility and prepares a description for the advisory committee. The advisory committee, composed of local elected or public officials, local law enforcement personnel, interested citizens, and DOC staff, then reviews and evaluates the sites based on a variety of factors, including: costs associated with obtaining and improving the site, the desirability of the site for program activities, the availability of public transportation at or near the site, community impacts associated with the site, and zoning restrictions and requirements. The advisory committee then makes a recommendation to the secretary who, in turn, gives preliminary approval for one or more of the recommended sites.

Following the secretary's preliminary approval, public hearings are held for all candidate sites. The department must also go through whatever process is required to obtain local permits and approvals.

In the early 1990s DOC planned to build 12 new work release/pre-release facilities with a total of 480 beds. Following the siting policy described in 137-57 WAC, the agency was able to site four facilities and about half the planned beds through 1998. While it has been difficult to site facilities, funding cutbacks also caused the initial expansion plan to be scaled back.

Two of the successfully sited facilities were viewed by their communities as relatively non-threatening and generated less controversy than usual. One is a 120-bed pre-release facility for medically fragile offenders in Yakima. Another is a 30-bed facility in Spokane for female offenders.

The third successful siting was in Kitsap County. With the backing of county officials, a 40-bed work release facility was constructed in Port Orchard. This facility is built on the edge of a landfill next to a planned park-and-ride lot. County officials believe having a 24-hour facility next door to a park-and-ride lot is a good idea. At the request of Kitsap County, DOC hired a neutral

third party to facilitate the hearing process. With county backing, it took about a year to get the permits approved.

According to DOC, the most difficult facility to site (other than those that failed) was a work release facility in the Tri-cities. This facility replaced a 15-bed work release program that was located in an old house in the area. When the DOC outgrew this facility, offenders were temporarily moved into the local jail. Meanwhile, properties were identified in each of the Tri-cities communities as candidates for a permanent site. Many hearings were held, with each community suggesting that the facility be located in one of the other two cities in the Tri-cities area. This project was challenged in the courts where DOC eventually won on appeal when the judge ruled that community fear was not a sufficient reason to deny a permit.

Attempts to site work release facilities failed in many communities. It was reported that the department would sometimes put two or three months into the siting process and be "completely shut down."

At the peak of the department's attempts to site facilities, the siting coordinator's job was a full time position. According to the department's siting coordinator, when they were unsuccessful, the issue was always fear.³⁰

COMPETING PUBLIC INTERESTS IN FACILITY SITING

No legal barriers restrict an increased role for community participation in the siting process. The legislature may require, or JRA may implement on its own, essentially whatever notification, hearing, or public participation process it wants. There are, of course, obvious limits to what is meant by the phrase "public participation." Relegating authority to the public (or to their elected or appointed representatives) that, in effect, prevents siting these facilities would be a violation of the essential public facilities provisions of the Growth Management Act.

In addition, potential conflicts exist between state-mandated requirements for public participation in the siting process and local land use regulations and processes. It would presumably make sense to eliminate conflict and reduce duplication whenever possible.

As a practical matter, there are competing public interests in siting these facilities. To the extent that the state views these facilities as desirable instruments of public policy, successfully providing for sufficient and adequate facilities is in the public interest. At the same time, local control over land use issues and public participation in matters that affect local citizens directly are cherished values.

Furthermore, there is no escaping the knowledge that these interests compete in an arena charged with emotion. Balancing competing public interests in this kind of environment is not an easy matter and we have no simple solutions.

³⁰ Doreen Geiger, personal communication October 13, 1998.

SECTION IX: CRIME PATTERNS OF RESIDENTS³¹

One concern about placing JRA offenders in community facilities is the impact on public safety. As part of a study examining the validity of JRA assessments,³² a survey was sent to all JRA community facilities during April 1998. Group home staff were asked to recollect the criminal behavior committed by youth who had lived in their group home between July 1, 1996, and June 30, 1997. This methodology was selected over the use of official records because it was much more likely to reveal criminal activity.

Table 6 summarizes the results for the 765 youth placed in community facilities during the study period. While living in a facility, 10 percent of these youth escaped but committed no other crime, another three percent escaped and committed a crime, and five percent committed a crime not involving an escape. A misdemeanor was the most prevalent crime committed other than escape, followed by drugs and property crimes. Six youth out of 765 committed a crime against another person such as homicide, forcible rape, robbery, or serious assault.

TABLE 6: CRIME WHILE IN A COMMUNITY FACILITY DURING FY97: SURVEY RESULTS

Criminal Activity While in a Community Facility	Number of Youth	Percentage of Youth
No Criminal Activity	620	81.0%
No Crime Other Than Escape	80	10.5%
Escaped and committed a crime	24	3.1%
Committed a crime without an escape	41	5.3%
Total	765	100%

Crimes Other Than Escape	Number of Youth	Percentage of Youth
Alcohol	4	0.5%
Drugs	11	1.4%
Misdemeanor	30	3.9%
Other Felony	3	0.4%
Property	11	1.4%
Against Person: homicide, forcible rape, robbery, serious assault	6	0.8%
Total	65	8.4%

As mentioned earlier in the report, the escape rate for FY98 declined significantly.

³¹ This section of the report was prepared by staff of the Washington State Institute for Public Policy.

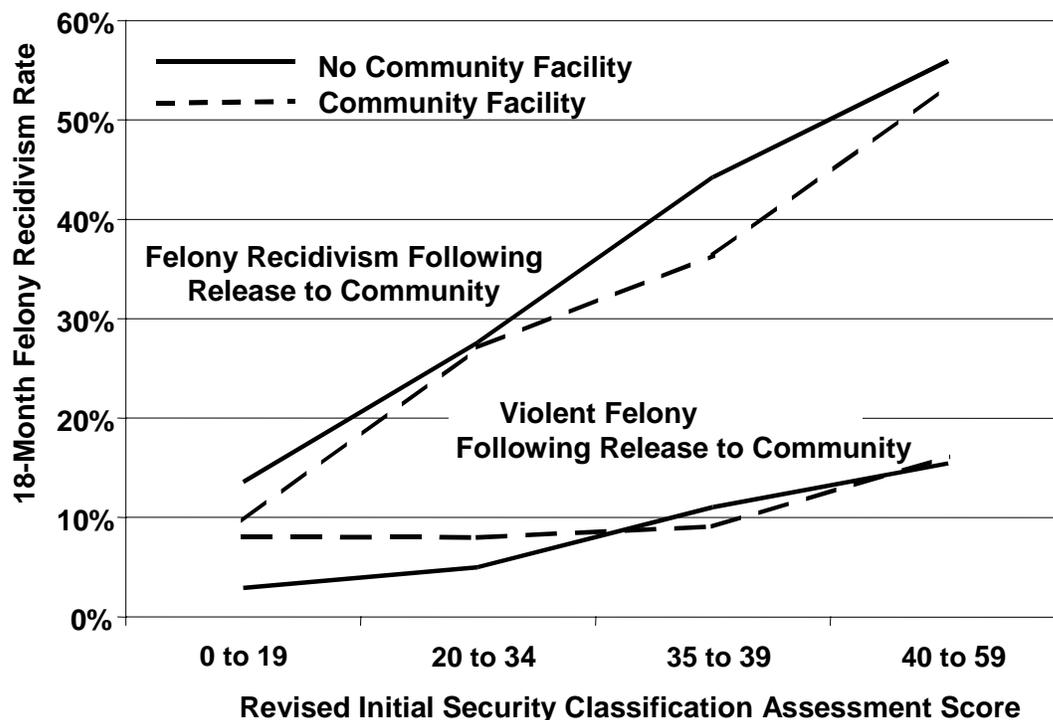
³² Barnoski, Robert, *Juvenile Rehabilitation Administration Assessments: Validity Review and Recommendations*, Washington State Institute for Public Policy, September 1998.

FELONY RECIDIVISM: COMPARING FACILITY RESIDENTS AND NON-RESIDENTS

One of the purposes of community facility placement is to facilitate the youth's transition from institutional confinement. Figure 6 compares the 18-month recidivism rates³³ of two groups of youth released into the community between July 1, 1993, and June 30, 1995. One group of youth (N=1,199) was not eligible for community facility placement and was released directly into the community after their stay in a JRA institution. The second group of youth was placed in a community facility before release to the community (N=647).

Youth in the two groups are further categorized according to their risk level based on the Initial Security Classification Assessment (ISCA). The figure illustrates that for both groups, higher recidivism rates are associated with higher risk scores. Recidivism rates are measured in two ways: rates for *felonies* and *violent felonies*.

FIGURE 6: 18-MONTH FELONY RECIDIVISM RATES FOR TWO GROUPS OF YOUTH RELEASED TO THE COMMUNITY FOLLOWING JRA CONFINEMENT



Both measures of recidivism (felony and violent felony) for the two groups of youth (community facility placement and no placement) show no significant differences. That is, group home placement overall does not appear to reduce recidivism in a statistically significant way. To further investigate this issue, we examined recidivism rates by the duration of the group home placement.

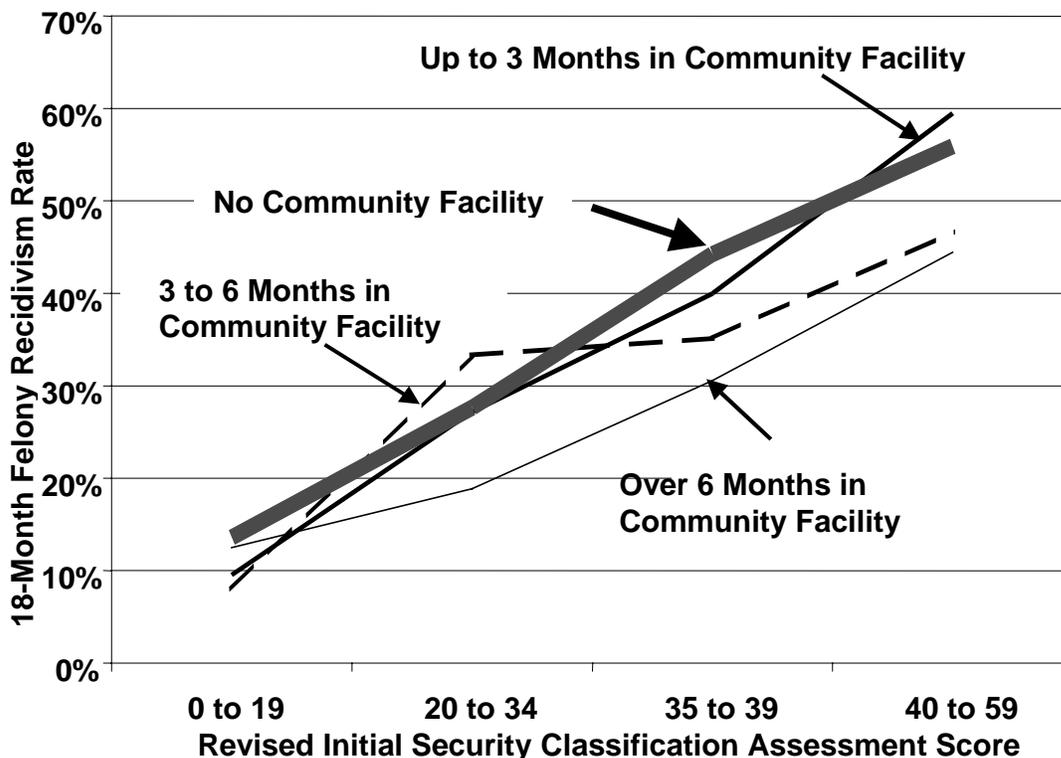
³³ The JRA database was used to identify these youth. The 18-month felony recidivism rate is based on data from the Office of the Administrator for the Courts' Justice Information System and the Department of Corrections' Offender Based Tracking System. The definition for recidivism follows that given in *Standards for Improving Research Effectiveness in Adult and Juvenile Justice*, Washington State Institute for Public Policy, December 1997.

COMPARING LENGTHS OF STAY

The residents spent variable time periods in the community facility. In Figure 2, the youth are divided into three groups according to duration of their community facility placement.

At low ISCA risk scores, the three groups of youth have identical low recidivism rates. As the ISCA risk score increases, only youth who spent more than six months in a community facility had significantly lower 18-month felony recidivism rates than youth who were not placed in a community facility. Although youth who spent 3 to 6 months in a community facility and had an ISCA score of at least 35 appear to have lower recidivism rates than youth who spent no time in a group home, the difference is not statistically significant.

Figure 7: 18-Month Felony Recidivism Rates for Youth Living in a Community Facility for Three Time Periods



The significant finding on lower crime rates for long-term residents' is worth attention. The data available for this project do not allow us to explain this result. Two interpretations can be hypothesized. First, only lower-risk youth are in this category because the higher-risk youth are returned to the institution for behavior problems. Another possibility is that a longer stay in a group home facilitates the youth's transition from confinement to the community and therefore results in lower recidivism rates.