ARIZONA DEPARTMENT

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OF CORRECTIONS

MANDATORY SENTENCING STUDY

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MANDATORY SENTENCING STUDY

Arizona Department of Corrections

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EXECUTIVE SUMMARY

Within the last year, the Institute for Rational Public Policy, Inc. released a report prepared for the Arizona Legislative Council which argued heavily against the state's mandatory sentencing statutes based on statistical evidence concerning the issue of sentence equity. Subsequently, the Arizona Prosecuting Attorney's Advisory Council released a report prepared by Dr. Michael Block which supported the existing statutes on the grounds of rationality, and particularly with regard to what was viewed as an appropriate use of existing prison space.

In neither case did these studies systematically address the issue of the impact of mandatory sentencing on prison population. To make informed decisions concerning the possible reworking of the state's criminal statutes, it is vitally important that the Legislature understand the implications of mandatory sentencing from a fiscal perspective. Certainly there are a number of other issues, such as sentencing equity and public safety, which must be considered in any reasoned approach to criminal code revision. Nonetheless, the sheer impact in terms of numbers and costs is a critical consideration during a period of marked fiscal austerity, such as that facing the state of Arizona at the present time.

The Department's analysis of sentencing and corrections data, and particularly of the mandatory sentencing statutes and their implementation over the last 13 years, indicates the following:

- **What is the Average Prison Term in Arizona?**

  Instead of a 2-year cycle of admissions and releases associated with a presumed average 2-year stay in prison (based on analyses of release data alone), in reality the Arizona prison system is working on a 5-year cycle in which a typical committed offender can expect to do 5.1 years prior to release. Our findings indicate that the longer cycle is due to mandatory sentencing and that as a result Arizona ranks high nationally in the extent of punitiveness for those imprisoned for felonies. (Note: All averages are means rather than medians.)

- **How Does Arizona Compare with the Nation as a Whole?**

  While the average prison sentence in Arizona (6.4 years) is virtually identical to the national average of 6.3 years, Arizona inmates can expect to serve a much higher percentage of the sentence given than inmates do nationally. In Arizona the average expected percentage of the sentence to be served prior to release is 74.6%, resulting in an average expected length of stay of 4.7 years. Nationally, inmates serve an average of 31.6% of their imposed sentences prior to release, which results in a national average expected length of stay of 2.0 years. (Note: The national figures quoted, from a study by the Bureau of Justice Statistics, exclude life and death sentences, while the Arizona figures exclude Class 1 felonies [most life and death sentences], felony DWI, and Shock Incarceration. With Class 1 felonies included, the average sentence in Arizona comes to 6.9 years and the average expected length of stay 5.1 years.)

- **Are Arizona Inmates Serving More Time under the New Criminal Code?**

Analyses of historical data on time served for releases indicate that, for most categories of criminal offenses, inmates are serving significantly more time under the new criminal code than under the old code. For example, inmates sentenced for burglary or robbery are now serving roughly twice what they served under the old code, while those sentenced for homicide, sexual assault or aggravated assault are serving roughly half again as much time under the new code. These increases in time served appear to be associated primarily with the longer prison terms drawing from the mandatory sentencing statutes.

- **Which Types of Offenders are Targeted by Mandatory Sentencing?**

In all, there are 29 separate statutes under the new criminal code providing mandatory penalties of one form or another in Arizona. In some cases, these statutes no longer appear in the criminal code, but the Arizona prison system still houses inmates sentenced under these older statutes. The most frequently applied are those established pursuant to the following statutes:

- Dangerous and Repetitive Offenders (A.R.S. § 13-604)
- Dangerous Crimes Against Children (A.R.S. § 13-604.01)
- Offenses Committed while Released from Confinement (A.R.S. § 13-604.02)
- First Degree Murder (A.R.S. § 13-703)
- Second Degree Murder (A.R.S. § 13-710)
- Sexual Assault (A.R.S. § 13-1406)
- Trafficking in Marijuana - 8 lbs. or More (A.R.S § 13-3405)
- Trafficking in Dangerous Drugs (A.R.S. § 13-3407)
- Trafficking in Narcotic Drugs (A.R.S. § 13-3408)
- Felony DWI/DUI (A.R.S. § 28-692)

Overall, mandatory sentencing targets the following categories:

- Violent offenders
- Sex offenders
- Repeat offenders
- Drug traffickers
- Drunken drivers
- Escapees

- **Do Any First Offense Property Offenders Receive Mandatory Sentences?**

Excluding drunken drivers, who account for 36.2% of mandatory sentences imposed by the court (the mandatory penalty for which is relatively insignificant), the remaining group of felons subjected to the mandatory sentencing statutes consists of 23.1% violent offenders, 16.0% sex offenders, 43.3% repeat offenders, 16.2%

drug traffickers and 1.4% escapees. Notwithstanding the issue of "Hannah Priors," the Department's analysis indicates that there are no first offense property offenders subjected to mandatory sentencing in Arizona! Thus mandatory sentencing targets, in most cases, the most serious crimes and criminal behaviors. However, it should be noted that, according to the two previous studies of the criminal code, mandatory sentences are applied in only a small percentage of cases in which the offender is potentially "exposed" to such a penalty. Thus the issue arises as to how the mandatory sentences are actually applied and whether or not that application is consistent.

- **How Does Mandatory Sentencing Work?**

Mandatory sentencing statutes exact "enhancements" to the normal penalty structure of the new code in three separate ways, or any combination thereof:

1) Statutes which allow or require longer maximum sentences than would apply to the "run-of-the-mill" offender convicted of a given class of felony (e.g., 2 to 5 years with a presumptive sentence of 4 years for a Class 4 felony).

2) Statutes which require that a higher than average percentage of the sentence be served prior to release eligibility, typically either two-thirds or 100%.

3) Statutes which require that the sentence imposed be consecutive to any other sentence imposed by the court.

The Department's analysis indicates that in most cases of mandatory sentencing two or more of the three types apply and that the combined influence results in much longer expected prison terms for offenders sentenced under one of these statutes than similar offenders sentenced outside the mandatory sentencing structure.

- **How Many Active Inmates are Serving Mandatory Sentences?**

As of June 30, 1991, there were 7,914 inmates in the Arizona prison system serving mandatory sentences, 7,824 of whom were serving mandatories under the new criminal code (90 under the old code). The 7,914 inmates serving mandatory sentences constituted 52.2% of the active prison population of 15,150 as of June 30.

Of the 7,824 with new code mandatories, 545 were Class 1 felons and 637 had the DWI mandatory only. This leaves 6,642 or 43.8% of the total population constituting Class 2 through 6 felons serving mandatory sentences other than the six-month minimum required for conviction of felony DWI.

- **What is the Impact of Mandatory Sentencing on Prison Terms?**

  Excluding Class 1 felons, DWI offenders, and those placed in the Shock Incarceration program, a typical inmate sentenced to the Department of Corrections with a mandatory sentence can expect to do 2.7 times as much time to release as a comparable offender not sentenced under a mandatory provision. Specifically, those offenders sentenced with a mandatory can expect to do an average of 10.1 years to release, or 6.4 years more than the 3.7-year average that would be expected without the mandatory penalties. As is, (other) inmates sentenced without a mandatory can expect to do an average of 2.5 years.

- **What Portion of Prison Bedspace Usage is Due to Mandatory Sentencing?**

  During any given time frame, the prison sentences imposed by the court result in an expected total number of "bed-years" of time to be served by those committed. Our results indicate that 32.6% of the total bed-year investment of sentences imposed during the three-year period FY 1989-91 can be attributed solely to mandatory sentencing.

- **How Much Does Mandatory Sentencing Inflate Prison Cost?**

  The 32.6% figure given above is equivalent to a 48.3% inflation in the bed-year investment above what would have accrued absent mandatory sentencing. In other words, under current sentencing practices, with the current profile of committed offenders, and with a continuation of mandatory sentencing, the total cost of state-level incarceration in Arizona will be 48.3% higher in the long term than it would be absent mandatory sentencing. (Note: This estimate ignores the possible inflation in time served for DWI and Class 1 felonies carrying mandatory penalties, as well as the impact of mandatory sentencing on the number and type of commitments coming from the courts. Inflationary influences could well be arising in these areas also, but insufficient data are available to develop estimates.)

- **Has Mandatory Sentencing Reached Its Full Level of Impact?**

  Because of the longer lengths of mandatory sentences, insufficient time has passed since enactment of the new code and of the mandatory sentencing statutes for mandatory sentencing to have reached its full level of impact on prison population. For example, the average expected prison term for Class 2 felons with mandatory sentences is 17.5 years, yet it has only been 13 years since enactment of the new code. We cannot expect to reach a relative leveling-off in terms of impact on prison population growth until sometime in the next decade.

- **How About the Impact of the New Law Prohibiting Good Time Credits?**

  Finally, our analysis of the impact of mandatory sentencing is based almost totally on data concerning offenses committed prior to the effective date (September 27, 1990) of the new law prohibiting the earning of good time credits by inmates serving mandatory sentences. The impact of this law, which has not yet been adequately estimated, will extend above and beyond the level of impact discussed in this report.

- **What Can be Expected if Nothing is Done to Counter Mandatory Sentencing?**

  As of January 1, 1992 there were officially 14,994 beds available to house 15,464 inmates in Arizona. Of the population of 15,464, 3,866 inmates, or 25.0% of the total, were estimated to be in prison solely because of the longer terms associated with mandatory sentencing. Unless counter-measures are taken, the Department projects that the prison population will grow by approximately 6,000 inmates, to 21,464, by January 1, 1997. At that time, approximately 6,911 inmates, or 32.2% of the population, will be in prison for no other reason than mandatory sentencing. Accordingly, of the 6,470 additional beds required by that date to house the projected population, 3,045 must be provided solely to accommodate the state's current policy on mandatory sentencing.

INTRODUCTION

The purpose of this report from the Department of Corrections is to present the results of the Department's year-long study of the state's mandatory sentencing statutes. Specifically, the goal of the study was to provide reliable data concerning mandatory sentencing in Arizona and to systematically address the issue of the impact of mandatory sentencing on prison population. The present study complements the two other studies of the criminal code completed during the present calendar year, namely the "Arizona Criminal Code and Corrections Study" undertaken by the Institute for Rational Public Policy, Inc. (the Knapp study), and the "Felony Sentencing Study" completed by Dr. Michael Block for the Arizona Prosecuting Attorneys' Advisory Council (the Block study).

The emphasis of the Department's study contrasts markedly with that of the other two studies. While the Department has been concerned primarily with the question of impact on prison population, a quantitative issue, the other two studies were more concerned with qualitative issues. In the case of the Knapp study, the primary issue was the use (or abuse) of prosecutorial discretion in selectively applying the mandatory sentencing statutes. This issue certainly has quantitative ramifications. However, the primary emphasis of that study was qualitative. In the case of the Block study, the main issue concerned the use of prison space and whether or not significant amounts of space were being used to house less serious offenders. Again, despite quantitative overtones, that issue was and is primarily qualitative.

The Knapp study concluded that the selective application of mandatory sentences by prosecutors has caused a marked inequity in the lengths of prison terms awarded to similar offenders and that the implementation of a sentencing guidelines system would help alleviate this problem. In contrast, the Block study concluded that mandatory sentencing has <u>not</u> caused the build-up of a significant number of "first-time property offenders" in the prison population. In light of this and other results showing that the "space-hogs" in the Arizona prison system are primarily longer term, more serious offenders, the Block study concluded that the state's sentencing statutes are working appropriately.

The focus of the Department's study, on the other hand, is simply to present the facts on mandatory sentencing in as much meaningful detail as possible to allow an objective assessment of the long-term consequences of maintaining the mandatory sentencing policy in Arizona.

OVERVIEW OF MANDATORY SENTENCING IN ARIZONA

The new criminal code, which took effect on October 1, 1978, provides a "presumptive determinate" sentencing system which is in a sense a hybrid of determinate and indeterminate sentencing. The penalty structure tends toward determinacy in the sense that penalties are in large measure established directly by statute. The determinacy is "presumptive" in that ranges are provided around a typical or presumptive sentence for any given class and/or category of felony. The sentencing range allows judges the opportunity to apply aggravating and mitigating circumstances in arriving at an appropriate sentence for any given offender.

Indeterminacy enters into the picture in the sense that discretionary release at the "back-end" of the system exists in a variety of forms, including parole, work furlough, home arrest, provisional release, and temporary release. The system is distinguished also by an array of mandatory sentence provisions which amount to "exceptions" to the normal presumptive sentencing structure or that provide harsher than normal penalties for selected or "special" categories of offenders. Many of the mandatory penalties were, in fact, added to the code in the intervening 13 years since 1978. For example, the Dangerous Crimes Against Children provision (A.R.S. §13-604.01) took effect on May 16, 1985.

The mandatory penalties, by their very nature, limit the discretion of judges, and to an extent prosecutors, in the selection of appropriate punishments. In this sense, the "mandatories," as we will frequently refer to them, enhance and extend the basic determinacy of the sentencing structure in Arizona, and hence limit the range of sentencing outcomes possible under the new code. Thus, the mandatories, at least theoretically, shift decisions concerning penalties even more toward the Legislature and away from criminal justice practitioners. Nonetheless, charges have been made that the mandatories provide powerful plea bargaining tools which effectively place sentencing decisions in the hands of the prosecutors rather than the judges or the Legislature.

As noted in both the Knapp and Block studies, mandatory penalties, although frequently threatened, are infrequently applied. To quote from the Department's commentary on the Knapp report:

> The study examined sentencing patterns for 15,720 felons sentenced in Arizona Superior Court during the period from July 1, 1989 to June 30, 1990. Study findings indicate that although 8,920 offenders were eligible for a mandatory sentence (56.7%), only approximately 4,800 (53.8% of eligibles) were initially so-charged by prosecutors. Further, of those 4,800 who were charged with an "enhancement", just 1,297 or 27.0% were actually convicted under one of these provisions. Overall, just 14.5% of those who were eligible for a mandatory penalty actually received one.

While the Knapp report failed to properly identify many categories of mandatory sentences, and in fact underestimated the impact of mandatory sentencing, the fact remains that mandatory penalties are infrequently applied to those who are eligible to receive them.

Despite the infrequent application, however, when a mandatory is applied, the penalty is usually a harsh one, and typically far exceeds the range of penalties available outside the mandatory sentencing "toolbox." As a result, large-order differences in sentence length and time served in prison exist for similar offenders, subject purely to the differential application of these statutes. Due to these differences, mandatory sentencing has caused a buildup of longer term offenders in the prison system, and all indications are that this trend will continue for some years to come. In spite of the fact that only 14.5% of those eligible for a mandatory penalty actually receive one, over 50% of active inmates are now serving mandatory sentences.

What is Mandatory Sentencing?

In discussing mandatory sentencing, it is important to understand precisely what constitutes a "mandatory" sentence. Generically, the term "mandatory," when applied to sentencing, would seem to imply the lack (or limitation) of discretion on the part of the sentencing judge in terms of the choice of sentencing options. Thus, any statute which explicitly mandates incarceration would appear to fall in this category. In addition, the term mandatory would seem to apply also in cases where "enhanced" penalties are required by statute in select circumstances. In other words, the term mandatory applies in cases where the Legislature has "selectively" targeted certain categories of offenders for harsher sentencing.

In reviewing existing statutes, it would appear that mandatory sentences may be categorized as follows:

- Statutes which mandate incarceration such as the Dangerous and Repetitive Offender law, the felony DWI law, and the Dangerous Crimes Against Children law (first degree).

- Statutes which set a higher range of penalties than those which apply to the "run-of-the-mill" offender convicted of a given class of felony (e.g., 2 to 5 years with a presumptive sentence of 4 years for a Class 4 felony). Again, the Dangerous and Repetitive Offender law and the Dangerous Crimes Against Children law are of this type.

- Statutes which require that a minimum sentence be served prior to release, either in absolute terms as in the case of the six-month minimum for felony DWI, or in percentage terms such as the two-thirds and flat term laws.

- Statutes which require that the sentence imposed be consecutive rather than concurrent to any other sentence imposed by the court.

Technically speaking, virtually all offenders committed to the Department of Corrections receive mandatory sentences in the sense that A.R.S. § 41-1604.06.D requires that any inmate serve one-half of his or her sentence prior to parole eligibility. However, due to the work furlough (A.R.S. §31-233.C) and early parole (A.R.S. § 31-233.J) statutes, certain classes of offenders are eligible for release prior to serving one-half of the maximum sentence. For this reason, and because a minimum of one-half the imposed sentence is not viewed as

an exception to the basic penalty structure of the code, offenders in the Non-Dangerous/Non-Repetitive category according to A.R.S. § 13-604 are not normally viewed as carrying mandatory sentences unless some other statute applies.

In addition, it has become common practice to include all Dangerous and Repetitive Offenders per A.R.S. § 13-604 under the mandatory sentencing umbrella despite the fact that the enhanced penalties in these cases are built directly into the basic penalty structure of the code in its original form. Perhaps this is because prosecutors are not enforcing this statute in most cases. In this light, the relative norm from which we measure the notion of "enhancement" is the penalty structure for the Non-Dangerous/Non-Repetitive Offender carrying no other mandatory penalty. This penalty structure, which is established pursuant to A.R.S. § 13-701/702 and A.R.S. § 41-1406.06.D, requires that the offender serve one-half the maximum sentence prior to release eligibility, unless eligible for work furlough or early parole, and sets a range of penalties (sentences in years) for the judge as follows:

CLASS	MINIMUM	PRESUMPTIVE	MAXIMUM
2	5.25	7.00	14.00
3	3.75	5.00	10.00
4	2.00	4.00	5.00
5	1.00	2.00	2.50
6	0.75	1.50	1.87

Pursuant to A.R.S. § 13-702.C the lower and upper extremes of the sentencing range may be used only if mitigating or aggravating factors are established by the court. Accumulated evidence indicates that in the case of the Non-Dangerous/Non-Repetitive Offender, the presumptive sentence is given in most cases. Thus, for most inmates not carrying mandatory sentences, the sentence imposed is the presumptive and from 50% to 100% of this sentence must be served prior to release. Statistical data on releases indicate that inmates without mandatory sentences serve on the average 63.3% of the maximum sentence prior to release. In this light, the following ranges indicate the normal span that penalties (expected time to be served) can take in Arizona for inmates not carrying mandatory sentences:

CLASS	MINIMUM TERM	EXPECTED TERM	MAXIMUM TERM
2	3.50	4.43	7.00
3	2.50	3.16	5.00
4	2.00	2.53	4.00
5	1.00	1.27	2.00
6	0.75	0.95	1.50

Time Served without Mandatory Sentencing

As the major focus of this report concerns the impact of mandatory sentencing on global punishment levels, including average sentence length and time served in prison, as well as the impact on prison population, it is instructive to simulate (in rough terms) what sentencing results might look like under the non-mandatory sentencing scenario outlined in the table immediately above. For this purpose, we make use of findings from the present study which indicate the following distribution of felony classes among offenders committed to the Department during the period FY 1989-91 (excluding DWI commitments and placements in the Shock Incarceration program):

CLASS	1	2	3	4	5	6
%	1.6%	16.1%	29.4%	23.0%	8.7%	21.1%

Given this percentage distribution of new commitments, and the minimum, expected and maximum terms by class from the preceding table, it is straightforward to calculate an average minimum term of 2.0 years, an average expected term of 2.6 years, and an average maximum term of 4.1 years.

> *Given the percentage distribution of felony classes of offenders committed to the Department of Corrections during the period FY 1989-91, if sentencing was subject solely to non-mandatory terms, the average committed offender (Class 2 through 6) could expect to do 2.6 years on a 4-year sentence. The 2.6-year average term would constitute a 30% longer average term for Arizona than the 2-year average term in prison found to hold nationally by a Bureau of Justice Statistics study concerning sentencing activity during 1988.* Note: These are rough estimates only.*

The estimates of average sentence length and time served in Arizona prisons assume no mandatory sentencing and hence underestimate actual averages under current statutes. They also fail to take into account the fact that sentences sometimes run consecutively, which would result in higher averages than those given above. A major focus of the remaining portion of this report will be to develop a true estimate of actual average time served and to determine how much of that average is due to mandatory sentencing.

The referenced BJS study found that a total of 667,000 persons were convicted of a felony offense in State courts in 1988, including 15% for a violent felony, 29% for burglary or larceny, 17% for drug trafficking, and 39% for other offenses. The study also found that nationally, 44% of convicted felons were sentenced to state prisons, that the average (mean) sentence was 76 months or 6.3 years (excluding life and death sentences), and that the average estimated time to be served in prison for all offenses was 24 months or 2.0 years. On average, prisoners on a national level served 31.6% of the sentence imposed (2.0 years of a 6.3-year average sentence).

* Felony Sentences in State Courts, 1988, A Bulletin of the Bureau of Justice Statistics, U.S. Department of Justice, December, 1990.

In is interesting to compare the average percentage of sentence served nationally (31.6%) with what might be expected in Arizona. Even without mandatory sentencing, Arizona inmates would do approximately twice the percentage (63.3% to 31.6%) that inmates do nationally. With mandatory sentencing, which often requires that either two-thirds of the sentence or the full sentence be served, that percentage should go even higher.

> *On the face of things, then, it does not take an in-depth analysis of mandatory sentencing statutes to conclude that prison terms in Arizona exceed the national average and perhaps do so by a considerable extent. It should be clearly noted at this stage that the 2.6-year figure given above for the average expected term in prison in Arizona absent mandatory sentencing was only a rough estimate arrived at without reference to actual data on sentencing or time served. Nonetheless, the estimate is remarkably close to the 2.8-year estimate developed later in the report which does take into account actual data. Thus, what we might expect from a cursory view of our sentencing statutes actually holds true in this case.*

Statutory Authority for Mandatory Sentencing

To estimate the impact of mandatory sentencing on sentence length, time served, and prison population, it is clearly necessary to identify which offenders carry mandatory sentences, and how these sentences work to effect longer terms in prison. Obviously, to accomplish this, it is necessary, in turn, to identify the statutory authority for mandatory sentencing. The following, then, constitutes a complete listing of new code statutes providing for mandatory penalties of the various types discussed above. We must note for the record that in some cases, the indicated statute no longer appears in the criminal code, in which case we include the statute in question due to the presence in the Arizona system of inmates serving sentences imposed under the statute.

Statutory Reference	Description
A.R.S. § 13-604	Dangerous Offenders
A.R.S. § 13-604	Repetitive Offenders
A.R.S. § 13-604.M	Offenses Committed while on Bail or Recognizance
A.R.S. § 13-604.N	Third Serious Offense
A.R.S. § 13-604.01	Dangerous Crimes Against Children
A.R.S. § 13-604.02	Offenses Committed while Released from Confinement
A.R.S. § 13-703	First Degree Murder
A.R.S. § 13-710	Second Degree Murder
A.R.S. § 13-1003.D	Conspiracy to Commit a Class 1 Felony
A.R.S. § 13-1206	Dangerous or Deadly Assault by Prisoner
A.R.S. § 13-1207	Assault with Intent to Incite/Participate in Riot
A.R.S. § 13-1304	Kidnapping of a Minor under 15 Years of Age
A.R.S. § 13-1405	Sexual Conduct with a Minor under 14 Years of Age
A.R.S. § 13-1406	Sexual Assault
A.R.S. § 13-1406.01	Sexual Assault of a Spouse
A.R.S. § 13-1410	Child Molestation (former law)

Statutory Reference	Description
A.R.S. § 13-2308	Participation in a Criminal Syndicate (with a Minor)
A.R.S. § 13-2312	Illegally Conducting an Enterprise (with a Minor)
A.R.S. § 13-2503	Escape in the Second Degree
A.R.S. § 13-2504	Escape in the First Degree
A.R.S. § 13-3405	Possess for Sale, Produce, Sell or Transport Marijuana
A.R.S. § 13-3406	Possession and Sale of Narcotic Drugs (former law)
A.R.S. § 13-3407	Possess for Sale, Manufacture or Administer Dangerous Drugs
A.R.S. § 13-3408	Possess for Sale, Manufacture or Administer Narcotic Drugs
A.R.S. § 13-3409	Involving or Using Minors in Drug Offenses
A.R.S. § 13-3410	Serious Drug Offender
A.R.S. § 13-3411	Possess, Use or Sell Drugs Near School Grounds
A.R.S. § 28-692	Driving while Intoxicated
A.R.S. § 36-1002	Miscellaneous Narcotic Drug Offenses

Dangerous and Repetitive Offenders

By far the most commonly applied of the mandatory sentencing statutes is the Dangerous and Repetitive Offender statute (A.R.S. § 13-604). This statute defines the circumstances under which "Dangerousness" and "Repetitiveness" apply, and establishes a penalty structure for Dangerous and Repetitive offenders which is systematically more punitive than that set out for the Non-Dangerous/Non-Repetitive offender. The penalty structure, as noted previously, is more punitive both in terms of the extended range of sentences available to the judge, and in terms of the requirement that at least 2/3 of the sentence (rather than 1/2) be served prior to parole or any other form of release (all but for the Class 4, 5 or 6 Non-Dangerous offender with one prior). (Note: The issue of "Hannah Priors" is not considered in this report.)

A.R.S. § 13-604 effectively establishes a classification system for convicted felons with an associated presumptive penalty structure as follows (sentences in years):

TYPE*	Class 2	Class 3	Class 4	Class 5	Class 6
ND/NR	7.0	5.0	4.00	2.00	1.50
ND/R1	10.5	7.5	6.00	3.00	2.25
ND/R2	15.75	11.25	10.00	5.00	3.75
D/NR	10.5	7.5	6.00	3.00	2.25
D/R1	15.75	11.25	10.00	5.00	3.75
D/R2	28.00	20.00	14.00	7.00	5.25

* ND = Non-Dangerous, D = Dangerous, NR = Non-Repetitive, R1 = Repetitive 1 (one prior felony conviction), and R2 = Repetitive 2 (two or more prior felony convictions).

A.R.S. § 13-604 also requires that either 1/2 or 2/3 of the sentence be served prior to release eligibility as follows:

TYPE*	Class 2	Class 3	Class 4	Class 5	Class 6
ND/NR	-	-	-	-	-
ND/R1	2/3	2/3	1/2	1/2	1/2
ND/R2	2/3	2/3	2/3	2/3	2/3
D/NR	2/3	2/3	2/3	2/3	2/3
D/R1	2/3	2/3	2/3	2/3	2/3
D/R2	2/3	2/3	2/3	2/3	2/3

The statute as stated does not set a minimum percentage of sentence to be served prior to release for Non-Dangerous/Non-Repetitive offenders. However, three other statutes dictate the release eligibility for offenders in this general category. As stated above, A.R.S. § 41-1406.06.D establishes that parole eligibility cannot occur until 1/2 the maximum sentence has been served. The criteria for release on parole, for those eligible, are then established under A.R.S. § 31-412.A. Thus, technically, Non-Dangerous/Non-Repetitive offenders also must serve 1/2 of the sentence until eligible for release. The exceptions to this rule are established under A.R.S. § 31-233.C and A.R.S. § 31-233.J. (Note: These statutes have undergone some degree of revision over time.)

Particularly, A.R.S. § 31-233.C allows the Board of Pardons and Paroles to authorize the release of an inmate on "work furlough" any time within 12 months (formerly 14 months) of his parole eligibility date, assuming that the inmate has served not less than six months of his or her sentence and has not been convicted of a sexual offense. Thus, subject to further rules established by the Board, a certain number of Non-Dangerous/Non-Repetitive offenders are eligible for release on work furlough prior to serving 1/2 of the sentence imposed, and this includes selected Class 2 and 3 offenders.

Also, A.R.S. § 31-233.J allows the Department, under conditions of overcrowding in the prison system, to suspend the normal parole eligibility rules, and to certify as eligible for release on "early parole", home arrest, or work furlough any inmate who:

- Has served not less than six months of the sentence imposed,
- Has not been previously convicted of a felony,
- Has been convicted of a Class 4, 5 or 6 felony not involving a sexual offense or the use or exhibition of a deadly weapon or dangerous instrument or the infliction of serious physical injury pursuant to A.R.S. § 13-604.

This eligibility is continuous as long as the prison overcrowding condition remains in effect as declared by the Director of the Department. Thus a sub-category of the category of Non-

Dangerous/Non-Repetitive Class 4, 5 or 6 inmates is eligible for release any time after having served six months of the sentence, assuming of course that the state of overcrowding is in effect (which has been the case almost continuously since passage of the law).

On the face of it, the sub-category identified in A.R.S. § 31-233.J would seem to be virtually identical with the broad Non-Dangerous/Non-Repetitive Class 4, 5 or 6 category itself. However, the fact of having "no priors" is somewhat more restrictive then the classification of the offender as Non-Repetitive by the court. The Department, in order to comply with the wording of the law, screens incoming inmates in the broader category and certifies eligibility for release under A.R.S. § 31-233.J only those inmates who actually have no prior felony conviction on the record. This would exclude those with prior prison terms or felony probations (including those who were convicted of a new felony while on first offense felony probation). Thus any offender who has a prior but is not found by the court to be a Repetitive Offender is not eligible for release under this statute. For such offenders, A.R.S. § 41-1406.06.D supersedes and denies release eligibility until 1/2 the sentence has been served.

Coupling these latter observations with the fact that only a minority of inmates eligible for release under A.R.S. § 31-233.C or A.R.S. § 31-233.J are approved for release by the Board (22.4% under A.R.S. § 31-233.C and 34.5% under A.R.S. § 31-233.J during FY 1990-91 according to Board statistics), the vast majority of inmates in the broad category of "Non-Dangerous/Non-Repetitive Class 4, 5 or 6 do not have a realistic chance of release until at least 1/2 of the sentence has been served. In fact, according to results of the present study, inmates who served non-mandatory sentences and who were released during FY 1989-91 served an average of 63.3% of their sentence prior to release, which is well in excess of the minimum of 50% established under A.R.S. § 41-1406.06.D.

For these reasons, the minimum of 1/2 the sentence that must be served by Class 4, 5 or 6 felons in the Repetitive 1 category also applies (effectively) to the Non-Dangerous/Non-Repetitive category as well. Accordingly, the following "minimum" terms, reflecting earliest release eligibility, may be specified in relation to the Dangerous and Repetitive classification by applying either the 1/2 or 2/3 eligibility criteria to the presumptive sentences given above: It should be emphasized that these numbers apply to presumptive sentences only and not to other sentences given within the allowable ranges.

TYPE*	Class 2	Class 3	Class 4	Class 5	Class 6
ND/NR	3.50	2.50	2.00	1.00	0.75
ND/R1	7.00	5.00	3.00	1.50	1.125
ND/R2	10.50	7.50	6.67	3.33	2.50
D/NR	7.00	5.00	4.00	2.00	1.50
D/R1	10.50	7.50	6.67	3.33	2.50
D/R2	18.67	13.33	9.33	4.67	3.50

From the above, it can be calculated that minimum terms for Class 2 and 3 felons are from 2.00 to 3.00 to 5.33 times as long for Dangerous and/or Repetitive offenders as they are for those in the Non-Dangerous/Non-Repetitive category. Similarly, minimum terms for Class 4, 5 and 6 offenders are from 1.50 to 2.00 to 3.33 to 4.66 times as long. Clearly, then, when A.R.S. § 13-604 is applied, it results in substantially longer minimum terms than when it is bypassed for one reason or another. This is particularly significant in light of the findings from the Knapp study that:

- *Only 12.6% of those who are eligible for sentencing under the Repetitiveness section of A.R.S. § 13-604, and only 23.6% of those who are charged under it by prosecutors, are actually sentenced pursuant to it.**

- *Only 13.3% of those eligible for sentencing under the Dangerousness section of A.R.S. § 13-604, and only 23.1% of those who are charged under it by prosecutors, are actually sentenced pursuant to it.**

Those who are either eligible for such an enhancement or are charged with the enhancement, or both, and who manage to avoid the actual penalty through plea bargaining or other means, are subject to much shorter sentences and minimum terms than are those who do not avoid enhanced penalties under this statute.

Dangerous Crimes Against Children

The second most elaborate of the mandatory sentencing statutes, and also the third most frequently used (behind A.R.S. § 13-604 and the felony DWI law A.R.S. § 28-692), is A.R.S. § 13-604.01 (Dangerous Crimes Against Children). This statute applies to a variety of crimes under Title 13 of the code in circumstances where a minor is the victim. This statute, which took effect on May 16, 1985, is also based on a classification of offenders according to the seriousness of the crime and the presence of prior offenses.

The four categories of seriousness under this statute are as follows:

- Category A: First degree involving second degree murder, sexual assault, sexual conduct with a minor, taking a child for the purpose of prostitution, child prostitution or involving or using minors in drug offenses.

- Category B: First degree involving aggravated assault, molestation of a child, commercial sexual exploitation of a minor, child abuse or kidnapping.

- Category C: First degree involving sexual abuse.

- Category D: Second degree.

* Arizona Criminal Code and Corrections Study, Final Report to the Legislative Council, Institute for Rational Public Policy, Inc., June 30, 1991, pp. 27-28.

Dangerous Crimes Against Children in the "first degree" refers to completed offenses. Such crimes carry a flat term (no release prior to sentence expiration), which must be consecutive to any other sentence imposed at any time. In addition, after confinement the offender must be placed on lifetime parole.

Dangerous Crimes Against Children in the "second degree" refers to preparatory offenses (attempt, solicitation, conspiracy, or facilitation), and is probation-eligible, but if a prison sentence is imposed, a minimum of one-half of the sentence must be served prior to release. Again, the sentence imposed must be consecutive to any other sentence imposed at any time, and lifetime parole is required.

The three categories dealing with priors are as follows:

- First Offense: No prior predicate felony.
- One Predicate Felony: One prior predicate felony.
- Two Predicate Felonies: Two or more prior predicate felonies.

According to A.R.S. § 13-604.01.K.2, "predicate felony" means any felony involving child abuse, a sexual offense, conduct involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument, or a dangerous crime against children in the first or second degree. "Dangerous crime against children," as used in this portion of the statute, refers to any of the following crimes committed against a minor under 15 years of age: Second degree murder; aggravated assault resulting in serious physical injury or committed by the use of a deadly weapon or dangerous instrument; sexual assault; molestation of a child; sexual conduct with a minor; commercial sexual exploitation of a minor; sexual exploitation of a minor; child abuse as defined in § 13-3623, subsection B; kidnapping; sexual abuse; taking a child for the purpose of prostitution; child prostitution; and involving or using minors in drug offenses.

The penalty structure (sentence ranges and presumptive sentences) for Dangerous Crimes Against Children is entirely separate from the structure for other offenses as discussed above. Sentencing ranges, specified as Minimum/Presumptive/Maximum (in years), and assigned based on the combination of seriousness and priors as outlined above, are as follows:

SERIOUSNESS	FIRST OFFENSE	ONE PREDICATE	TWO PREDICATES
Category A	15/20/25	25/30/35	Life
Category B	12/17/22	23/28/33	Life
Category C	5/10/15	10/15/20	Life
Category D	5/10/15	N/A	N/A

In practice, most of the first degree offenses under this statute are Class 2 felonies falling in

either Category A or B, while most of the second degree offenses are Class 3 felonies (attempts) all falling in Category D. With infrequent exceptions, the Dangerousness subsection of A.R.S. § 13-604 cannot be applied in the case of Dangerous Crimes Against Children inasmuch as a weapon is seldom used and there is seldom serious physical injury to the victim. Thus the sentencing ranges of 15/20/25 and 12/17/22 for a first offense may be compared with the 5.25/7/14 range available for the Non-Dangerous/Non-Repetitive Class 2 offender.

Further, in the case of a first offense, first degree Dangerous Crimes Against Children, there is no release eligibility and hence 100% of the sentence must be served, while for any other Non-Dangerous/Non-Repetitive (ND/NR) Class 2 felony the only requirement is that 1/2 the sentence be served. Thus if the presumptive sentence of 17 or 20 years is given, time served will be either 17 or 20 years, which compares with a 3.5-year parole eligibility for other ND/NR Class 2 felons. This amounts to a possible time served differential of as much as 5 or 6 to 1.

It should be noted in this regard that prior to May 16, 1985, crimes which since that date have been charged under A.R.S. § 13-604.01, fell under the sentencing structure previously discussed, with the following possible additional enhancements:

- Child Molestation

  A five-year minimum sentence and the requirement that 2/3 of the sentence be served for the crime of Child Molestation (A.R.S. § 13-1410),

- Sexual Conduct with a Minor

  A requirement that the full term must be served for Sexual Conduct with a Minor where the victim is under 14 years of age (A.R.S. §13-1405).

- Sexual Assault

  A requirement that the full term must be served for Sexual Assault of a minor (A.R.S. § 13-1406).

Thus, previously, in cases of Child Molestation, and of Sexual Conduct with a Minor where the victim was 14 years of age or older, no more than two-thirds of the term need be served to release eligibility (1/2 in the latter case). Thus, particularly since the Dangerous and Repetitive Offender statute seldom applies to child sex offenders, prior to the effective date of the Dangerous Crimes Against Children law, the penalty structure for child sex offenses was much less harsh than it is now.

Offenses Committed while Released from Confinement

In addition to the Dangerous and Repetitive Offender and the Dangerous Crimes Against Children statutes, the other statute playing a significant role in the mandatory sentencing

repertoire is A.R.S. § 13-604.02 (Offenses Committed while Released from Confinement). This statute concerns the commission (and conviction) of a felony offense while under some form of release such as probation, parole, work furlough or escape, which is in conjunction with a previous conviction for a felony offense. This statute provides, in a sense, an enhancement to the Repetitive Offender statute in situations where the offender is still under supervision (or on escape) on a previous felony offense.

This statute mandates a life sentence and a minimum term of 25 years in cases where the new offense is of a dangerous nature (per A.R.S. § 13-604) or is a felony drug crime in violation of A.R.S. §§ 13-3404.01, 13-3405 involving 8 pounds or more of marijuana, 13-3406, 13-3407, 13-3408, or 13-3409. In other situations, the statute requires a sentence not less than the presumptive and mandates that the entire sentence be served prior to release. In both cases, the sentence imposed must be consecutive to any other Arizona sentence effective at the time of the new offense.

While in this report we judge the impact of this statute in comparison to a "no mandatory sentencing scenario," theoretically at least it might also be appropriate to weigh its impact against the standard established by the Repetitive Offender statute. In the latter case, we would be comparing a life sentence with a 25-year minimum, or a flat term, with a sentence that normally carries either 1/2 or 2/3 eligibility (primarily 2/3). The exact impact of this difference would depend on the class of the offense and whether or not the Dangerous and/or Repetitive Offender statute was applied in addition. Statistical information to be presented below indicates a much higher penalty level for this statute than for the Repetitive Offender statute in the case of the Life plus 25 situation, and an average penalty level somewhere between that of Repetitive 1 and Repetitive 2 for the flat term situation.

Additional Mandatory Sentencing Statutes

As indicated previously, there are a total of 29 separate statutes invoking mandatory penalties of one form or another, some of which are no longer part of the criminal code. We are considering several statutes which are no longer in effect because some inmates are still serving sentences imposed under them.

Table 1, spanning pages 14-18 of this report, provides a detailed description of the salient factors associated with each of the statutes imposing mandatory penalties under the new criminal code, including:

- An A.R.S. reference,
- The effective date of the statute,
- A title or description,
- The specific category or subcategory to which a given penalty applies, and
- The nature of the exception or enhancement to the standard penalty structure.

Of those listed, the following account for the vast bulk of mandatory sentences imposed by the court (among new commitments). In order of frequency of occurrence:

- Dangerous and Repetitive Offenders

- Driving under the Influence of Intoxicating Liquor (felony DWI)
- Dangerous Crimes Against Children
- Trafficking in Narcotic Drugs

The following occur somewhat less frequently, but are nonetheless significant in numbers:

- Offenses Committed while Released from Confinement
- First Degree Murder
- Second Degree Murder
- Sexual Assault
- Trafficking in Marijuana
- Trafficking in Dangerous Drugs

In the following sections, statistical data and analyses are presented which illustrate the bottom line on mandatory sentencing in Arizona in terms of the numbers of offenders receiving such sentences, or serving them actively, and in terms of the differential in sentence length and time served between those who receive mandatory penalties and those who do not, and particularly for similar categories of offenders. This will allow a more accurate assessment of the true level of impact of mandatory sentencing than we have been able to give in this section. The calculations provided above were given from a non-statistical viewpoint (without recourse to case data) to demonstrate that the nature of the statutes themselves dictate to a great extent the magnitude of the difference in penalties associated with mandatory sentencing. Thus, if one does not trust statistical data, it is still possible to arrive at some determination of the significance of the "mandatories."

TABLE 1
Summary of Mandatory Sentence Statutes, as of June 30, 1991

A.R.S. SECTION	EFFECTIVE	TITLE	CATEGORY	EXCEPTION
13-604	10-1-78	Dangerous and Repetitive Offenders	See below	See below
		Dangerous Offender (Mandatory)	Use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another	See below
		Repetitive Offender (Mandatory)	See below	See below
		Non-Dangerous/Non-Repetitive ..... (Non-Mandatory)	Class 2 or 3 & no prior felony conviction Class 2 Presumptive - 7 Years Class 3 Presumptive - 5 Years	Range from 3/4 to twice the presumptive sentence based on aggravating or mitigating circumstances (this is the standard range for Class 2 and 3 offenders and is not an exception)
		Non-Dangerous/Non-Repetitive ..... (Non-Mandatory)	Class 4, 5 or 6 & no prior felony conviction in last 10 years Class 4 Presumptive - 4 Years Class 5 Presumptive - 2 Years Class 6 Presumptive - 1.5 Years	Range from 1/2 to 5/4 the presumptive sentence based on aggravating or mitigating circumstances (this is the standard range for Class 4, 5 and 6 offenders and is not an exception)
		Repetitive (One Prior) ..... (Dangerous or Non-Dangerous)	Class 2 or 3 & one prior felony conviction	Range from one to three times the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of the same class. Presumptive sentence is 3/4 of the median of the allowable range. Must serve 2/3 of the sentence imposed prior to release eligibility.
		Repetitive (One Prior) ..... (Dangerous or Non-Dangerous)	Class 4, 5 or 6 & one prior felony conviction in the last ten years	Range from one to two times the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of the same class. Presumptive sentence is the median of the allowable range. Must serve 1/2 of the sentence imposed prior to release eligibility.
		Repetitive (Two Priors) ..... (Dangerous or Non-Dangerous)	Class 2 or 3 & two prior felony convictions	Range from two to four times the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of the same class. Presumptive sentence is 3/4 of the median of the allowable range. Must serve 2/3 of the sentence imposed prior to release eligibility.
		Repetitive (Two Priors) ..... (Dangerous or Non-Dangerous)	Class 4, 5 or 6 & two prior felony convictions	Range from two to three times the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of the same class. Presumptive sentence is the median of the allowable range. Must serve 2/3 of the sentence imposed prior to release eligibility.

TABLE 1
Summary of Mandatory Sentence Statutes, as of June 30, 1991

A.R.S. SECTION	EFFECTIVE	TITLE	CATEGORY	EXCEPTION
		Dangerous/Non-Repetitive	Class 2 or 3 & no prior felony conviction	Range from one to three times the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of the same class. Presumptive sentence is 3/4 of the median of the allowable range. Must serve 2/3 of the sentence imposed prior to release eligibility.
		Dangerous/Non-Repetitive	Class 4, 5 or 6 & no prior felony conviction	Range from one to two times the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of the same class. Presumptive sentence is the median of the allowable range. Must serve 1/2 of the sentence imposed prior to release eligibility.
		Dangerous/Repetitive ..... (One Prior/Class 1, 2 or 3 Dangerous)	Class 2 or 3 & one prior conviction for a Class 1, 2 or 3 dangerous felony	Range from two to four times the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of the same class. Presumptive sentence is 3/4 of the median of the allowable range. Must serve 2/3 of the sentence imposed prior to release eligibility.
		Dangerous/Repetitive ..... (One Prior/Dangerous)	Class 4, 5 or 6 & one prior conviction for a dangerous felony	Range from two to three times the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of the same class. Presumptive sentence is the median of the allowable range. Must serve 2/3 of the sentence imposed prior to release eligibility.
		Dangerous/Repetitive ..... (Two Priors/Class 1, 2 or 3 Dangerous)	Class 2 or 3 & two prior convictions for a Class 1, 2 or 3 dangerous felony	Range from three to five times the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of the same class. Presumptive sentence is the median of the allowable range. Must serve 2/3 of the sentence imposed prior to release eligibility.
		Dangerous/Repetitive ..... (Two Priors/Dangerous)	Class 4, 5 or 6 & two prior convictions for a dangerous felony	Range from three to four times the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of the same class. Presumptive sentence is the median of the allowable range. Must serve 2/3 of the sentence imposed prior to release eligibility.
13-604.M	8-4-84	Offenses Committed while Released ..... on Bail or Own Recognizance	-	2 years consecutive to any other sentence imposed
13-604.N	8-4-84	Third Serious Offense	-	Life sentence & must serve 25 years

TABLE 1
Summary of Mandatory Sentence Statutes, as of June 30, 1991

A.R.S. SECTION	EFFECTIVE	TITLE	CATEGORY	EXCEPTION
13-604.01	5-16-85	Dangerous Crimes Against Children	1st Degree and 2+ Predicate Felonies	Life sentence & must serve 35 years & sentence must be consecutive to any other sentence imposed
			1st Degree	Must serve the sentence imposed & sentence must be consecutive to any other sentence imposed
			2nd Degree	Must serve 1/2 of the sentence imposed & sentence must be consecutive to any other sentence imposed
13-604.01 (Old)	7-24-82	Offenses Committed while Released ..... from Confinement	Dangerous or Drug Crime	Life sentence & must serve 25 years & sentence must be consecutive to any other sentence imposed
13-604.02 (New)	5-16-85		Other Crime	Sentence not less than the presumptive & must serve the sentence imposed & sentence must be consecutive to any other sentence imposed
13-703	5-16-85	First Degree Murder	Victim under 15 Years of Age	Life or death sentence & must serve 35 years
	10-1-78		Victim 15 Years of Age or Older (or pre-1985)	Life or death sentence & must serve 25 years
13-710	8-4-84	Second Degree Murder	Prior 2nd Degree Murder or Dangerous Offense	15-25 year sentence & must serve the sentence imposed
			All Other	10-20 year sentence & must serve the sentence imposed
13-1003.D	10-1-78	Conspiracy to Commit a Class 1 Felony	-	Life sentence & must serve 25 years
13-1206	10-1-78	Dangerous or Deadly Assault by Prisoner ...	-	Life sentence & must serve 25 years
	8-4-84		-	Must serve 2/3 of the sentence imposed
	5-16-87		-	Must serve the sentence imposed & sentence must be consecutive to any other sentence imposed
13-1207	5-16-87	Prisoners who Commit Assault with Intent .. to Incite Riot or Participate in Riot	-	Must serve the sentence imposed & sentence must be consecutive to any other sentence imposed
13-1304	5-16-89	Kidnapping of a Minor ..... under 15 Years of Age	-	Sentence must be consecutive to any other sentence imposed
13-1405	7-20-83	Sexual Conduct with a Minor under ..... 14 Years of Age	-	Must serve the sentence imposed
13-1406	5-16-89	Sexual Assault	Dangerous offense & prior sexual assault	Life sentence & must serve 25 years
	7-24-82		All Others	Must serve the sentence imposed

TABLE 1
Summary of Mandatory Sentence Statutes, as of June 30, 1991

A.R.S. SECTION	EFFECTIVE	TITLE	CATEGORY	EXCEPTION
13-1406.01	5-16-89	Sexual Assault of a Spouse	Subsequent offense	Must serve the sentence imposed
13-1410	10-1-78	Child Molestation	-	Must serve 2/3 of the sentence imposed & must serve 5 years
13-2308	9-27-90	Participation in a Criminal Syndicate	Hiring, engaging, or using a minor	Must serve the sentence imposed
13-2312	9-27-90	Illegal Control of an Enterprise; ..... Illegally Conducting an Enterprise	Hiring, engaging, or using a minor	Must serve the sentence imposed
13-2503	10-1-78	Escape in the Second Degree	-	Sentence must be consecutive to any other sentence imposed
13-2504	10-1-78	Escape in the First Degree	-	Sentence must be consecutive to any other sentence imposed
13-3405	8-18-87	Possession, Use, Production, Sale ..... or Transportation of Marijuana	Possess for sale, produce, transport for sale, import into state, offer to transport for sale or import into state, sell, transfer, or offer to sell or transfer an amount of 8 lbs. or more	Must serve 2/3 of the sentence imposed
13-3406 (Old Law)	9-1-81 to 8-18-87	Possession and Sale of Narcotic Drugs: .... Inducing Minor to Traffic in or Use Narcotic Drugs	-	Must serve 2/3 of the sentence imposed & must serve 5 years
13-3407	8-18-87	Possession, Use, Administration, ... Acquisition, Sale, Manufacture, or Transportation of Dangerous Drugs	Possess for sale, manufacture, or administer to another person	Must serve 2/3 of the sentence imposed
			Transport for sale, import into state, offer to transport for sale or import, sell, transfer or offer to sell or transfer	Must serve the sentence imposed
13-3408 (New Law)	8-18-87	Possession, Use, Administration, ... Acquisition, Sale, Manufacture, or Transportation of Narcotic Drugs	Possess for sale, manufacture, administer to another person, transport for sale, import into state, offer to transport for sale or import, sell, transfer or offer to sell or transfer	Must serve the sentence imposed
13-3409	8-18-87	Involving or Using Minors in Drug Offenses	-	Must serve the sentence imposed
13-3410	8-18-87	Serious Drug Offender	-	Life sentence & must serve 25 years
13-3411	8-18-87	Possession, Use or Sale of Marijuana, ... Dangerous Drugs, or Narcotic Drugs on	-	Must serve 1/2 of the sentence imposed

TABLE 1
Summary of Mandatory Sentence Statutes, as of June 30, 1991

A.R.S. SECTION	EFFECTIVE	TITLE	CATEGORY	EXCEPTION
		School Grounds or Near Schools		
28-692	7-24-82	Driving under the Influence of ..... Intoxicating Liquor (Third Offense or while License is Suspended or Cancelled)	3rd Offense or while License is Suspended or Cancelled	Must serve 6 months
36-1002	10-1-78	Narcotic Drug Offenses	-	Must serve 2/3 of the sentence imposed & must serve 5 years

STUDY METHODOLOGY

The information source for the statistical portion of the Department's study of mandatory sentencing is the Adult Inmate Management System (AIMS). Research Unit staff are indebted to the staff of the Management Information Services Bureau for restructuring the "extract" files used for statistical analysis to allow us to undertake a comprehensive study of mandatory sentencing practices and their impact on prison population. Time computation flags were added to the files which allow an accurate identification of inmates serving mandatory sentences, the precise statutes under which the sentence was imposed (including enhancements), plus the time computation procedures applicable to any given case.

This has allowed Research staff to compute for each inmate a single "maximum" sentence reflecting the net time span of all concurrent and consecutive sentences, a "minimum" sentence reflecting the least amount of time that an inmate must serve prior to release eligibility, and an "expected term" indicating the likely portion of the maximum sentence that the inmate must serve prior to release. Averages (means) of these three penalty measures are provided for every individual category of committed offender examined in this report. In addition, medians and other percentiles are provided in the case of the expected term variable to clarify the nature of the data distribution and the impact of "outliers" on the mean value.

Expected terms for active inmates and for commitments from the court were computed by applying figures on "expected percentage of the sentence to be served," which were derived from an analysis of time served in relation to sentence length for inmates released during the period FY 1989-91. The results of this analysis indicated that the major determinant of the percentage of the sentence to be served prior to release is the nature of the mandatory sentence imposed (if any), and particularly of the percentage of the sentence that must be served prior to release eligibility, whether it be one-half, two-thirds, or 100%. To the surprise of the staff, the expected percentage of the sentence to be served turned out to be independent of the felony class of the inmate and of the nature of the crime committed (that is, beyond the association with mandatory sentencing).

Thus it would appear from our analysis that prison terms in Arizona are determined primarily by sentencing statutes and practices, including the nature of mandatory sentences imposed, and by the precise lengths of sentences imposed by the judges within the allowable ranges. While the decisions made by the Board of Pardons and Paroles and the Department concerning the granting of parole, work furlough, home arrest, provisional release and temporary release affect the length of prison terms, it is difficult to quantify these factors and the exact nature of their impact. Thus, our estimates of expected time to be served are based only on the nature of the mandatory penalty imposed. We found, however, relatively low levels of variance in applying these estimates to predict the terms of released offenders. Thus, we feel that they provide reliable indicators which can be applied to new commitments and active prisoners. The estimates utilized will be given below.

It should also be noted that an extensive amount of "data cleaning" was necessary in order to properly identify inmates serving mandatory sentences and to otherwise accurately classify inmates according to felony type, sentence length, and status as lifers or death row inmates,

among others. In the end, it was necessary to consider virtually every case individually to ensure the quality of the analysis and of the resulting findings. The development of a quality database, in fact, required much more in the way of time and resources than the analysis portion of the project. This study of mandatory sentencing actually began back in 1989, but was suspended when it was determined that available data were not of sufficient reliability even to identify the number of active inmates serving mandatory sentences. We now feel we have reached at least a 98% confidence level in our approach to the identification of the sentencing factors affecting individual cases. No study is perfect, but staff feel that this study provides the most reliable data on mandatory sentencing in Arizona presently available.

THE ISSUE OF COMPLEXITY

One of the questions most often asked with regard to mandatory sentencing in Arizona is very simply: How many active inmates carry mandatory sentences? As noted in the previous section, it was not possible to answer this question with any degree of reliability until recently. The difficulty in providing an answer revolves primarily around the extreme complexity of the sentencing and release statutes in this state. One need only turn back a few pages for a review of the specifics of our mandatory sentencing statutes to gain a perspective on this complexity. Existing statutes are truly formidable in their complexity, with the result that many things can be happening with felony sentencing in this state that are not entirely clear to those managing the system and making critical decisions on a day-to-day basis.

It is no wonder that the public is confused about the criminal justice system when those of us who work in it don't really understand it. The original structure of the code was relatively straightforward. However, in the years since its passage, many new statutes have been added, and others reworked, often without regard to the internal consistency and complexity of the resulting penalty structure. In addition to the confounding of the criminal code (Title 13), the release statutes under Titles 31 and 41 have been also been worked, reworked, and elaborated upon until we now have at least eleven separate mechanisms for releasing inmates, and no clear idea as to who should be released how, when, or where.

Almost every year new release statutes or elaborations of previous statutes are added to the code to encourage more releases to, in turn, ease the overcrowding crunch and to help forestall new prison construction. "Quick fixes" in the way of expanded release alternatives are easy to manufacture to avoid backing off on the harsh penalties set forth under Title 13, but the result is a nightmare that has really done very little to ease the "growth crunch" in the Department of Corrections. Recent analyses undertaken by the Research staff indicate only very minor levels of impact on population growth of the various new alternatives to incarceration, both at the front-end and at the back-end of the system. Neither home arrest, nor early parole, nor community punishment, nor shock incarceration have had a significant impact on bedspace needs, with the result that the prison population continues to grow at a rate of from 75 to 89 per month. Now, based on the results of this study, it has become apparent that the growth rate may in fact rise above current levels as mandatory sentencing becomes more of a factor in determining the lengths of prison terms (as more and more inmates pass release dates which would have applied absent mandatory sentencing).

While historically the complexity of the crime and corrections statutes have in a sense cast a veil over our understanding of the workings of the system, with the results of this and other recent studies, we should now have a sufficient understanding of what is happening with our criminal justice system to formulate some badly needed course corrections. The old excuse that good data aren't available on which to base informed decisions simply doesn't "wash" any longer.

RELEASE STATISTICS

For purposes of the present study, research staff examined 11,411 releases from the Department over the three-year period FY 1989-91. Overall, the average sentence imposed by the court in these cases was 3.6 years, the average minimum term was 1.9 years, and the average of time served prior to release was 2.3 years. To allow the comparison of release statistics with statistics on commitments and active prisoners appearing below, old code cases, felony DWI cases and placements in the Department's Shock Incarceration program were systematically excluded from this portion of the study. In addition, there were no cases of Class 1 felons released during this period, and thus the statistics on releases apply only to Class 2 through 6 felons. Finally, releases of the following types were included in the study:

- Parole
- Home Arrest
- Work Furlough
- Provisional Release
- Mandatory Release
- Temporary Release
- Earned Credit Release
- Expiration of Sentence
- Discretionary Release

The major focus of the release portion of the study focused around the problem of developing estimates of the likely proportion (percentage) of the sentence that a newly committed (or active) prisoner is likely to serve prior to release. It is necessary to develop such estimates in order to project the likely investment in "bed-years" associated with the commitment of any particular group of offenders, such as those carrying mandatory sentences.

In studying this question, the Department found that the minimum release eligibility, expressed as a percentage of the maximum sentence, was the best indicator of the percentage of the sentence likely to be served prior to release. In addition, it was discovered that no other factor available in the database significantly altered the estimates based on this single factor. Obviously, in the case of inmates with more than one type of mandatory sentence, the one setting the higher minimum release eligibility would apply. Accordingly, a classification system was developed which rank-orders inmates according to the most serious mandatory sentence applicable, as follows:

A. No Mandatory Sentence
B. Six Months Minimum for DWI
C. Consecutive Sentence Requirement (e.g., Escape)
D. One-Half Eligibility
E. Two-Thirds Eligibility
F. Two-Thirds Eligibility plus 5-Year Minimum
G. Flat Term
H. Life Sentence plus 25-Year Minimum
I. Life Sentence plus 35-Year Minimum

Thus, for example, if an inmate carried a 1/2 eligibility by virtue of being designated Repetitive 1 as a Class 4 felon, and in addition carried a flat term under the Dangerous Crimes Against Children statute, the latter would override the former and would place the offender in category G.

Throughout our analysis of mandatory sentencing data, information is presented separately by felony class. Accordingly, the following constitutes a summary, by felony class, of the results of our study of release statistics:

CLASS	INMATES	MAXIMUM	MINIMUM	TIME SERVED
Class 2	855	7.8	4.6	5.4
Class 3	2,049	6.0	3.2	3.9
Class 4	3,288	4.7	2.0	2.3
Class 5	1,561	2.5	1.3	1.6
Class 6	3,658	1.6	0.8	1.0
ALL INMATES	11,411	3.6	1.9	2.3

The results displayed above demonstrate that for each felony class, the time served average falls between the average of the minimum and the average of the maximum sentences. Note also that for each class the average maximum is slightly higher than the presumptive sentence for a Non-Dangerous/Non-Repetitive offender of that class. The average percentage of the maximum sentence served prior to release varies as follows: Class 2 - 69.2%; Class 3 - 65.0%; Class 4 - 48.9%; Class 5 - 64.0%; Class 6 - 62.5%. Overall, for released inmates, the minimum sentence averaged 52.8% of the maximum sentence, and inmates served on the average 63.9% of the maximum sentence prior to release.

Utilizing the classification system discussed above, we can break out the sentencing and time served results given above (category B excluded) as follows:

No Mandatory Sentence

CLASS	INMATES	MAXIMUM	MINIMUM	TIME SERVED
Class 2	519	6.9	3.5	4.4
Class 3	1,650	5.3	2.7	3.5
Class 4	2,991	3.7	1.9	2.1
Class 5	1,227	2.1	1.1	1.4
Class 6	3,530	1.5	0.8	1.0
ALL INMATES	9,917	3.2	1.6	2.0

Consecutive Sentence Requirement

CLASS	INMATES	MAXIMUM	MINIMUM	TIME SERVED
Class 2	0	-	-	-
Class 3	2	7.0	3.5	5.5
Class 4	6	6.0	3.0	3.5
Class 5	76	4.0	2.0	2.8
Class 6	14	2.5	1.3	1.8
ALL INMATES	98	4.0	2.0	2.7

One-Half Eligibility (Minimum Term is 1/2 of Maximum)

CLASS	INMATES	MAXIMUM	MINIMUM	TIME SERVED
Class 2	0	-	-	-
Class 3	16	5.1	2.5	3.9
Class 4	225	6.2	3.1	3.9
Class 5	201	3.5	1.7	2.3
Class 6	86	2.5	1.2	1.6
ALL INMATES	528	4.5	2.2	2.9

Two-Thirds Eligibility (Minimum Term is 2/3 of Maximum)

CLASS	INMATES	MAXIMUM	MINIMUM	TIME SERVED
Class 2	191	10.5	7.0	7.8
Class 3	346	8.0	5.3	6.0
Class 4	30	9.5	6.3	7.0
Class 5	31	5.4	3.6	4.1
Class 6	21	4.1	2.8	3.1
ALL INMATES	619	8.6	5.7	6.4

Two-Thirds Eligibility Plus 5-Year Minimum

CLASS	INMATES	MAXIMUM	MINIMUM	TIME SERVED
Class 2	132	7.1	5.3	5.5
Class 3	0	-	-	-
Class 4	1	5.2	5.0	5.0
Class 5	0	-	-	-
Class 6	0	-	-	-
ALL INMATES	133	7.1	5.3	5.5

Flat Term (Must Serve the Sentence Imposed)

CLASS	INMATES	MAXIMUM	MINIMUM	TIME SERVED
Class 2	13	6.8	6.8	6.8
Class 3	35	5.5	5.5	5.5
Class 4	35	4.5	4.5	4.5
Class 5	26	3.9	3.9	3.9
Class 6	7	3.0	3.0	3.0
ALL INMATES	116	4.8	4.8	4.8

There were no cases in categories H and I since they entail 25- and 35-year minimums which could not possibly have been served by June 30, 1991.

Based on a parallel analysis of the variable "percentage of the sentence served prior to release," which was calculated on an individual basis for all released inmates, the following expected percentages of the sentence to be served prior to release were developed. These percentages are systematically applied to new commitments and to active inmates in the following sections of the report to project expected lengths of prison terms.

No Mandatory Sentence	63.3%
Sentence Consecutive to Any Other Sentence Imposed	72.0%
Must Serve 1/2 of Sentence Prior to Release Eligibility	64.4%
Must Serve 2/3 of Sentence Prior to Release Eligibility	74.7%
Must Serve 2/3 of Sentence Plus Minimum of Five Years	78.8%
Must Serve Full Term (Flat Term)	100.0%

These figures are, of course, based on observed time served patterns by actual inmates, but they also make sense logically in comparison to the percentages of the sentence to be served prior to release eligibility. For example, in the case of 2/3 eligibility, inmates are serving somewhat more of the sentence (74.7%) than that required by statute (66.7%), but well less than the maximum of the sentence imposed. Obviously, in these cases, Board and/or Department decision-making, and/or good time credits in some cases, have dictated the amount of time ultimately served.

It should be emphasized at this point that only the percentages given immediately above were carried forth from the study of releases to an examination of commitments and active inmates. The average time served and sentence figures for released inmates are <u>not</u> reliable indicators for all offenders as they are based primarily on the movement of short term offenders through the state prison system. Longer term offenders are obviously under-represented in release statistics since they are not released as quickly or at the same rate as shorter-term offenders. This is why the 2.3-year figure for time served by releases does not reflect the true average length of prison terms in Arizona.

PRISON POPULATION PROFILE

As of June 30, 1991, there were a total of 15,150 inmates active in the Arizona prison system. This includes all inmates under the Department's jurisdiction who are temporarily absent from institutions for various reasons, such as those out to court and those receiving outside medical treatment. Of this total, 14,610 or 96.4% were inmates sentenced under the new criminal code, 486 or 3.2% were inmates sentenced under the old criminal code, and 54 or 0.4% were inmates sentenced in other jurisdictions. Overall, the average (mean) sentence for all inmates was 12.1 years, the average minimum term prior to release eligibility 7.6 years, and the average expected term to be served prior to release (see discussion above) 9.2 years. On average, an inmate had served (to June 30, 1991) 3.2 years of the projected 9.2 years to release, leaving an average of 6.0 years yet to be served. (Note: Inmates with life and death sentences were arbitrarily assigned a sentence length value of 50 years.)

For new code inmates, the average sentence was 10.8 years, the average minimum term 7.0 years, the average expected term 8.2 years, the average time served (to June 30) 2.8 years, and the average time yet to be served 5.4 years. Excluding the 140 Shock Incarceration cases decreases the inmate total to 14,470, and increases the average sentence to 10.9 years, the average minimum term to 7.1 years, and the average expected term to 8.3 years. The average time served to June 30 remains the same at 2.8 years, while the average time to be served rises slightly to 5.5 years.

In interpreting these statistics, it should be noted that they exceed corresponding averages for commitments to the Arizona prison system during any given time period. The active population at any specific point in time tends to consist of more serious, longer-term inmates than a typical sentenced group, since active inmates consist of previously committed inmates who have <u>not</u> been released as of the given date. Those who have been released tend to be shorter term inmates, while those who have not been released, i.e., active inmates, tend to be longer termers. It is critical, then, not to use the above statistics as if they represent the sentences being handed down by the judges. Instead, they reflect, to a great extent, the build-up of longer termers in the population and the degree to which harsher penalties contribute to this buildup. The short termers move through quickly and are reflected to only a minor extent in active population statistics.

Mandatory Sentencing Statistics

Table 2, which covers the next five pages of the report, provides an in-depth sentencing profile of the active population, including individual categories of mandatory sentencing under the new criminal code. It should be noted that in the first portion of this table, the mandatory sentencing categories are not mutually exclusive. In some cases, offenders may be sentenced pursuant to more than one of the indicated statutes. Accordingly, it is not appropriate to "add down" the table in combining the various categories of mandatory sentences. The second portion of the table (the last two pages) lists the categories in order of seriousness and places each inmate in only the most serious category applicable. Here, it is possible to add or combine categories since they do not overlap. (Note: The portions of Table 2 dealing with A.R.S. § 13-604 exclude DWI offenders and those active in the Shock Incarceration program.)

TABLE 2
Mandatory Sentence Profile of Active Population, June 30, 1991

A.R.S. SECTION	TITLE	ACTIVE CASES	SENTENCE (Avg. Years)	TIME SERVED TO-DATE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
13-604	Dangerous or Repetitive Offender	5,150	17.5	4.0	12.0	13.9
	Dangerous Offender	2,119	23.4	4.9	15.6	18.7
	Repetitive Offender	3,348	15.6	3.7	10.9	12.4
	Repetitive Offender (One Prior)	2,203	11.5	3.3	8.0	9.0
	Repetitive Offender (Two Priors)	1,145	23.3	4.4	16.4	18.8
	Non-Dangerous/Non-Repetitive	8,683	7.6	2.2	4.6	5.5
	Non-Dangerous/Repetitive (One Prior)	2,048	10.3	3.0	7.3	8.1
	Non-Dangerous/Repetitive (Two Priors)	983	19.6	4.1	13.9	15.8
	Dangerous/Non-Repetitive	1,802	21.2	4.6	14.1	16.8
	Dangerous/Repetitive (One Prior)	155	28.0	6.5	17.5	21.5
	Dangerous/Repetitive (Two Priors)	162	46.0	6.1	31.9	37.0
13-604.M	Offenses Committed while Released on Bail or Own Recognizance	2	13.6	2.8	10.4	11.2
13-604.N	Third Serious Offense	9	Life	5.6	25.0	37.5
13-604.01	Dangerous Crimes Against Children - All Categories	1,036	19.4	2.9	15.2	16.8
	- 1st Degree/2+ Predicate Felonies	29	Life	2.9	35.0	42.5
	- 1st Degree	391	30.0	2.8	30.0	30.0
	- 2nd Degree	651	12.4	2.9	7.3	8.7
13-604.01 (Old) 13-604.02 (New)	Offenses Committed while Released from Confinement - All Categories	515	22.0	4.6	15.3	18.9
	- Dangerous/Drug Crime	120	Life	4.9	25.0	37.5
	- Other Crime	398	12.4	4.5	12.4	12.7
13-703	First Degree Murder - All Categories	358	Life/Death	5.9	25.2	37.5
	- Victim under 15 Years of Age	7	Life/Death	2.7	35.0	42.5
	- Victim 15 Years of Age or Older	352	Life/Death	5.9	25.0	37.5
13-710	Second Degree Murder	191	17.9	3.6	17.9	17.9
13-1003.D	Conspiracy to Commit a Class 1 Felony	7	Life	3.4	25.0	37.5
13-1206	Dangerous or Deadly Assault by Prisoner - All Categories	22	41.0	8.2	22.6	32.0
	- Effective 10-1-78	15	Life	9.5	25.0	37.5
	- Effective 8-4-84	3	25.6	10.1	15.7	17.6

TABLE 2
Mandatory Sentence Profile of Inmate Population, June 30, 1991

A.R.S. SECTION	TITLE	ACTIVE CASES	SENTENCE (Avg. Years)	TIME SERVED TO-DATE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
	- Effective 5-16-87	4	18.8	1.9	18.8	18.8
13-1207	Prisoners who Commit Assault with Intent to Incite Riot or Participate in Riot	0	-	-	-	-
13-1304	Kidnapping of a Minor under 15 Years of Age	26	49.0	2.8	48.3	48.7
13-1405	Sexual Conduct with a Minor under 14 Years of Age	151	31.8	3.5	31.8	31.8
13-1406	Sexual Assault - All Categories	282	28.4	4.4	27.3	27.9
	- Dangerous Offense or Prior Sexual Assault	12	Life	5.8	25.0	37.5
	- All Others	273	27.7	4.4	27.7	27.7
13-1406.01	Sexual Assault of a Spouse	0	-	-	-	-
13-1410	Child Molestation (10-1-78 to 5-16-85)	126	19.5	6.2	14.5	16.4
13-2308	Participation in a Criminal Syndicate	2	14.0	1.2	14.0	14.0
13-2312	Illegal Control of an Enterprise; Illegally Conducting an Enterprise	0	-	-	-	-
13-2503	Escape in the Second Degree	148	14.8	5.7	9.6	11.1
13-2504	Escape in the First Degree	7	18.5	4.0	13.2	16.1
13-3405	Possession, Use, Production, Sale or Transportation of Marijuana	123	6.0	1.6	4.1	4.7
13-3406 (Old Law)	Possession and Sale of Narcotic Drugs: Inducing Minor to Traffic in or Use Narcotic Drugs	279	8.9	4.3	6.5	7.1
13-3407	Possession, Use, Administration, Acquisition, Sale, Manufacture or Transportation of Dangerous Drugs - All Categories	108	7.5	1.7	6.0	6.3
	- Possess for Sale, Manufacture or Administer to Another	79	6.7	1.6	4.6	5.1
	- Transport for Sale, Import into State, etc.	32	9.4	1.8	9.4	9.4
13-3408 (New Law)	Possession, Use, Administration, Acquisition, Sale, Manufacture or Transportation of Narcotic Drugs	387	8.8	1.8	8.8	8.8
13-3409	Involving or Using Minors in Drug Offenses	6	14.6	2.2	14.6	14.6
13-3410	Serious Drug Offender	5	Life	2.2	25.0	37.5
13-3411	Possession, Use or Sale of Marijuana, Dangerous Drugs, or Narcotic Drugs on School Grounds or Near Schools	1	6.0	1.7	3.0	3.9

TABLE 2
Mandatory Sentence Profile of Active Population, June 30, 1991

A.R.S. SECTION	TITLE	ACTIVE CASES	SENTENCE (Avg. Years)	TIME SERVED TO-DATE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
28-692	Driving under the Influence of Intoxicating Liquor (Third offense or while License is Suspended or Cancelled)	763	2.1	0.7	1.2	1.5
36-1002	Narcotic Drug Offenses	6	15.0	9.4	10.1	11.8
	ALL ACTIVE INMATES	15,150	12.1	3.2	7.6	9.2
	CRIMINAL CODE - New	14,610	10.8	2.8	7.0	8.2
	- Old	486	48.9	16.4	24.2	36.6
	- Other State	54	39.4	8.1	19.7	29.6
	NEW CRIMINAL CODE - Shock Incarceration Cases	140	0.4	0.1	0.4	0.4
	- Sentenced Inmates (Excluding Shock)	14,470	10.9	2.8	7.1	8.3
	- No Mandatory Sentence	6,646	5.6	1.9	2.8	3.6
	- DWI Mandatory Only	637	1.6	0.6	0.9	1.2
	- Mandatory Sentence	7,187	16.6	3.8	11.6	13.3
	- Sentenced Inmates (Excluding Shock and DWI)	13,833	11.3	2.9	7.4	8.6
	- Class 1	545	40.0	5.2	22.8	31.6
	- Class 2	3,988	17.0	4.0	12.7	14.0
	- Class 3	5,126	9.2	2.8	5.6	6.6
	- Class 4	2,685	5.6	2.0	3.1	3.8
	- Class 5	590	4.0	1.6	2.2	2.7
	- Class 6	899	2.1	0.9	1.1	1.4
	- Sentenced Inmates (Excluding Shock, DWI and Class 1)	13,288	10.1	2.8	6.7	7.7
	No Mandatory	6,646	5.6	1.9	2.8	3.6
	Mandatory	6,642	14.7	3.7	10.7	11.8
	Ratio of Mandatory to Non-Mandatory		2.6	1.9	3.8	3.3

TABLE 2 (Continued)
Mandatory Sentence Profile of Active Population, June 30, 1991

A.R.S. SECTION	TITLE (The following categories of mandatory sentences are listed in order of the severity of the penalty imposed. Each inmate with a mandatory sentence is included only once in the most serious/highest category applicable)	ACTIVE CASES	SENTENCE (Avg. Years)	TIME SERVED TO-DATE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
13-703	First Degree Murder - Victim under 15 Years of Age	7	Life/Death	2.7	35.0	42.5
13-604.01	Dangerous Crimes Against Children - 1st Degree/2+ Predicate Felonies	27	Life	2.9	35.0	42.5
13-703	First Degree Murder - Victim 15 Years of Age or Older	351	Life/Death	5.9	25.0	37.5
13-1406	Sexual Assault - Dangerous Offense or Prior Sexual Assault	11	Life	5.7	25.0	37.5
13-604.02	Offenses Committed while Released from Confinement - Dangerous/Drug Crime	102	Life	6.9	25.0	37.5
13-1206	Dangerous or Deadly Assault by Prisoner (Old form of this law)	14	Life	9.1	25.0	37.5
13-604.N	Third Serious Offense	7	Life	4.9	25.0	37.5
13-1003.D	Conspiracy to Commit a Class 1 Felony	2	Life	2.4	25.0	37.5
13-3410	Serious Drug Offender	2	Life	2.2	25.0	37.5
13-710	Second Degree Murder	191	17.9	3.6	17.9	17.9
13-604.01	Dangerous Crimes Against Children - 1st Degree/0-1 Predicate Felonies	370	28.7	2.8	28.7	28.7
13-1405	Sexual Conduct with a Minor under 14 Years of Age	45	20.2	5.4	20.2	20.2
13-1406	Sexual Assault - All Others	257	27.4	4.4	27.4	27.4
13-604.02	Offenses Committed while Released from Confinement - Other Crime	372	12.0	4.5	12.0	12.0
13-3408 (New Law)	Possession, Use, Administration, Acquisition, Sale, Manufacture or Transportation of Narcotic Drugs	386	8.8	1.8	8.8	8.8
13-3407	Possession, Use, Administration, Acquisition, Sale, Manufacture or Transportation of Dangerous Drugs - Transport for Sale, Import into State, etc.	28	9.4	1.8	9.4	9.4
13-1206	Dangerous or Deadly Assault by Prisoner (Current form of this law)	3	16.4	1.9	16.4	16.4
13-3409	Involving or Using Minors in Drug Offenses	4	9.0	1.9	9.0	9.0
13-1410	Child Molestation (Prior to 5-16-85)	112	17.1	6.4	11.5	13.5
13-3406 (Old Law)	Possession and Sale of Narcotic Drugs: Inducing Minor to Traffic in or Use Narcotic Drugs	278	8.9	4.4	6.3	7.0
13-604	Dangerous or Repetitive Offender (Must serve 2/3 of sentence)	3,202	14.5	4.2	9.7	10.8

TABLE 2 (Continued)
Mandatory Sentence Profile of Active Population, June 30, 1991

A.R.S. SECTION	TITLE (The following categories of mandatory sentences are listed in order of the severity of the penalty imposed. Each inmate with a mandatory sentence is included only once in the most serious/highest category applicable)	ACTIVE CASES	SENTENCE (Avg. Years)	TIME SERVED TO-DATE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
13-3407	Possession, Use, Administration, Acquisition, Sale, Manufacture or Transportation of Dangerous Drugs - Possess for Sale, Manufacture or Administer to Another	59	5.8	1.6	3.9	4.3
13-3405	Possession, Use, Production, Sale or Transportation of Marijuana	114	5.5	1.6	3.7	4.1
13-604.01	Dangerous Crimes Against Children - 2nd Degree	483	11.1	2.9	5.6	7.1
13-604	Dangerous or Repetitive Offender (Must serve 1/2 of sentence)	703	6.2	1.9	3.1	4.0
13-3411	Possession, Use or Sale of Marijuana, Dangerous Drugs, or Narcotic Drugs on School Grounds or Near Schools	1	6.0	1.7	3.0	3.9
13-2503/4	Escape in the First or Second Degree	54	8.3	3.5	4.1	6.0
28-692	Driving under the Influence of Intoxicating Liquor (Third offense or while License is Suspended or Cancelled)	637	1.6	0.6	0.9	1.2
	ALL INMATES SERVING MANDATORY SENTENCES UNDER THE NEW CRIMINAL CODE	7,824	15.4	3.5	10.7	12.3

Of the total active population of 15,150, 7,914 or 52.2% carry some form of mandatory sentence. Of the 7,914, 7,824 or 98.9% carry new code mandatories, while the remaining 90 carry mandatories established under the old criminal code. The number 7,824 is the composite total of all of the individual categories displayed in this table.

Of the 7,824 inmates with new code mandatories, 637 carry as their only mandatory the six-month minimum term for conviction of felony DWI (A.R.S. § 28-692). Thus a total of 7,187 inmates carry new code mandatories of other types. Because the DWI category includes a subgroup sentenced to six-month terms in prison as a condition of probation, which are not true prison sentences, and since DWI was excluded from sentencing statistics given in the other two studies, it was decided to delete DWI from the more in-depth analyses undertaken in this report. Thus, in our analysis of the profile of active inmates, we will limit ourselves primarily to new code inmates not placed in the Shock Incarceration program and not sentenced strictly for DWI.

Further excluding inmates sentenced only for DWI (with a six-month mandatory minimum), from the group profiled above, we may break out sentencing statistics as follows:

PRISON POPULATION PROFILE (New Code, Excluding DWI and Shock)	AVERAGE (Mean) (In Years)
Inmates	13,833
Maximum Term (Sentence)	11.3
Minimum Term to Release Eligibility	7.4
Expected Term in Prison (to Release)	8.6
Time Served to June 30, 1991	2.9
Time Yet to be Served	5.7

On average, the minimum term is 65.5% of the maximum, the expected term 76.1%, time served to-date 25.7%, and time yet to be served 50.4%. In addition, time served to-date is, on the average, 39.2% of the minimum term and 33.7% of the expected term. The fact that inmates on the average have served only about one-third of their eventual terms in prison is highly suggestive. In a so-called "steady state" situation in which commitments and penalties are not "on the rise," active inmates should on the average be 50% of the way through their eventual terms in prison. However, as penalties grow over time and as commitments rise and feed the pool of newer inmates, the percentage of the term served to any given date falls below 50% and in this case well below 50%. The obvious implication of this observation is that the Arizona prison system is not in a steady state, that numbers of commitments, and the harshness of penalties, or both, are on the rise. This would suggest, at least tentatively, that mandatory sentencing has not had any where near its full level of impact.

Within the group of 13,833 inmates profiled in the table above, 7,187 or 52.0% carry mandatory sentences, while the remaining 6,646 or 48.0% are not subject to mandatories.

Penalty-wise, inmates carrying mandatory sentences may be compared, at least superficially, with those not carrying them as follows:

Inmates Active on June 30, 1991 (New Code, Excluding DWI and Shock)

SENTENCING CATEGORY	NO MANDATORY	MANDATORY
Inmates	6,646	7,187
Maximum Term	5.6	16.6
Minimum Term	2.8	11.6
Expected Term in Prison	3.6	13.3
Time Served to June 30	1.9	3.8
Time Yet to be Served	1.7	9.5

In comparing these two groups, it should be noted that all Class 1 felons fall in the mandatory sentence category, which, to an extent, inflates the differences between the two categories. To provide a more valid comparison, then, we delete Class 1 felons from the table as follows:

Inmates Active on June 30, 1991 (New Code, Excluding Class 1, DWI and Shock)

SENTENCING CATEGORY	NO MANDATORY	MANDATORY
Inmates	6,646	6,642
Maximum Term	5.6	14.7
Minimum Term	2.8	10.7
Expected Term in Prison	3.6	11.8
Time Served to June 30	1.9	3.7
Time Yet to be Served	1.7	8.1

In comparing these two sets of results for Class 2 through 6 felons, we find that, on the average, sentences (maximum terms) for inmates with mandatory sentences are 2.6 times as long, minimum terms are 3.8 times as long, and expected terms are 3.3 times as long. However, it should noted that the differences observed are, to an extent, due to tangible differences between the two groups (other than mandatory sentencing). Inasmuch as mandatory sentencing covers a variety of serious behaviors, including dangerousness, repetitiveness, child sex offenses, murder, sexual assault, drug trafficking, etc., it is not surprising that penalties for this group are substantially higher. The question, however, is whether or not the differences in penalties can be explained entirely by differences between the crimes and criminal histories of the two groups, or whether mandatory sentencing itself, and the differential application of it to similar offenders, is a contributing factor.

Rather than address this issue as it applies to the active inmate population, we opt instead to save it for our analysis of commitments (new admissions) to the Department. Technically speaking, differences within the inmate population can be due to other factors, such as paroling policy, good time laws, etc. However, sentencing statistics on commitments reflect only factors associated with the criminal code and with charging and sentencing practices.

Table 2, and Table 3 in the next section, are critical to a proper understanding of the impact of mandatory sentencing, as they clarify precisely where the longer terms associated with mandatory sentencing arise. For example, according to Table 2, the 2,119 active inmates in the Dangerous Offender category carry an average maximum term of 23.4 years, an average minimum term of 15.6 years, and an average expected term in prison of 18.7 years. Similarly, the 1,036 offenders sentenced pursuant to the Dangerous Crimes Against Children statute (either 1st or 2nd degree) carry an average maximum term of 19.4 years, an average minimum term of 15.2 years, and an average expected term in prison of 16.8 years. Finally, the 515 offenders sentenced under the Offenses Committed while Released from Confinement statute carry an average maximum term of 22.0 years, an average minimum term of 15.3 years, and an average expected term in prison of 18.9 years. The magnitudes of these numbers assume some order of significance when it is noted that the presumptive sentence for a Class 2 felony without a mandatory is 7.0 years.

The final issue to be addressed in this section concerns the nature of the distribution of expected prison terms. As noted above, the mean of this quantity is 3.6 years for inmates without mandatory sentences and 11.8 years for inmates with them. The following table provides major percentiles of the distribution of expected terms for the two groups.

PERCENTILE	NO MANDATORY	MANDATORY
10th	1.2	3.8
20th	2.3	5.3
25th	2.5	5.5
30th	2.5	5.6
40th	2.8	7.0
50th (Median)	3.2	7.8
60th	3.2	9.5
70th	4.1	11.2
75th	4.4	12.0
80th	4.5	14.2
90th	6.3	20.7

As noted previously, the mean expected term in prison for inmates with mandatory sentences (11.8 years) is 3.3 times what it is for those without them (3.6 years). In comparing the medians, on the other hand, we find that the differential is a factor of 2.4 (7.8 years to 3.2 years). The medians are closer since they fail to take into account outliers (high values) which inflate the mean for the mandatory sentence category. It might be argued that medians, rather than means, should be used to compare the two categories of inmates, since the median provides a better indication of the penalty level for the "typical" inmate. Nonetheless, the mean is used in this report since the results of our analysis are to be translated into "bed-years" for the purpose of impact estimates. Such a translation must be based on the mean rather than the median.

SENTENCING DATA FOR NEW COMMITMENTS

During the period FY 1989-91 (July 1, 1988 through June 30, 1991), there were a total of 19,874 commitments to the Department of Corrections from the courts. This includes new (first) court commitments, recommitments, Shock Incarceration placements, and offenders required to serve a short prison term as a condition of probation. It also includes offenders returned to prison as release violators (parole, etc.) with new sentences, but does not include those returned for technical violations.

For purposes of this study, a complete and accurate database on sentencing was available for 16,852 of the 19,874 cases (an 84.8% sample). While the totals which appear in the tables to follow are not complete, the means, medians, etc. in relation to sentence lengths and expected time served should reflect an accurate picture of the kinds of sentences being handed down by the Superior courts in this state.

Within our sample of 16,852 commitments, all but 20 were committed under Arizona's new criminal code. Fifteen of the 20 were old code cases and the remaining five from other states. Overall, the average (mean) sentence for all commitments was 5.9 years, the average minimum term prior to release eligibility 3.7 years, and the average expected term to be served prior to release 4.3 years. (Note: Again, inmates with life and death sentences were arbitrarily assigned a sentence length value of 50 years.)

Excluding the 673 Shock Incarceration placements decreases the commitment total to 16,159, and increases the average sentence to 6.0 years, the average minimum term to 3.8 years, and the average expected term to 4.5 years.

Table 3, covering pages 38 through 42, provides an in-depth sentencing profile of commitments similar to Table 2 in the last section. As with Table 2, in the first portion of Table 3, the mandatory sentencing categories are not mutually exclusive. In some cases, offenders may be sentenced pursuant to more than one of the indicated statutes. The second portion of the table (the last two pages) lists the categories in order of seriousness and places each inmate in only the most serious category applicable. Here, it is possible to add or combine categories since they do not overlap. (Note: The portions of Table 3 dealing with Dangerous and Repetitive Offenders (A.R.S. § 13-604) exclude DWI offenders and those active in the Shock Incarceration program.)

Within our sample of 16,852 commitments, 6,489 or 38.5% carry some form of mandatory sentence. The number 6,489 is the composite total of the categories displayed in Table 3. Of the 6,489 commitments carrying mandatory sentences, 2,347 carry as their only mandatory the six-month minimum term for conviction of felony DWI (A.R.S. § 28-692). Thus a total of 4,142 commitments carry new code mandatories of other types. As was the case with our analysis of active cases, we will limit ourselves primarily to new code inmates not placed in the Shock Incarceration program and not sentenced strictly for DWI. A more succinct profile of the target population of our analysis of court commitments appears at the top of page 43.

TABLE 3
Mandatory Sentence Profile of New Commitments, FY 1989-91

A.R.S. SECTION	TITLE	NEW COURT COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
13-604	Dangerous or Repetitive Offender	2,837	14.1	9.7	11.2
	Dangerous Offender	866	21.1	14.4	17.1
	Repetitive Offender	2,053	12.1	8.4	9.6
	Repetitive Offender (One Prior)	1,490	8.7	5.9	6.7
	Repetitive Offender (Two Priors)	563	21.0	14.8	17.2
	Non-Dangerous/Non-Repetitive	10,975	5.0	2.9	3.5
	Non-Dangerous/Repetitive (One Prior)	1,459	8.3	5.7	6.4
	Non-Dangerous/Repetitive (Two Priors)	512	18.4	13.1	15.1
	Dangerous/Non-Repetitive	784	19.2	13.1	15.6
	Dangerous/Repetitive (One Prior)	31	26.0	16.5	20.1
	Dangerous/Repetitive (Two Priors)	51	47.1	32.7	38.5
13-604.M	Offenses Committed while Released on Bail or Own Recognizance	1	7.7	7.7	7.7
13-604.N	Third Serious Offense	2	Life	25.0	37.5
13-604.01	Dangerous Crimes Against Children - All Categories	644	21.1	16.7	18.5
	- 1st Degree/2+ Predicate Felonies	22	Life	35.0	42.5
	- 1st Degree	234	34.2	34.2	34.2
	- 2nd Degree	404	12.3	7.4	8.8
13-604.01 (Old) 13-604.02 (New)	Offenses Committed while Released from Confinement - All Categories	187	21.0	15.0	18.0
	- Dangerous/Drug Crime	45	Life	25.0	37.5
	- Other Crime	142	11.8	11.8	11.8
13-703	First Degree Murder - All Categories	137	Life/Death	25.4	37.7
	- Victim under 15 Years of Age	5	Life/Death	35.0	42.5
	- Victim 15 Years of Age or Older	132	Life/Death	25.0	37.5
13-710	Second Degree Murder	102	18.2	18.2	18.2
13-1003.D	Conspiracy to Commit a Class 1 Felony	5	Life	25.0	37.5
13-1206	Dangerous or Deadly Assault by Prisoner (5-16-87)	4	18.8	18.8	18.8
13-1207	Prisoners who Commit Assault with Intent to Incite Riot or Participate in Riot	0	-	-	-

TABLE 3
Mandatory Sentence Profile of New Commitments, FY 1989-91

A.R.S. SECTION	TITLE	NEW COURT COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
13-1304	Kidnapping of a Minor under 15 Years of Age	17	57.9	56.6	57.2
13-1405	Sexual Conduct with a Minor under 14 Years of Age	81	41.6	41.6	41.6
13-1406	Sexual Assault - All Categories	108	28.2	27.5	27.9
	- Dangerous Offense or Prior Sexual Assault	3	Life	25.0	37.5
	- All Others	105	27.6	27.6	27.6
13-1406.01	Sexual Assault of a Spouse	1	0.8	0.8	0.8
13-1410	Child Molestation	15	31.5	27.3	28.8
13-2308	Participation in a Criminal Syndicate	2	14.0	14.0	14.0
13-2312	Illegal Control of an Enterprise; Illegally Conducting an Enterprise	0	-	-	-
13-2503	Escape in the Second Degree	75	5.3	3.2	4.0
13-2504	Escape in the First Degree	6	6.6	3.8	4.8
13-3405	Possession, Use, Production, Sale or Transportation of Marijuana	133	5.6	3.8	4.2
13-3406 (Old Law)	Possession and Sale of Narcotic Drugs; Inducing Minor to Traffic in or Use Narcotic Drugs	81	8.1	6.2	6.5
13-3407	Possession, Use, Administration, Acquisition, Sale, Manufacture or Transportation of Dangerous Drugs - All Categories	111	7.4	5.8	6.2
	- Possess for Sale, Manufacture or Administer to Another	83	6.6	4.5	5.0
	- Transport for Sale, Import into State, etc.	31	9.4	9.4	9.4
13-3408 (New Law)	Possession, Use, Administration, Acquisition, Sale, Manufacture or Transportation of Narcotic Drugs	373	8.8	8.8	8.8
13-3409	Involving or Using Minors in Drug Offenses	5	8.4	8.4	8.4
13-3410	Serious Drug Offender	5	Life	25.0	37.5
13-3411	Possession, Use or Sale of Marijuana, Dangerous Drugs, or Narcotic Drugs on School Grounds or Near Schools	2	5.0	2.5	3.2
28-692	Driving under the Influence of Intoxicating Liquor (Third Offense or while License is Suspended or Cancelled)	2,488	1.3	0.8	0.9

TABLE 3
Mandatory Sentence Profile of New Commitments, FY 1989-91

A.R.S. SECTION	TITLE	NEW COURT COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
	ALL NEW COURT COMMITMENTS (FY 1989-1991)	16,852	5.9	3.7	4.3
	CRIMINAL CODE - New	16,832	5.8	3.7	4.3
	- Old	5	34.1	16.7	25.4
	- Other State	15	31.4	15.7	23.6
	NEW CRIMINAL CODE - Shock Incarceration Cases	673	0.4	0.4	0.4
	- Sentenced Inmates (Excluding Shock)	16,159	6.0	3.8	4.5
	- No Mandatory Sentence	9,670	3.9	2.0	2.5
	- DWI Mandatory Only	2,347	1.1	0.7	0.9
	- Mandatory Sentence	4,142	13.8	9.8	11.3
	- Sentenced Inmates (Excluding Shock and DWI)	13,812	6.9	4.3	5.1
	- Class 1	232	38.4	22.3	31.0
	- Class 2	2,222	14.5	11.0	12.1
	- Class 3	4,059	7.8	4.5	5.4
	- Class 4	3,182	4.7	2.4	3.0
	- Class 5	1,197	2.5	1.3	1.6
	- Class 6	2,920	1.6	0.8	1.0
	- Sentenced Inmates (Excluding Shock, DWI and Class 1)	13,580	6.4	4.0	4.7
	No Mandatory	9,670	3.9	2.0	2.5
	Mandatory	3,910	12.4	9.1	10.1
	Ratio of Mandatory to Non-Mandatory		3.2	4.6	4.0

TABLE 3 (Continued)
Mandatory Sentence Profile of New Commitments, FY 1989-91

A.R.S. SECTION	TITLE (The following categories of mandatory sentences are listed in order of the severity of the penalty imposed. Each inmate with a mandatory sentence is included only once in the most serious/highest category applicable)	ACTIVE CASES	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
13-703	First Degree Murder - Victim under 15 Years of Age	5	Life/Death	35.0	42.5
13-604.01	Dangerous Crimes Against Children - 1st Degree/2+ Predicate Felonies	21	Life	35.0	42.5
13-703	First Degree Murder - Victim 15 Years of Age or Older	131	Life/Death	25.0	37.5
13-1406	Sexual Assault - Dangerous Offense or Prior Sexual Assault	3	Life	25.0	37.5
13-604.02	Offenses Committed while Released from Confinement - Dangerous/Drug Crime	37	Life	25.0	37.5
13-1206	Dangerous or Deadly Assault by Prisoner (Old form of this law)	0	Life	25.0	37.5
13-604.N	Third Serious Offense	2	Life	25.0	37.5
13-1003.D	Conspiracy to Commit a Class 1 Felony	2	Life	25.0	37.5
13-3410	Serious Drug Offender	2	Life	25.0	37.5
13-710	Second Degree Murder	102	18.2	18.2	18.2
13-604.01	Dangerous Crimes Against Children - 1st Degree/0-1 Predicate Felonies	230	32.8	32.8	32.8
13-1405	Sexual Conduct with a Minor under 14 Years of Age	8	37.0	37.0	37.0
13-1406	Sexual Assault - All Others	96	27.0	27.0	27.0
13-604.02	Offenses Committed while Released from Confinement - Other Crime	132	11.3	11.3	11.3
13-3408 (New Law)	Possession, Use, Administration, Acquisition, Sale, Manufacture or Transportation of Narcotic Drugs	372	8.8	8.8	8.8
13-3407	Possession, Use, Administration, Acquisition, Sale, Manufacture or Transportation of Dangerous Drugs - Transport for Sale, Import into State, etc.	28	9.4	9.4	9.4
13-1206	Dangerous or Deadly Assault by Prisoner (Current form of this law)	3	16.4	16.4	16.4
13-3409	Involving or Using Minors in Drug Offenses	4	9.0	9.0	9.0
13-1410	Child Molestation (Prior to 5-16-85)	10	19.3	12.9	16.1
13-3406 (Old Law)	Possession and Sale of Narcotic Drugs: Inducing Minor to Traffic in or Use Narcotic Drugs	76	7.8	5.8	6.8
13-604	Dangerous or Repetitive Offender (Must serve 2/3 of sentence)	1,598	12.3	8.2	10.2

TABLE 3 (Continued)
Mandatory Sentence Profile of New Commitments, FY 1989-91

A.R.S. SECTION	TITLE (The following categories of mandatory sentences are listed in order of the severity of the penalty imposed. Each inmate with a mandatory sentence is included only once in the most serious/highest category applicable)	ACTIVE CASES	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
13-3407	Possession, Use, Administration, Acquisition, Sale, Manufacture or Transportation of Dangerous Drugs - Possess for Sale, Manufacture or Administer to Another	63	5.7	3.8	4.7
13-3405	Possession, Use, Production, Sale or Transportation of Marijuana	124	5.2	3.5	4.4
13-604.01	Dangerous Crimes Against Children - 2nd Degree	293	10.5	5.3	7.9
13-604	Dangerous or Repetitive Offender (Must serve 1/2 of sentence)	737	5.2	2.6	3.9
13-3411	Possession, Use or Sale of Marijuana, Dangerous Drugs, or Narcotic Drugs on School Grounds or Near Schools	2	5.0	2.5	3.8
13-2503/4	Escape in the First or Second Degree	60	3.6	1.8	2.7
28-692	Driving under the Influence of Intoxicating Liquor (Third offense or while License is Suspended or Cancelled)	2,347	1.1	0.7	0.9
	ALL NEW CODE COMMITMENTS CARRYING MANDATORY SENTENCES	6,489	9.2	6.5	7.5

FY 1989-91 COURT COMMITMENTS (New Code, Excluding DWI and Shock)	AVERAGE (Mean) (In Years)
Commitments (Sample)	13,812
Maximum Term (Sentence)	6.9
Minimum Term to Release Eligibility	4.3
Expected Term in Prison (to Release)	5.1

On average, the minimum term is 62.3%, and the expected term 73.9%, of the maximum. As noted above, within the group of 13,812 inmates profiled in the table above, 4,142 or 30.0% carry mandatory sentences, while the remaining 9,670 or 70.0% are not subject to mandatories. While mandatory sentences account for a minority of commitments, they entail much longer than average terms in most cases.

According to Table 3, the 866 commitments in the Dangerous Offender category carry average maximum, minimum, and expected terms of 21.1, 14.4, and 17.1 years, respectively. Similarly, the 644 commitments pursuant to the Dangerous Crimes Against Children statute (either 1st or 2nd degree) carry average maximum, minimum, and expected terms of 21.1, 16.7, and 18.5 years, respectively. Finally, the 187 offenders sentenced under the Offenses Committed while Released from Confinement statute carry average maximum, minimum, and expected terms of 21.0, 15.0, and 18.0 years, respectively.

Penalty-wise, inmates carrying mandatory sentences may be compared, at least superficially, with those not carrying them as follows.

SENTENCING CATEGORY	NO MANDATORY	MANDATORY
Commitments	9,670	4,142
Maximum Term	3.9	13.8
Minimum Term	2.0	9.8
Expected Term in Prison	2.5	11.3

On average, sentences (maximum terms) for mandatorily sentenced inmates are 3.5 times as long, minimum terms are 4.9 times as long, and expected terms are 4.5 times as long, as they are for those not covered by the mandatories. However, again, as noted in the previous section, it should be recognized that the differences observed are, to an extent, due to tangible differences between the two groups (other than mandatory sentencing). Again, the question is: Can the observed discrepancies be explained entirely by differences between the crimes and criminal histories of the two groups, or are they due in part to the inconsistent application of the mandatory sentencing statutes?

First of all, those with mandatory sentences tend to be convicted of higher class felonies. The percentage of inmates in a given class who carry mandatories varies as follows: Class 1 - 100%; Class 2 - 57%; Class 3 - 39%; Class 4 - 19%; Class 5 - 25%; and Class 6 - 5%. Since higher class felonies normally carry higher penalties, inmates with mandatory sentences would also tend to carry higher penalties. The question then is, within any given class, are penalties for inmates with mandatory sentences higher than for those without them?

To address this issue, we first look at sentencing statistics by class without regard to mandatory sentencing:

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	232	38.4	22.3	31.0
Class 2	2,222	14.5	11.0	12.1
Class 3	4,059	7.8	4.5	5.4
Class 4	3,182	4.7	2.4	3.0
Class 5	1,197	2.5	1.3	1.6
Class 6	2,920	1.6	0.8	1.0
ALL INMATES	13,812	6.9	4.3	5.1

The table above shows a strong correlation, as would be expected, between the class of the commitment and the basic penalty level. Minimum and expected terms, particularly, jump dramatically with increasing class. The following two tables, then, compare sentencing data between those with and those without mandatory sentences, while controlling for the class of the commitment:

FY 1989-91 COMMITMENTS (No Mandatory Sentence)

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	0	-	-	-
Class 2	947	7.7	3.8	4.8
Class 3	2,481	5.8	2.9	3.7
Class 4	2,580	4.0	2.0	2.5
Class 5	893	2.1	1.0	1.3
Class 6	2,769	1.5	0.7	0.9
ALL INMATES	9,670	3.9	2.0	2.5

FY 1989-91 COMMITMENTS (Mandatory Sentence)

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	232	38.4	22.3	31.0
Class 2	1,275	19.5	16.3	17.5
Class 3	1,578	10.9	7.1	8.1
Class 4	602	7.6	4.4	5.3
Class 5	304	3.7	2.1	2.6
Class 6	151	3.5	2.0	2.4
ALL INMATES	4,142	13.8	9.8	11.3

It is interesting, also, to look at the ratio of the two sets of results:

FY 1989-91 COMMITMENTS (Ratio of Mandatory to Non-Mandatory)

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	-	-	-	-
Class 2	1.35	2.53	4.29	3.65
Class 3	0.64	1.88	2.45	2.19
Class 4	0.23	1.90	2.20	2.12
Class 5	0.34	1.76	2.10	2.00
Class 6	0.05	2.33	2.86	2.67
ALL INMATES	0.43	3.54	4.90	4.52

The fact that the ratios are smaller when the class of felony is controlled for shows that the differential in penalties is due in part to the higher felony classes associated with mandatory sentence commitments. Nonetheless, the discrepancies which remain, as indicated in the body of the table, are still highly significant across classes. It is noteworthy that the greatest discrepancies fall in the class with the harshest penalties, namely felony Class 2.

Since the actual length of stay in prison, which we call the expected term, is the bottom line measure both in terms of punitiveness and bedspace usage, it is informative to consider the impact of the discrepancies in this penalty type a little more closely. As can be seen from the table above, expected terms are from 2.00 to 3.65 times as long for commitments carrying mandatory sentences, depending on the felony class. If we backtrack and compare this penalty type across classes, we can gain a little better perspective on the potential impact of mandatory sentencing. Only Class 2 through 6 felons are considered in this analysis.

FY 1989-91 COMMITMENTS - Expected Prison Terms

CLASS	MANDATORY	NO MANDATORY
Class 2	17.5 (1,275)	4.8 (947)
Class 3	8.1 (1,578)	3.7 (2,481)
Class 4	5.3 (602)	2.5 (2,580)
Class 5	2.6 (304)	1.3 (893)
Class 6	2.4 (151)	0.9 (2,769)
ALL CLASS 2-6	10.1 (3,910)	2.5 (9,670)

For Class 2 through 6 felons the average expected term in prison for court commitments is 10.1 years. The question of interest is: What would that average fall to if these offenders had been sentenced instead according to the averages (by class) applying to offenders not sentenced under the mandatories, e.g., if the average expected term for the 1,275 Class 2 offenders had been 4.8 instead of 17.5, etc.? We can thus reproduce the above table as follows:

FY 1989-91 COMMITMENTS - Expected Prison Terms (Hypothetical)

CLASS	MANDATORY	NO MANDATORY
Class 2	4.8 (1,275)	4.8 (947)
Class 3	3.7 (1,578)	3.7 (2,481)
Class 4	2.5 (602)	2.5 (2,580)
Class 5	1.3 (304)	1.3 (893)
Class 6	0.9 (151)	0.9 (2,769)
ALL CLASS 2-6	3.8 (3,910)	2.5 (9,670)

According to this analysis, if mandatory sentence inmates (Class 2-6) had instead been sentenced without reference to the mandatory sentence provisions, the average expected term in prison would have fallen from 10.1 years to 3.8 years. This would have decreased the overall expected term (new code, excluding DWI and Shock Incarceration) from 5.1 years to 3.3 years or by 35.3%! THIS IS A PRELIMINARY RESULT ONLY AND DOES NOT REPRESENT THE ADC ESTIMATE OF THE IMPACT OF MANDATORY SENTENCING!!

We present this analysis to demonstrate that large differences in expected terms remain even after the felony class of conviction is controlled for. In the analysis to follow, we control not only for felony class, but also for the nature of the crime of conviction (violent or non-violent) and the prior record of the offender (number of prior felony convictions). This analysis will allow a much more sensitive reading of the true impact of mandatory sentencing.

To truly comprehend the role that mandatory sentencing plays in the determination of prison terms in Arizona, it is necessary to consider the nature of the specific mandatory penalty imposed. For this reason, it was decided to break out the results on sentencing for court commitments according to the classification system presented in the section on releases:

A. No mandatory sentence
B. Six months minimum for DWI
C. Consecutive sentence requirement (e.g., escape)
D. One-half eligibility
E. Two-thirds eligibility
F. Two-thirds eligibility plus 5-year minimum
G. Flat term
H. Life sentence plus 25-year minimum
I. Life sentence plus 35-year minimum

Results for eight of the nine categories (category B excluded) are as follows:

No Mandatory Sentence

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	0	-	-	-
Class 2	947	7.7	3.8	4.9
Class 3	2,481	5.8	2.9	3.7
Class 4	2,580	4.0	2.0	2.5
Class 5	893	2.1	1.0	1.3
Class 6	2,769	1.5	0.7	0.9
ALL INMATES	9,670	3.9	2.0	2.5

Consecutive Sentence Requirement

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	0	-	-	-
Class 2	0	-	-	-
Class 3	4	9.0	4.5	6.5
Class 4	11	4.7	2.3	3.4
Class 5	39	3.0	1.5	2.2
Class 6	6	2.5	1.3	1.8
ALL INMATES	60	3.6	1.8	2.6

One-Half Eligibility (Minimum Term is 1/2 of Maximum)

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	0	-	-	-
Class 2	1	6.0	3.0	3.9
Class 3	294	10.5	5.3	6.8
Class 4	432	6.7	3.3	4.3
Class 5	202	3.4	1.7	2.2
Class 6	103	3.0	1.5	1.9
ALL INMATES	1,032	6.7	3.4	4.3

Two-Thirds Eligibility (Minimum Term is 2/3 of Maximum)

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	0	-	-	-
Class 2	406	16.9	11.3	12.6
Class 3	1,179	10.3	6.8	7.7
Class 4	122	10.5	7.0	7.8
Class 5	46	5.7	3.8	4.3
Class 6	32	5.3	3.6	4.0
ALL INMATES	1,785	11.6	7.7	8.7

Two-Thirds Eligibility Plus 5-Year Minimum

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	0	-	-	-
Class 2	84	9.2	6.7	7.2
Class 3	1	10.0	6.7	7.9
Class 4	1	2.0	1.3	1.6
Class 5	0	-	-	-
Class 6	0	-	-	-
ALL INMATES	86	9.1	6.7	7.2

Flat Term (Must Serve the Sentence Imposed)

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	99	18.2	18.2	18.2
Class 2	731	19.3	19.3	19.3
Class 3	86	13.6	13.6	13.6
Class 4	33	7.3	7.3	7.3
Class 5	17	4.1	4.1	4.1
Class 6	10	2.9	2.9	2.9
ALL INMATES	976	17.8	17.8	17.8

Life Sentence Plus 25-Year Minimum

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	128	50.9	25.0	37.5
Class 2	32	51.8	25.0	37.5
Class 3	14	54.1	25.0	37.5
Class 4	3	50.0	25.0	37.5
Class 5	0	-	-	-
Class 6	0	-	-	-
ALL INMATES	177	51.3	25.0	37.5

Life Sentence Plus 35-Year Minimum

CLASS	INMATES	MAXIMUM	MINIMUM	EXPECTED
Class 1	5	119.4	35.0	42.5
Class 2	21	69.7	35.0	42.5
Class 3	0	-	-	-
Class 4	0	-	-	-
Class 5	0	-	-	-
Class 6	0	-	-	-
ALL INMATES	26	79.2	35.0	42.5

The final issue to be addressed in this section concerns the nature of the distribution of expected prison terms. The mean of this quantity is 2.5 years for inmates without mandatory sentences and 10.1 years for inmates with them. The following table provides major percentiles of the distribution of expected terms for the two groups.

PERCENTILE	NO MANDATORY	MANDATORY
10th	0.9	2.7
20th	0.9	3.8
25th	1.0	4.2
30th	1.3	5.0
40th	1.6	5.6
50th (Median)	2.5	6.4
60th	2.5	7.5
70th	3.2	8.6
75th	3.2	9.9
80th	3.3	11.2
90th	4.4	17.0

The mean expected term in prison for commitments carrying mandatory sentences (10.1 years) is 4.0 times what it is for commitments not carrying them (2.5 years). In comparing the medians, on the other hand, we find that the differential is a factor of 2.6 (6.4 years to 2.5 years). Again, it is necessary to utilize the mean rather than the median in developing impact estimates, as the mean translates directly into the "bed-year" measures upon which our estimates are based.

THE IMPACT OF MANDATORY SENTENCING ON PRISON POPULATION

In this section, we systematically address the issue of the impact of mandatory sentencing on sentence lengths and time served in the Arizona prison system, and by extrapolation, the impact on future prison populations in Arizona. To accomplish this, we use a multivariate statistical technique called "configural analysis." This entails the breaking out of statistical results (the dependent variables) according to pre-selected factors potentially contributing to those results (the independent variables). This is sophisticated language for the very straightforward, but time-consuming, process of controlling for factors, such as felony class, offense type, and prior record, which could theoretically explain the differences in sentencing results associated with mandatory sentencing. In other words, we must check out whether or not mandatory sentencing simply reflects the application of these factors to the setting of penalties in felony cases. To do this, we must look at all possible combinations of the factors in question individually before considering differences due to mandatory sentencing.

It is important to use the multivariate configural analysis technique described above rather than the multivariate regression technique often applied in these situations since regression frequently "breaks the rules" that apply within various categories of offenders. This happens because regression essentially "smoothes out" the data to reflect artificial "linear" relationships between independent and dependent variables. Regression assumes a "statistical" relationship in the data when in fact, in the case of the Arizona criminal code, the relationships are largely structural and/or mathematical. In other words, we know from the nature of the code that sentencing results cannot be "random," but rather fall within very clear ranges established by statute. We are simply looking for variations within those established ranges. Configural analysis is particularly suited to large databases, which certainly applies in the case of this study.

To set the stage for the definitive analysis to be given below, we present on the following pages several statistical tables which break out sentencing results from our study in a "configural arrangement," namely in the type of display which we plan to use to address the issue of impact. Tables are presented both for the active prison population as of June 30, 1991 and for the group of FY 1989-91 commitments. Statistical results presented in these tables include the same types of data examined previously, namely averages (means) of sentence length (maximum term), minimum term, and expected or "projected" term in prison (we use the two terms interchangeably). In the case of the active population, we also present, in addition, averages of time served to-date and time yet to-be-served.

Profiles by Felony Class and Felony Type

Tables 4 and 5 provide a statistical overview of sentencing data in which we control for both felony class and felony type, where felony type is defined in terms of the classification of offenders associated with the Dangerous and Repetitive Offender statute (A.R.S. § 13-604). Throughout this section, we systematically exclude, as previously, old code cases, DWI offenders, and those placed in the Department's Shock Incarceration program.

Table 4 applies to the June 30, 1991 active population and Table 5 to FY 1989-91

TABLE 4
Profile by Felony Classs and Type for Active Population, June 30, 1991

FELONY CLASS	FELONY TYPE	ACTIVE CASES	SENTENCE (Avg. Years)	TIME SERVED TO-DATE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)	TIME TO-BE-SERVED (Avg. Years)
Class 1	All Types	545	40.0	5.2	22.8	31.6	26.4
	Non-Dangerous/Non-Repetitive	232	34.4	4.0	21.1	27.6	23.6
	Non-Dangerous/One Prior	8	43.7	4.9	31.2	37.4	32.5
	Non-Dangerous/Two Priors	9	47.1	5.6	24.8	36.0	30.4
	Dangerous/Non-Repetitive	277	43.5	6.0	23.6	34.1	28.1
	Dangerous/One Prior	9	50.0	7.0	25.0	37.5	30.5
	Dangerous/Two Priors	10	51.7	5.4	29.2	40.5	35.1
Class 2	All Types	3,988	17.0	4.0	12.7	14.0	10.0
	Non-Dangerous/Non-Repetitive	2,143	10.8	3.0	8.1	8.8	5.8
	Non-Dangerous/One Prior	514	16.3	4.3	13.1	14.0	9.7
	Non-Dangerous/Two Priors	306	30.6	4.9	21.9	25.6	20.7
	Dangerous/Non-Repetitive	795	22.4	5.3	16.9	18.4	13.1
	Dangerous/One Prior	102	28.2	6.9	18.4	21.8	14.9
	Dangerous/Two Priors	128	48.1	6.5	34.7	39.4	32.9
Class 3	All Types	5,126	9.2	2.8	5.6	6.6	3.8
	Non-Dangerous/Non-Repetitive	3,216	7.3	2.3	3.8	4.7	2.4
	Non-Dangerous/One Prior	814	9.8	3.1	6.8	7.5	4.4
	Non-Dangerous/Two Priors	349	18.0	4.2	12.9	14.1	9.9
	Dangerous/Non-Repetitive	684	11.8	3.4	7.8	8.8	5.4
	Dangerous/One Prior	40	23.5	5.7	14.1	17.8	12.1
	Dangerous/Two Priors	23	33.2	5.2	18.4	24.9	19.7
Class 4	All Types	2,685	5.6	2.0	3.1	3.8	1.8
	Non-Dangerous/Non-Repetitive	1,932	4.6	1.7	2.3	2.9	1.2
	Non-Dangerous/One Prior	497	7.2	2.2	3.9	4.8	2.6
	Non-Dangerous/Two Priors	214	11.2	3.3	7.8	8.7	5.4
	Dangerous/Non-Repetitive	37	6.9	2.6	3.5	4.5	1.9
	Dangerous/One Prior	4	17.1	5.6	12.6	13.7	8.1
	Dangerous/Two Priors	1	10.0	0.9	6.7	7.5	6.6
Class 5	All Types	590	4.0	1.6	2.2	2.7	1.1
	Non-Dangerous/Non-Repetitive	372	2.9	1.3	1.5	1.9	0.6
	Non-Dangerous/One Prior	151	4.0	1.5	2.1	2.7	1.2
	Non-Dangerous/Two Priors	65	9.1	3.4	6.2	6.9	3.5
	Dangerous/Non-Repetitive	2	26.9	4.4	13.4	20.0	15.6
	Dangerous/One Prior	0	-	-	-	-	0.0
	Dangerous/Two Priors	0	-	-	-	-	0.0
Class 6	All Types	899	2.1	0.9	1.1	1.4	0.5
	Non-Dangerous/Non-Repetitive	788	1.8	0.8	0.9	1.2	0.4

TABLE 4
Profile by Felony Class and Type for Active Population, June 30, 1991

FELONY CLASS	FELONY TYPE	ACTIVE CASES	SENTENCE (Avg. Years)	TIME SERVED TO-DATE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)	TIME TO-BE-SERVED (Avg. Years)
	Non-Dangerous/One Prior	64	3.7	1.5	2.0	2.5	1.0
	Non-Dangerous/Two Priors	40	5.7	1.8	4.1	4.5	2.7
	Dangerous/Non-Repetitive	7	3.9	1.9	2.0	2.5	0.6
	Dangerous/One Prior	0	-	-	-	-	0.0
	Dangerous/Two Priors	0	-	-	-	-	0.0
All Classes	All Types	13,833	11.3	2.9	7.4	8.6	5.7
	Non-Dangerous/Non-Repetitive	8,683	7.6	2.2	4.6	5.5	3.3
	Non-Dangerous/One Prior	2,048	10.3	3.0	7.3	8.1	5.1
	Non-Dangerous/Two Priors	983	19.6	4.1	13.9	15.8	11.8
	Dangerous/Non-Repetitive	1,802	21.2	4.6	14.1	16.8	12.2
	Dangerous/One Prior	155	28.0	6.6	17.5	21.5	14.9
	Dangerous/Two Priors	162	46.0	6.2	31.9	37.2	31.0

TABLE 5
Profile by Felony Class and Type for New Commitments, FY 1989-91

FELONY CLASS	FELONY TYPE	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
Class 1	All Types	232	38.4	22.3	31.0
	Non-Dangerous/Non-Repetitive	141	34.3	21.4	27.8
	Non-Dangerous/One Prior	2	70.5	58.0	64.2
	Non-Dangerous/Two Priors	3	41.2	24.5	32.9
	Dangerous/Non-Repetitive	80	43.9	22.7	35.3
	Dangerous/One Prior	2	50.0	25.0	37.5
	Dangerous/Two Priors	4	50.0	25.0	37.5
Class 2	All Types	2,222	14.5	11.0	12.1
	Non-Dangerous/Non-Repetitive	1,552	9.7	7.2	7.9
	Non-Dangerous/One Prior	228	15.7	13.2	13.9
	Non-Dangerous/Two Priors	130	33.3	23.9	29.0
	Dangerous/Non-Repetitive	257	26.6	21.0	22.8
	Dangerous/One Prior	18	26.2	17.7	20.4
	Dangerous/Two Priors	37	48.5	36.7	40.8
Class 3	All Types	4,059	7.8	4.5	5.4
	Non-Dangerous/Non-Repetitive	2,963	6.3	3.2	4.1
	Non-Dangerous/One Prior	510	9.2	6.2	6.9
	Non-Dangerous/Two Priors	170	18.5	13.2	14.5
	Dangerous/Non-Repetitive	398	11.2	7.4	8.4
	Dangerous/One Prior	9	21.4	13.2	16.6
	Dangerous/Two Priors	9	44.4	22.6	33.3
Class 4	All Types	3,182	4.7	2.4	3.0
	Non-Dangerous/Non-Repetitive	2,604	4.0	2.0	2.5
	Non-Dangerous/One Prior	411	6.7	3.5	4.4
	Non-Dangerous/Two Priors	127	11.0	7.4	8.4
	Dangerous/Non-Repetitive	37	6.3	3.2	4.1
	Dangerous/One Prior	2	20.0	13.3	14.9
	Dangerous/Two Priors	1	10.0	6.7	7.5
Class 5	All Types	1,197	2.5	1.3	1.6
	Non-Dangerous/Non-Repetitive	937	2.1	1.1	1.4
	Non-Dangerous/One Prior	209	3.4	1.8	2.3
	Non-Dangerous/Two Priors	48	5.8	3.9	4.4
	Dangerous/Non-Repetitive	3	2.3	1.1	1.5
	Dangerous/One Prior	0	-	-	-
	Dangerous/Two Priors	0	-	-	-
Class 6	All Types	2,920	1.6	0.8	1.0
	Non-Dangerous/Non-Repetitive	2,778	1.5	0.8	0.9

TABLE 5
Profile by Felony Class and Type for New Commitments, FY 1989-91

FELONY CLASS	FELONY TYPE	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
	Non-Dangerous/One Prior	99	2.9	1.5	1.9
	Non-Dangerous/Two Priors	34	5.3	3.6	4.0
	Dangerous/Non-Repetitive	9	3.1	1.5	2.0
	Dangerous/One Prior	0	-	-	-
	Dangerous/Two Priors	0	-	-	-
All Classes	All Types	13,812	6.9	4.3	5.1
	Non-Dangerous/Non-Repetitive	10,975	5.0	2.9	3.5
	Non-Dangerous/One Prior	1,459	8.3	5.7	6.4
	Non-Dangerous/Two Priors	512	18.5	13.0	15.1
	Dangerous/Non-Repetitive	784	19.2	13.1	15.6
	Dangerous/One Prior	31	25.9	16.6	20.0
	Dangerous/Two Priors	51	47.1	32.7	38.6

commitments. These tables indicate the differential in penalties across "the matrix" appearing on the criminal code blotter which criminal justice practitioners in this state as so familiar with. The tables show not only the sentencing results across this matrix, but also how often (how many cases) the various penalty ranges associated with this matrix are actually used.

The results indicate that, as expected, penalties increase as one moves up the Dangerous/Repetitive offender scale, but also that the "Repetitiveness" statute is used much more often for Non-Dangerous than for Dangerous offenders. When it is used for Dangerous offenders, however, the penalties are significantly higher, and particularly for third offenders (Repetitive 2).

In interpreting these tables, it should be noted that the results are not just due to the impact of the Dangerous and Repetitive Offender statute. To an extent, the results are due also to the impact of the other mandatory sentence statutes, such as Dangerous Crimes Against Children. The task of determining the individual impact of each of the mandatory sentencing statutes is a difficult one and is unfortunately beyond the scope of this study.

Profiles by Offense Category and Felony Class

In contrast to Tables 4 and 5, Tables 6 and 7 (on pages 57 through 62) provide a statistical overview of sentencing data in which we control for both felony class and offense category as determined by the applicable Chapter of Title 13. In cases where multiple chapters apply to a given offender, we selected the one reflecting the "most serious" offense. Chapters were ranked according to seriousness as follows:

- Chapter 11 - Homicide
- Chapter 13 - Kidnapping
- Chapter 14 - Sexual Offenses
- Chapter 19 - Robbery
- Chapter 12 - Assault
- Chapter 17 - Arson
- Chapter 36 - Family Offenses
- Chapter 15 - Burglary
- Chapter 23 - Organized Crime
- Chapter 18 - Theft
- Chapter 16 - Criminal Damage
- Chapter 20 - Forgery
- Chapter 34 - Controlled Substances
- Chapter 25 - Escape
- Chapter 6 (Title 28) - DWI
- Miscellaneous Chapters

Table 6 applies to the June 30, 1991 active population and Table 7 to FY 1989-91 commitments. These tables indicate the differential in penalties associated with offense differences spanning beyond the felony class structure. Thus, for example, we can see that sex offenders normally receive harsher penalties than do burglars even within individual felony classes. To an extent, these tables pick up on the impact of the mandatory penalties

TABLE 6
Profile by Offense and Class for Inmate Population, June 30, 1991

A.R.S. CHAPTER	FELONY CLASS	ACTIVE CASES	SENTENCE (Avg. Years)	TIME SERVED TO-DATE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)	TIME TO-BE-SERVED (Avg. Years)
Chapter 11 - Homicide	All Classes	1,162	26.8	4.9	16.0	20.8	15.9
	Class 1	545	40.0	5.2	22.8	31.6	26.4
	Class 2	249	21.1	6.9	14.7	16.1	9.2
	Class 3	323	11.8	3.4	7.4	8.6	5.2
	Class 4	45	5.8	2.4	2.9	3.8	1.4
	Class 5	0	-	-	-	-	-
	Class 6	0	-	-	-		-
Chapter 12 - Assault	All Classes	1,208	9.0	2.5	5.3	6.4	3.9
	Class 1	0	-	-	-	-	-
	Class 2	58	26.5	4.5	17.2	20.8	16.3
	Class 3	850	9.6	2.8	5.7	6.8	4.0
	Class 4	140	5.3	1.8	2.8	3.5	1.7
	Class 5	22	4.5	1.7	2.5	3.1	1.4
	Class 6	138	2.3	1.0	1.2	1.5	0.5
Chapter 13 - Kidnapping	All Classes	331	23.6	4.8	17.8	19.3	14.5
	Class 1	0	-	-	-	-	-
	Class 2	264	27.2	5.3	20.8	22.5	17.2
	Class 3	40	11.4	2.9	6.9	8.0	5.1
	Class 4	10	8.4	3.1	4.2	5.3	2.2
	Class 5	4	11.0	4.2	5.8	7.9	3.7
	Class 6	13	4.2	0.9	2.6	3.0	2.1
Chapter 14 - Sexual Offenses	All Classes	1,702	18.1	3.7	14.3	15.5	11.8
	Class 1	0	-	-	-	-	-
	Class 2	790	26.6	4.5	23.6	24.9	20.4
	Class 3	830	11.3	3.1	6.5	7.8	4.7
	Class 4	10	7.2	1.9	4.2	5.0	3.1
	Class 5	41	3.6	1.4	1.9	2.3	0.9
	Class 6	31	3.4	0.8	1.7	2.2	1.4
Chapter 15 - Burglary	All Classes	2,295	7.9	2.5	4.8	5.6	3.1
	Class 1	0	-	-	-	-	-
	Class 2	144	17.8	4.4	11.2	13.4	9.0
	Class 3	1,096	9.0	2.9	5.7	6.5	3.6
	Class 4	888	5.9	2.0	3.2	4.0	2.0
	Class 5	91	3.6	1.4	2.0	2.5	1.1
	Class 6	76	2.0	1.0	1.1	1.4	0.4
Chapter 16 - Criminal Damage	All Classes	32	2.6	1.2	1.4	1.7	0.5
	Class 1	0	-	-	-	-	-

TABLE 6
Profile by Offense and Class for Inmate Population, June 30, 1991

A.R.S. CHAPTER	FELONY CLASS	ACTIVE CASES	SENTENCE (Avg. Years)	TIME SERVED TO-DATE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)	TIME TO-BE-SERVED (Avg. Years)
	Class 2	0	-	-	-	-	-
	Class 3	0	-	-	-	-	-
	Class 4	2	7.5	4.4	4.7	5.4	1.0
	Class 5	5	2.7	1.0	1.5	1.8	0.8
	Class 6	25	2.1	1.0	1.1	1.4	0.4
Chapter 17 - Arson	All Classes	57	7.9	2.9	4.6	5.4	2.5
	Class 1	0	-	-	-	-	-
	Class 2	31	10.3	3.3	6.0	7.1	3.8
	Class 3	6	6.6	2.6	3.8	4.5	1.9
	Class 4	17	5.2	2.6	2.9	3.5	0.9
	Class 5	1	2.0	0.9	1.0	1.3	0.4
	Class 6	2	2.0	0.7	1.0	1.3	0.6
Chapter 18 - Theft	All Classes	1,469	5.7	2.1	3.3	3.9	1.8
	Class 1	0	-	-	-	-	-
	Class 2	26	8.8	2.4	6.4	7.0	4.6
	Class 3	693	7.7	2.6	4.6	5.4	2.8
	Class 4	348	5.5	2.2	3.0	3.7	1.5
	Class 5	91	2.9	1.1	1.6	2.0	0.9
	Class 6	311	1.9	0.9	1.0	1.3	0.4
Chapter 19 - Robbery	All Classes	1,273	14.5	3.9	9.1	10.7	6.8
	Class 1	0	-	-	-	-	-
	Class 2	844	17.4	4.6	11.0	12.9	8.3
	Class 3	232	11.3	3.0	6.8	8.2	5.2
	Class 4	169	6.6	2.3	4.0	4.7	2.4
	Class 5	22	2.6	1.1	1.3	1.6	0.5
	Class 6	6	2.2	1.2	1.1	1.4	0.2
Chapter 20 - Forgery	All Classes	237	5.3	1.9	2.9	3.6	1.7
	Class 1	0	-	-	-	-	-
	Class 2	2	11.0	2.0	6.8	7.9	5.9
	Class 3	0	-	-	-	-	-
	Class 4	212	5.6	2.0	3.1	3.7	1.7
	Class 5	14	2.4	0.9	1.3	1.6	0.7
	Class 6	9	1.9	0.9	1.0	1.2	0.3
Chapter 23 - Organized Crime	All Classes	702	9.5	2.7	6.0	6.9	4.2
	Class 1	0	-	-	-	-	-
	Class 2	237	11.3	2.8	7.1	8.2	5.4
	Class 3	402	9.0	2.8	5.8	6.6	3.8
	Class 4	53	5.6	1.9	3.0	3.7	1.8

TABLE 6

Profile by Offense and Class for Inmate Population, June 30, 1991

A.R.S. CHAPTER	FELONY CLASS	ACTIVE CASES	SENTENCE (Avg. Years)	TIME SERVED TO-DATE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)	TIME TO-BE-SERVED (Avg. Years)
	Class 5	3	5.1	3.0	2.9	3.4	0.4
	Class 6	7	1.8	0.7	1.0	1.2	0.5
Chapter 25 - Escape	All Classes	106	8.3	3.0	4.9	5.9	2.9
	Class 1	0	-	-	-	-	-
	Class 2	7	18.5	3.8	11.5	13.4	9.6
	Class 3	8	10.0	2.6	5.6	6.7	4.1
	Class 4	9	6.7	2.3	3.3	4.4	2.1
	Class 5	44	12.1	4.8	7.3	8.8	4.0
	Class 6	38	2.0	0.9	1.1	1.4	0.5
Chapter 34 - Controlled Substances	All Classes	2,909	6.6	2.0	4.2	4.9	2.9
	Class 1	0	-	-	-	-	-
	Class 2	1,289	8.8	2.5	6.3	7.0	4.5
	Class 3	602	5.7	1.7	3.2	3.9	2.2
	Class 4	724	5.1	1.7	2.7	3.4	1.7
	Class 5	92	2.5	1.0	1.3	1.6	0.6
	Class 6	202	2.0	0.8	1.1	1.3	0.5
Chapter 36 - Family Offenses	All Classes	86	9.7	2.7	6.2	7.2	4.5
	Class 1	0	-	-	-	-	-
	Class 2	16	21.3	5.4	16.1	17.8	12.4
	Class 3	31	9.0	2.3	5.2	6.2	3.9
	Class 4	30	6.3	1.9	3.4	4.2	2.3
	Class 5	6	3.3	1.6	1.7	2.1	0.5
	Class 6	3	2.7	0.9	1.4	1.7	0.8
Miscellaneous Offenses	All Classes	265	9.2	2.2	3.5	4.1	1.9
	Class 1	0	-	-	-	-	-
	Class 2	31	17.1	6.1	11.9	13.5	7.4
	Class 3	13	14.8	3.9	8.2	10.0	6.1
	Class 4	28	5.5	2.6	3.1	3.8	1.2
	Class 5	154	3.6	1.3	2.0	2.4	1.1
	Class 6	38	3.0	1.4	1.6	1.9	0.5
All Chapters	All Classes	13,833	11.3	2.9	7.4	8.6	5.7
	Class 1	545	40.0	5.2	22.8	31.6	26.4
	Class 2	3,988	17.0	4.0	12.7	14.0	10.0
	Class 3	5,126	9.2	2.8	5.6	6.6	3.8
	Class 4	2,685	5.6	2.0	3.1	3.8	1.8
	Class 5	590	4.0	1.6	2.2	2.7	1.1
	Class 6	899	2.1	0.9	1.1	1.4	0.5

TABLE 7
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
Chapter 11 - Homicide	All Classes	531	23.4	13.9	18.3
	Class 1	232	38.4	22.3	31.0
	Class 2	49	22.4	15.5	17.5
	Class 3	200	10.6	6.6	7.6
	Class 4	49	5.2	2.6	3.3
	Class 5	1	4.0	2.0	2.6
	Class 6	0	-	-	-
Chapter 12 - Assault	All Classes	1,323	5.6	3.2	3.9
	Class 1	0	-	-	-
	Class 2	32	22.1	16.0	18.3
	Class 3	672	7.8	4.4	5.4
	Class 4	180	4.4	2.3	2.9
	Class 5	23	3.4	2.0	2.4
	Class 6	416	1.6	0.8	1.0
Chapter 13 - Kidnapping	All Classes	166	16.7	12.7	13.8
	Class 1	0	-	-	-
	Class 2	93	25.1	19.9	21.3
	Class 3	31	9.8	5.6	6.7
	Class 4	11	4.9	2.4	3.1
	Class 5	4	4.2	2.4	2.9
	Class 6	27	2.7	1.6	1.9
Chapter 14 - Sexual Offenses	All Classes	956	17.4	13.8	15.1
	Class 1	0	-	-	-
	Class 2	311	33.9	31.0	32.8
	Class 3	511	11.0	6.4	7.7
	Class 4	10	6.9	4.0	4.8
	Class 5	63	3.1	1.6	2.0
	Class 6	61	2.4	1.2	1.5
Chapter 15 - Burglary	All Classes	2,215	5.7	3.2	3.9
	Class 1	0	-	-	-
	Class 2	72	12.9	8.2	9.7
	Class 3	812	7.7	4.6	5.4
	Class 4	901	5.1	2.7	3.4
	Class 5	186	2.2	1.2	1.5
	Class 6	244	1.6	0.8	1.0
Chapter 16 - Criminal Damage	All Classes	104	1.7	0.9	1.1
	Class 1	0	-	-	-

TABLE 7
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
	Class 2	0	-	-	-
	Class 3	0	-	-	-
	Class 4	2	3.5	1.8	2.2
	Class 5	9	2.5	1.3	1.6
	Class 6	93	1.6	0.8	1.0
Chapter 17 - Arson	All Classes	46	6.3	3.6	4.3
	Class 1	0	-	-	-
	Class 2	19	9.4	5.4	6.4
	Class 3	6	6.0	3.3	4.0
	Class 4	13	4.9	2.6	3.2
	Class 5	4	2.0	1.0	1.3
	Class 6	4	1.5	0.7	0.9
Chapter 18 - Theft	All Classes	2,241	3.6	1.9	2.4
	Class 1	0	-	-	-
	Class 2	21	8.7	6.5	7.1
	Class 3	608	6.6	3.7	4.5
	Class 4	386	4.5	2.3	2.9
	Class 5	232	2.3	1.2	1.5
	Class 6	994	1.5	0.8	1.0
Chapter 19 - Robbery	All Classes	768	10.3	6.2	7.4
	Class 1	0	-	-	-
	Class 2	371	14.8	9.1	10.8
	Class 3	174	7.9	4.4	5.5
	Class 4	174	5.5	3.0	3.7
	Class 5	37	2.3	1.2	1.5
	Class 6	12	1.8	0.9	1.1
Chapter 20 - Forgery	All Classes	288	4.2	2.2	2.8
	Class 1	0	-	-	-
	Class 2	2	11.0	6.8	7.9
	Class 3	0	-	-	-
	Class 4	223	4.8	2.6	3.2
	Class 5	32	2.2	1.1	1.4
	Class 6	31	1.3	0.7	0.8
Chapter 23 - Organized Crime	All Classes	620	7.5	4.6	5.3
	Class 1	0	-	-	-
	Class 2	176	9.7	5.9	6.9
	Class 3	337	7.7	4.8	5.5
	Class 4	67	4.3	2.3	2.8

TABLE 7
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
	Class 5	14	2.2	1.2	1.4
	Class 6	26	1.5	0.8	0.9
Chapter 25 - Escape	All Classes	204	2.6	1.4	1.8
	Class 1	0	-	-	-
	Class 2	3	7.4	4.2	5.0
	Class 3	6	10.0	5.4	6.6
	Class 4	9	5.4	2.7	3.6
	Class 5	55	3.3	1.8	2.4
	Class 6	131	1.7	0.9	1.1
Chapter 34 - Controlled Substances	All Classes	3,750	4.9	3.0	3.5
	Class 1	0	-	-	-
	Class 2	1,060	8.2	5.8	6.5
	Class 3	671	5.4	3.0	3.6
	Class 4	1,093	4.2	2.1	2.7
	Class 5	204	2.1	1.1	1.4
	Class 6	722	1.6	0.8	1.0
Chapter 36 - Family Offenses	All Classes	102	5.9	3.5	4.2
	Class 1	0	-	-	-
	Class 2	6	24.1	17.9	20.5
	Class 3	26	7.7	4.5	5.3
	Class 4	36	5.6	2.9	3.6
	Class 5	9	3.1	1.5	1.9
	Class 6	25	1.4	0.7	0.9
Miscellaneous Offenses	All Classes	498	2.8	1.5	1.9
	Class 1	0	-	-	-
	Class 2	7	15.2	10.4	12.2
	Class 3	5	8.6	4.7	5.8
	Class 4	28	4.6	2.6	3.1
	Class 5	324	2.7	1.5	1.8
	Class 6	134	1.6	0.8	1.0
All Chapters	All Classes	13,812	6.9	4.3	5.1
	Class 1	232	38.4	22.3	31.0
	Class 2	2,222	14.5	11.0	12.1
	Class 3	4,059	7.8	4.5	5.4
	Class 4	3,182	4.7	2.4	3.0
	Class 5	1,197	2.5	1.3	1.6
	Class 6	2,920	1.6	0.8	1.0

TABLE 7A
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	MANDATORY SENTENCE?	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
Chapter 11 - Homicide	All Classes		531	23.4	13.9	18.3
	Class 1		232	38.4	22.3	31.0
		Yes	232	38.4	22.3	31.0
		No	0	-	-	-
	Class 2		49	22.4	15.5	17.5
		Yes	40	25.5	18.0	20.1
		No	9	8.8	4.4	5.5
	Class 3		200	10.6	6.6	7.6
		Yes	123	12.8	8.5	9.6
		No	77	7.0	3.5	4.4
	Class 4		49	5.2	2.6	3.3
		Yes	18	6.8	3.5	4.4
		No	31	4.3	2.1	2.7
	Class 5		1	4.0	2.0	2.6
		Yes	1	4.0	2.0	2.6
		No	0	-	-	-
Chapter 12 - Assault	All Classes		1,323	5.6	3.2	3.9
	Class 2		32	22.1	16.0	18.3
		Yes	26	23.0	17.6	19.9
		No	6	18.2	9.1	11.5
	Class 3		672	7.8	4.4	5.4
		Yes	226	11.9	7.5	8.9
		No	446	5.7	2.8	3.6
	Class 4		180	4.4	2.3	2.9
		Yes	29	6.9	3.8	4.7
		No	151	4.0	2.0	2.5
	Class 5		23	3.4	2.0	2.4
		Yes	11	4.7	2.8	3.4
		No	12	2.3	1.2	1.5

TABLE 7A
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	MANDATORY SENTENCE?	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
	Class 6		416	1.6	0.8	1.0
		Yes	22	2.8	1.5	1.9
		No	394	1.5	0.7	0.9
Chapter 13 - Kidnapping	All Classes		166	16.7	12.7	13.8
	Class 2		93	25.1	19.9	21.3
		Yes	51	37.5	32.2	33.7
		No	42	10.0	5.0	6.3
	Class 3		31	9.8	5.6	6.7
		Yes	8	17.0	11.4	12.8
		No	23	7.3	3.6	4.6
	Class 4		11	4.9	2.4	3.1
		Yes	1	15.6	7.8	10.0
		No	10	3.8	1.9	2.4
	Class 5		4	4.2	2.4	2.9
		Yes	2	4.8	3.0	3.5
		No	2	3.5	1.8	2.2
	Class 6		27	2.7	1.6	1.9
		Yes	4	9.5	6.5	7.2
		No	23	1.5	0.7	0.9
Chapter 14 - Sexual Offenses	All Classes		956	17.4	13.8	15.1
	Class 2		311	33.9	31.0	32.8
		Yes	303	34.6	31.7	33.5
		No	8	9.5	4.7	6.0
	Class 3		511	11.0	6.4	7.7
		Yes	419	11.9	7.1	8.4
		No	92	7.0	3.5	4.5
	Class 4		10	6.9	4.0	4.8
		Yes	2	7.0	6.4	6.6

TABLE 7A
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	MANDATORY SENTENCE?	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
		No	8	6.8	3.4	4.3
	Class 5		63	3.1	1.6	2.0
		Yes	10	5.6	3.0	3.7
		No	53	2.6	1.3	1.7
	Class 6		61	2.4	1.2	1.5
		Yes	8	3.9	2.1	2.6
		No	53	2.2	1.1	1.4
Chapter 15 - Burglary	All Classes		2,215	5.7	3.2	3.9
	Class 2		72	12.9	8.2	9.7
		Yes	42	15.9	11.1	12.7
		No	30	8.6	4.3	5.5
	Class 3		812	7.7	4.6	5.4
		Yes	287	10.6	7.3	8.1
		No	525	6.1	3.1	3.9
	Class 4		901	5.1	2.7	3.4
		Yes	247	7.5	4.4	5.2
		No	654	4.2	2.1	2.7
	Class 5		186	2.2	1.2	1.5
		Yes	18	4.2	2.5	3.0
		No	168	2.0	1.0	1.3
	Class 6		244	1.6	0.8	1.0
		Yes	10	4.2	2.4	2.9
		No	234	1.5	0.7	0.9
Chapter 16 - Criminal Damage	All Classes		104	1.7	0.9	1.1
	Class 4		2	3.5	1.8	2.2
		Yes	0	-	-	-
		No	2	3.5	1.8	2.2
	Class 5		9	2.5	1.3	1.6

TABLE 7A
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	MANDATORY SENTENCE?	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
		Yes	2	4.0	2.4	2.8
		No	7	2.1	1.0	1.3
	Class 6		93	1.6	0.8	1.0
		Yes	3	3.5	2.1	2.5
		No	90	1.5	0.8	1.0
Chapter 17 - Arson	All Classes		46	6.3	3.6	4.3
	Class 2		19	9.4	5.4	6.4
		Yes	5	17.0	11.3	12.7
		No	14	6.7	3.3	4.2
	Class 3		6	6.0	3.3	4.0
		Yes	1	11.1	7.4	8.3
		No	5	4.9	2.5	3.1
	Class 4		13	4.9	2.6	3.2
		Yes	2	7.8	4.8	5.6
		No	11	4.4	2.2	2.8
	Class 5		4	2.0	1.0	1.3
		Yes	0	-	-	-
		No	4	2.0	1.0	1.3
	Class 6		4	1.5	0.7	0.9
		Yes	0	-	-	-
		No	4	1.5	0.7	0.9
Chapter 18 - Theft	All Classes		2,241	3.6	1.9	2.4
	Class 2		21	8.7	6.5	7.1
		Yes	13	9.5	8.2	8.5
		No	8	7.4	3.7	4.7
	Class 3		608	6.6	3.7	4.5
		Yes	134	10.0	6.9	7.7
		No	474	5.6	2.8	3.6
	Class 4		386	4.5	2.3	2.9

TABLE 7A
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	MANDATORY SENTENCE?	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
		Yes	61	7.2	3.9	4.9
		No	325	3.9	2.0	2.5
	Class 5		232	2.3	1.2	1.5
		Yes	30	4.2	2.6	3.0
		No	202	2.0	1.0	1.3
	Class 6		994	1.5	0.8	1.0
		Yes	46	3.4	2.0	2.4
		No	948	1.5	0.7	0.9
Chapter 19 - Robbery	All Classes		768	10.3	6.2	7.4
	Class 2		371	14.8	9.1	10.8
		Yes	205	20.4	13.3	15.5
		No	166	8.0	4.0	5.1
	Class 3		174	7.9	4.4	5.5
		Yes	51	12.9	7.8	9.8
		No	123	5.8	2.9	3.7
	Class 4		174	5.5	3.0	3.7
		Yes	42	9.1	5.7	6.6
		No	132	4.3	2.2	2.7
	Class 5		37	2.3	1.2	1.5
		Yes	6	3.6	2.2	2.6
		No	31	2.1	1.0	1.3
	Class 6		12	1.8	0.9	1.1
		Yes	0	-	-	-
		No	12	1.8	0.9	1.1
Chapter 20 - Forgery	All Classes		288	4.2	2.2	2.8
	Class 2		2	11.0	6.8	7.9
		Yes	1	15.1	10.0	11.3
		No	1	7.0	3.5	4.4

TABLE 7A
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	MANDATORY SENTENCE?	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
	Class 4		223	4.8	2.6	3.2
		Yes	52	7.7	4.5	5.4
		No	171	3.9	2.0	2.5
	Class 5		32	2.2	1.1	1.4
		Yes	1	4.0	2.7	3.0
		No	31	2.1	1.1	1.3
	Class 6		31	1.3	0.7	0.8
		Yes	0	-	-	-
		No	31	1.3	0.7	0.8
Chapter 23 - Organized Crime	All Classes		620	7.5	4.6	5.3
	Class 2		176	9.7	5.9	6.9
		Yes	54	13.4	10.0	10.8
		No	122	8.0	4.0	5.1
	Class 3		337	7.7	4.8	5.5
		Yes	104	12.3	9.3	10.0
		No	233	5.6	2.8	3.5
	Class 4		67	4.3	2.3	2.8
		Yes	11	7.0	4.0	4.9
		No	56	3.8	1.9	2.4
	Class 5		14	2.2	1.2	1.4
		Yes	2	4.6	2.8	3.3
		No	12	1.8	0.9	1.1
	Class 6		26	1.5	0.8	0.9
		Yes	1	3.8	2.5	2.8
		No	25	1.4	0.7	0.9
Chapter 25 - Escape	All Classes		204	2.6	1.4	1.8
	Class 2		3	7.4	4.2	5.0
		Yes	1	8.3	5.5	6.2
		No	2	7.0	3.5	4.4

TABLE 7A
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	MANDATORY SENTENCE?	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
	Class 3		6	10.0	5.4	6.6
		Yes	1	15.0	10.0	11.2
		No	5	9.0	4.5	5.7
	Class 4		9	5.4	2.7	3.6
		Yes	5	5.0	2.5	3.5
		No	4	6.0	3.0	3.8
	Class 5		55	3.3	1.8	2.4
		Yes	40	3.3	1.9	2.4
		No	15	3.3	1.7	2.1
	Class 6		131	1.7	0.9	1.1
		Yes	13	2.9	1.9	2.2
		No	118	1.6	0.8	1.0
Chapter 34 - Controlled Substances	All Classes		3,750	4.9	3.0	3.5
	Class 2		1,060	8.2	5.8	6.5
		Yes	528	9.2	8.1	8.5
		No	532	7.1	3.5	4.5
	Class 3		671	5.4	3.0	3.6
		Yes	208	6.1	4.1	4.6
		No	463	5.1	2.6	3.2
	Class 4		1,093	4.2	2.1	2.7
		Yes	123	7.7	4.3	5.4
		No	970	3.7	1.9	2.4
	Class 5		204	2.1	1.1	1.4
		Yes	11	4.0	2.2	2.7
		No	193	2.0	1.0	1.3
	Class 6		722	1.6	0.8	1.0
		Yes	35	3.0	1.7	2.1
		No	687	1.5	0.8	1.0

TABLE 7A
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	MANDATORY SENTENCE?	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
Chapter 36 - Family Offenses	All Classes		102	5.9	3.5	4.2
	Class 2		6	24.1	17.9	20.5
		Yes	4	30.0	23.8	26.9
		No	2	12.2	6.1	7.7
	Class 3		26	7.7	4.5	5.3
		Yes	13	9.7	6.1	7.0
		No	13	5.7	2.8	3.6
	Class 4		36	5.6	2.9	3.6
		Yes	4	13.5	8.1	9.5
		No	32	4.6	2.3	2.9
	Class 5		9	3.1	1.5	1.9
		Yes	0	-	-	-
		No	9	3.1	1.5	1.9
	Class 6		25	1.4	0.7	0.9
		Yes	0	-	-	-
		No	25	1.4	0.7	0.9
Miscellaneous Offenses	All Classes		498	2.8	1.5	1.9
	Class 2		7	15.2	10.4	12.2
		Yes	2	35.0	27.5	31.2
		No	5	7.3	3.6	4.6
	Class 3		5	8.6	4.7	5.8
		Yes	3	11.0	6.2	7.5
		No	2	5.0	2.5	3.2
	Class 4		28	4.6	2.6	3.1
		Yes	5	7.6	5.1	5.8
		No	23	4.0	2.0	2.5
	Class 5		324	2.7	1.5	1.8
		Yes	170	3.5	1.9	2.4
		No	154	1.9	0.9	1.2

TABLE 7A
Profile by Offense and Class for New Commitments, FY 1989-91

A.R.S. CHAPTER	FELONY CLASS	MANDATORY SENTENCE?	NEW COMMITMENTS	SENTENCE (Avg. Years)	MINIMUM TERM (Avg. Years)	PROJECTED TERM IN PRISON (Avg. Years)
	Class 6		134	1.6	0.8	1.0
		Yes	9	3.8	2.2	2.5
		No	125	1.5	0.7	0.9
All Chapters	All Classes		13,812	6.9	4.3	5.1
		Yes	4,142	13.8	9.8	11.3
		No	9,670	3.9	2.0	2.5
	Class 1		232	38.4	22.3	31.0
		Yes	232	38.4	22.3	31.0
		No	0	-	-	-
	Class 2		2,222	14.5	11.0	12.1
		Yes	1,275	19.5	16.3	17.5
		No	947	7.7	3.8	4.8
	Class 3		4,059	7.8	4.5	5.4
		Yes	1,578	10.9	7.1	8.1
		No	2,481	5.8	2.9	3.7
	Class 4		3,182	4.7	2.4	3.0
		Yes	602	7.6	4.4	5.3
		No	2,580	4.0	2.0	2.5
	Class 5		1,197	2.5	1.3	1.6
		Yes	304	3.7	2.1	2.6
		No	893	2.1	1.0	1.3
	Class 6		2,920	1.6	0.8	1.0
		Yes	151	3.5	2.0	2.4
		No	2,769	1.5	0.7	0.9

targeting selected offense categories such as homicide, sex offenses, and drug offenses. The tables tell the "bottom line" on punishment in Arizona for each type of crime after all the various influences of the code and of the charging and sentencing practices of prosecutors and judges are factored in.

The following constitutes a condensation of the data appearing in Table 7 in which chapters of the code are rank ordered according to the size of the average expected (projected) term in prison without regard to felony class. This table reflects, in a nutshell, what the state is receiving from its criminal justice system in terms of the use of the sanction of imprisonment. To the extent that the maze of data presented in this and other reports lead to confusion regarding the "sanctioning policy" of this state, the table below should help clear away the clouds.

FY 1989-91 COMMITMENTS

TITLE 13	INMATES	MAXIMUM	MINIMUM	EXPECTED
Homicide	531	23.4	13.9	18.3
Sex Offenses	956	17.4	13.8	15.1
Kidnapping	166	16.7	12.7	13.8
Robbery	768	10.3	6.2	7.4
Org. Crime	620	7.5	4.6	5.3
Arson	46	6.3	3.6	4.3
Family Off.	102	5.9	3.5	4.2
Burglary	2,215	5.7	3.2	3.9
Assault	1,323	5.6	3.2	3.9
Cont. Subst.	3,750	4.9	3.0	3.5
Forgery	288	4.2	2.2	2.8
Theft	2,241	3.6	1.9	2.4
Misc. Off.	498	2.8	1.5	1.9
Escape	204	2.6	1.4	1.8
Crim. Damage	104	1.7	0.9	1.1
ALL INMATES	13,812	6.9	4.3	5.1

Table 7A on pages 63-71, which extends the data presented in Table 7, further breaks out sentencing statistics according to mandatory sentencing status. While we will not "talk through" this table, we do note that a careful examination of it will show that significant differences in the size of penalties (mandatory versus non-mandatory) remain even after

controlling for both felony class and the nature of the crime of conviction. For example, in the case of Class 3 homicide, the average expected term in prison jumps from 4.4 years to 9.6 years under mandatory sentencing. Similarly, for Class 3 assault, the penalty jumps from 3.6 years to 8.9 years. Obviously, felony class and offense type are insufficient to explain away the differential in penalties associated with mandatory sentencing!

Simulation of a "Non-Mandatory Sentencing" Scenario

While it is obviously impossible to realistically "resentence" offenders under a "non-mandatory sentencing scenario," it is possible to simulate this resentencing statistically. To accomplish this, it is necessary to utilize some type of classification model of offenders which takes into account the major factors hypothetically impacting sentencing results other than mandatory sentencing. In other words, we need to develop relatively "homogeneous" categories of offenders for which individually we would expect a relatively narrow range of sentencing outcomes. Under these circumstances, any variation in sentencing results within such categories should be due to inconsistency in the application of the mandatory sentencing statutes. This inconsistency can then be quantified and represented in a sense as the "essence" or impact of mandatory sentencing.

Obviously, it is necessary to include felony class as one of the factors in the envisioned classification model. In addition, we include felony offense type (violent or non-violent) and the number of prior adult felony convictions in the offender's record:

Classification Factors

- Felony Class (2 through 6)
- Felony Offense Type (Violent or Non-Violent)
- Number of Prior Adult Felony Convictions (None, One or Two or More)

In this context we define "violent" as any of the following: Homicide, Kidnapping, Sexual Offenses, Robbery, Assault, Arson, and Family Offenses (mostly child abuse). In addition, because data is missing from the database used for this study, it was necessary to break out a category of "unknown priors." Our analysis of this category reveals that in most such cases, the offender had priors but the exact number was unknown.

Accordingly, as there are five categories of felony class (2-6), two categories of offense type (violent and non-violent), and four categories of prior record (none, one, two or more, and unknown), the classification model used for this analysis broke out 5 x 2 x 4 = 40 individual categories of felony offenders. In turn, sentencing results were examined within each of these 40 categories according to the presence or absence of a mandatory sentence. Thus, our analysis reflects 80 separate sets of sentencing outcomes.

The results of this analysis are presented in Table 8 on pages 74 through 76. Again, we restrict our attention to FY 1989-91 commitments, excluding old code cases, DWI, Shock Incarceration cases, and Class 1 felonies. We exclude Class 1 felonies since all such offenses carry mandatory sentences (whence there is no basis for a comparative analysis). The table breaks out numbers of cases, the average maximum term, the average minimum term, and

TABLE 8
Simulation of Impact of Mandatories, Court Commitments, FY 1989-91

		Class 2	Class 3	Class 4	Class 5	Class 6	ALL CASES ACTUAL (With Mandatories)	ALL CASES SIMULATED (No Mandatories)	PERCENTAGE DIFFERENCE
Non-Violent/No Priors	Cases	189	455	619	215	777	2255	2255	0
No Mandatory Sentence	Maximum	6.9	5.3	3.7	1.9	1.4	3.3	3.3	0
	Minimum	3.4	2.7	1.8	1.0	0.7	1.7	1.7	0
	Projected Term	4.3	3.4	2.3	1.2	0.9	2.1	2.1	0
Non-Violent/No Priors	Cases	161	134	65	55	21	436	436	0
Mandatory Sentence	Maximum	8.9	8.0	6.5	3.5	3.5	7.3	5.0	46
	Minimum	7.6	5.5	3.5	1.9	2.1	5.4	2.5	113
	Projected Term	8.0	6.1	4.4	2.4	2.5	5.9	3.2	86
Non-Violent/One Prior	Cases	155	367	453	169	479	1623	1623	0
No Mandatory Sentence	Maximum	6.8	5.5	3.9	2.0	1.5	3.6	3.6	0
	Minimum	3.4	2.8	2.0	1.0	0.7	1.8	1.8	0
	Projected Term	4.3	3.5	2.5	1.3	0.9	2.3	2.3	0
Non-Violent/One Prior	Cases	126	101	84	42	17	370	370	0
Mandatory Sentence	Maximum	9.7	8.5	7.6	4.5	3.4	8.0	5.0	60
	Minimum	8.4	5.7	4.4	1.7	1.9	5.7	2.5	126
	Projected Term	8.8	6.4	5.3	2.1	2.2	6.3	3.2	98
Non-Violent/Two+ Priors	Cases	196	418	561	175	383	1733	1733	0
No Mandatory Sentence	Maximum	8.0	6.1	4.4	2.3	1.8	4.4	4.4	0
	Minimum	4.0	3.0	2.2	1.2	0.9	2.2	2.2	0
	Projected Term	5.0	3.9	2.8	1.5	1.1	2.8	2.8	0
Non-Violent/Two+ Priors	Cases	163	319	262	128	51	923	923	0
Mandatory Sentence	Maximum	11.4	10.0	7.7	3.9	3.6	8.4	5.2	62
	Minimum	9.4	6.9	4.4	2.3	2.0	5.7	2.6	121
	Projected Term	10.0	7.6	5.4	2.7	2.5	6.4	3.3	95
Non-Violent/Unknown Priors	Cases	160	462	572	223	619	2036	2036	0
No Mandatory Sentence	Maximum	7.6	5.6	3.8	1.9	1.5	3.6	3.6	0
	Minimum	3.8	2.8	1.9	1.0	0.7	1.8	1.8	0
	Projected Term	4.8	3.6	2.4	1.2	0.9	2.3	2.3	0
Non-Violent/Unknown Priors	Cases	191	183	93	49	28	544	544	0
Mandatory Sentence	Maximum	10.3	10.1	7.6	3.5	2.9	8.8	5.5	61
	Minimum	8.7	7.4	4.4	2.0	1.7	6.6	2.7	141
	Projected Term	9.3	8.1	5.3	2.4	2.0	7.2	3.5	108
Violent/No Priors	Cases	88	276	111	28	174	677	677	0
No Mandatory Sentence	Maximum	8.8	6.1	4.2	2.5	1.5	4.8	4.8	0
	Minimum	4.4	3.1	2.1	1.3	0.7	2.4	2.4	0
	Projected Term	5.6	3.9	2.6	1.6	0.9	3.0	3.0	0
Violent/No Priors	Cases	187	293	29	6	6	521	521	0
Mandatory Sentence	Maximum	24.2	11.3	7.1	4.5	2.8	15.5	6.9	126
	Minimum	21.3	6.8	3.9	2.6	1.4	11.7	3.5	239
	Projected Term	22.3	8.0	4.8	3.1	1.8	12.8	4.4	193

TABLE 8
Simulation of Impact of Mandatories, Court Commitments, FY 1989-91

		Class 2	Class 3	Class 4	Class 5	Class 6	ALL CASES ACTUAL (With Mandatories)	ALL CASES SIMULATED (No Mandatories)	PERCENTAGE DIFFERENCE
Violent/One Prior	Cases	43	159	74	22	128	426	426	0
No Mandatory Sentence	Maximum	8.8	5.7	4.1	2.5	1.5	4.3	4.3	0
	Minimum	4.4	2.9	2.1	1.3	0.8	2.2	2.2	0
	Projected Term	5.5	3.6	2.6	1.6	1.0	2.7	2.7	0
Violent/One Prior	Cases	95	128	17	6	4	250	250	0
Mandatory Sentence	Maximum	29.0	11.3	6.9	4.3	2.8	17.4	6.6	163
	Minimum	25.1	7.0	3.8	2.7	1.6	13.5	3.3	303
	Projected Term	26.3	8.3	4.7	3.2	2.0	14.7	4.2	252
Violent/Two+ Priors	Cases	46	120	75	17	72	330	330	0
No Mandatory Sentence	Maximum	9.1	6.5	4.4	2.6	2.0	5.2	5.2	0
	Minimum	4.5	3.2	2.2	1.3	1.0	2.6	2.6	0
	Projected Term	5.8	4.1	2.8	1.6	1.3	3.3	3.3	0
Violent/Two+ Priors	Cases	129	158	24	10	11	332	332	0
Mandatory Sentence	Maximum	23.6	16.2	10.6	3.6	3.8	17.9	7.1	152
	Minimum	18.5	10.0	6.8	2.1	2.3	12.6	3.5	259
	Projected Term	20.2	12.1	7.8	2.5	2.7	14.3	4.5	219
Violent/Unknown Priors	Cases	70	224	115	44	137	590	590	0
No Mandatory Sentence	Maximum	8.0	6.0	4.2	2.3	1.5	4.6	4.6	0
	Minimum	4.0	3.0	2.1	1.2	0.7	2.3	2.3	0
	Projected Term	5.1	3.8	2.7	1.5	0.9	2.9	2.9	0
Violent/Unknown Priors	Cases	223	262	28	8	13	534	534	0
Mandatory Sentence	Maximum	36.1	10.9	8.0	6.7	4.7	21.1	6.6	220
	Minimum	29.3	6.9	4.8	3.7	2.8	16.0	3.3	387
	Projected Term	32.6	8.0	5.7	4.6	3.4	18.0	4.2	330
ALL CASES	Cases	2222	4059	3182	1197	2920	13580	13580	0
	Maximum	14.5	7.7	4.7	2.5	1.6	6.4	4.5	42
	Minimum	11.0	4.5	2.5	1.3	0.8	4.0	2.2	79
	Projected Term	12.1	5.4	3.0	1.6	1.0	4.7	2.8	65
Mandatory Sentence	Cases	1275	1578	602	304	151	3910	3910	0
	Maximum	19.5	10.9	7.6	3.7	3.5	12.4	5.9	111
	Minimum	16.3	7.1	4.4	2.1	2.0	9.1	2.9	210
	Projected Term	17.5	8.1	5.3	2.6	2.4	10.1	3.7	172
No Mandatory Sentence	Cases	947	2481	2580	893	2769	9670	9670	0
	Maximum	7.7	5.8	4.0	2.1	1.5	3.9	3.9	0
	Minimum	3.8	2.9	2.0	1.0	0.7	2.0	2.0	0
	Projected Term	4.8	3.7	2.5	1.3	0.9	2.5	2.5	0
Violent Offender/	Cases	634	841	98	30	34	1637	1637	0
Mandatory Sentence	Maximum	29.0	12.1	8.2	4.7	3.9	18.1	6.8	167
	Minimum	24.1	7.5	4.9	2.7	2.3	13.6	3.4	299
	Projected Term	26.1	8.8	5.8	3.3	2.7	15.1	4.3	251

TABLE 8
Simulation of Impact of Mandatories, Court Commitments, FY 1989-91

		Class 2	Class 3	Class 4	Class 5	Class 6	ALL CASES ACTUAL (With Mandatories)	ALL CASES SIMULATED (No Mandatories)	PERCENTAGE DIFFERENCE
Violent Offender/ No Mandatory Sentence	Cases	247	779	375	111	511	2023	2023	0
	Maximum	8.6	6.1	4.2	2.4	1.6	4.7	4.7	0
	Minimum	4.3	3.0	2.1	1.3	0.8	2.4	2.4	0
	Projected Term	5.5	3.8	2.7	1.6	1.0	3.0	3.0	0
Non-Violent Offender/ Mandatory Sentence	Cases	641	737	504	274	117	2273	2273	0
	Maximum	10.1	9.5	7.5	3.8	3.4	8.2	5.2	58
	Minimum	8.5	6.6	4.3	2.1	1.9	5.8	2.6	125
	Projected Term	9.1	7.3	5.2	2.5	2.3	6.5	3.3	97
Non-Violent Offender/ No Mandatory Sentence	Cases	700	1702	2205	782	2258	7647	7647	0
	Maximum	7.3	5.6	3.9	2.0	1.5	3.7	3.7	0
	Minimum	3.7	2.8	2.0	1.0	0.7	1.9	1.9	0
	Projected Term	4.6	3.6	2.5	1.3	0.9	2.3	2.3	0

the average projected (expected) term for each of the 80 categories in question, and then presents composite results (near the bottom of the table) for the following seven higher-level categories:

- ALL CASES
- All Mandatory Sentence cases
- All Non-Mandatory Sentence cases
- All Violent Mandatory Sentence cases
- All Violent Non-Mandatory Sentence cases
- All Non-Violent Mandatory Sentence cases
- All Non-Violent Non-Mandatory Sentence cases

The table also simulates sentencing under a non-mandatory sentencing scenario for each of the 40 mandatory sentencing categories. Namely, the sentencing results for the corresponding non-mandatory sentencing category are applied as if mandatory sentencing did not exist. This assumes that sentencing for mandatory sentence cases would be identical to the observed results for the non-mandatory sentence group.

For example, taking the first category in the table, namely non-violent Class 2 offenders with no priors, we see that there were 161 such cases carrying mandatory sentences. The average maximum term for this group was 8.9 years, the average minimum term 7.6 years, and the average projected term in prison 8.0 years. Our simulation substitutes the results for this category with the results for the equivalent group just above it in the table, namely the 189 in the same basic category who were sentenced outside the mandatory sentencing statutes. In this case we apply a 6.9-year average maximum term, a 3.4-year average minimum term, and a 4.3-year average projected term to the 161 offenders in question. Results of this type are then accumulated across all five felony classes to obtain the results reflected in the column labelled "ALL CASES-SIMULATED (No Mandatories).

The last column in the table reflects the percentage difference between the actual and the simulated results, i.e., what percentage the actual result is above the simulated result. This measure indicates the degree of "inflation" hypothetically due to mandatory sentencing. Thus, for the 436 offenders in the mandatory sentence portion of the category of Non-Violent/No Priors the average maximum term was 7.3 years, the average minimum term 5.4 years, and the average projected term in prison 5.9 years. Under our simulation, these results shift to a 5.0-year average maximum term, a 2.5-year average minimum term, and a 3.2 year average projected term.

Individual simulations for each of the 40 categories of our classification model are then accumulated at the bottom of the table to obtain higher level simulation results as follows:

Actual Versus Simulated Results for Mandatory Sentence Commitments (Class 2-6)

SCENARIO	INMATES	MAXIMUM	MINIMUM	PROJECTED
Actual	3,910	12.4	9.1	10.1
Simulated	3,910	5.9	2.9	3.7

As indicated in the last column in the table, the actual results are proportionately higher than the simulated results by the following amounts:

- Maximum Terms - 111%
- Minimum Terms - 210%
- Projected Terms - 172%

Thus the results of our simulation, in which mandatory sentences are (hypothetically) not available, indicate, for the 3,910 offenders in the mandatory sentence group, maximum terms 2.11 times as long, minimum terms 3.10 times as long, and projected terms 2.72 times as long as would be expected absent mandatory sentencing.

Combining these results with those for the non-mandatory sentence group gives the following comparison for the total committed population:

Actual Versus Simulated Results for All Commitments (Class 2-6)

SCENARIO	INMATES	MAXIMUM	MINIMUM	PROJECTED
Actual	13,580	6.4	4.0	4.7
Simulated	13,580	4.5	2.2	2.8

Again, as indicated in the last column of the table, the actual results are proportionately higher than the simulated results by the following amounts:

- Maximum Terms - 42%
- Minimum Terms - 79%
- Projected Terms - 65%

Thus the results of our simulation indicate, for the total sentenced population of 13,580 offenders (new code, Class 2-6, non-DWI and non-Shock), maximum terms 42% longer, minimum terms 79% longer, and projected terms 65% longer, than would be expected absent mandatory sentencing.

To obtain a proper measure of the long-term impact on bed needs of mandatory sentencing, it is necessary to express our results not just for the targeted sub-population, but instead for the complete population of 16,852 commitments.

Actual Versus Simulated Results for All Commitments

SCENARIO	INMATES	MAXIMUM	MINIMUM	PROJECTED
Actual	16,852	5.9	3.7	4.3
Simulated	16,852	4.4	2.2	2.9

Expressed in terms of all commitments to the Department of Corrections, our simulation results suggest maximum terms 34.1% longer, minimum terms 68.2% longer, and projected

terms 48.3% longer, than would be expected absent mandatory sentencing. Since projected terms translate directly into beds to be filled (or to the so-called "bed-year" investment), our results indicate a long-term 48% prison population inflation factor due solely to mandatory sentencing. It should be emphasized that this is a long-term inflation factor which assumes a continuation of the current statutory foundation, of current charging and sentencing practices, and of the current profile of committed offenders. Any changes in these parameters would impact our estimate accordingly. Also, we are not concluding that mandatory sentencing has accounted for a 48% inflation in terms of past prison population growth in Arizona. This is a separate issue which will be addressed in the next section.

PRISON POPULATION GROWTH TREND

From June 30, 1972 to December 31, 1980, the prison population in Arizona grew by an average of 22.9 per month, from 1,528 to 3,859. In contrast, between December 31, 1980 and December 11, 1991 the prison population grew by an average of 88.0 per month, from 3,859 to 15,478, a 4-fold increase. In the opinion of the Department, the jump in the monthly growth rate has been due to more than just increased court activity. In particular, the Department feels that mandatory sentencing has contributed significantly to prison population growth in Arizona over the 13 years since enactment of the new criminal code.

The findings of the previous section indicate a dramatic impact of mandatory sentencing on the lengths of prison terms projected to be served by incoming inmates. Specifically, the Department estimates that mandatory sentencing results in prison terms 2.7 times as long as terms for similar offenders not subjected to these statutes. Consequently, mandatory sentencing results in a 48.3% inflation in the prison population over the level expected absent mandatory sentencing. Now, while this result is based on an analysis of court commitments for the recent period FY 1989-91, and hence technically can't be assumed to hold true prior to July of 1988, other available data would tend to support the conclusion that mandatory sentencing has had a significant historical impact.

One indication of historical impact concerns the build-up in the prison population of inmates serving mandatory sentences. As noted previously, 52.2% of inmates active on June 30, 1991 carried mandatory sentences (excluding old code, DWI, Shock Incarceration and Class 1 offenders, the percentage comes to 50.0%). Further, this build-up can be demonstrated by comparing mandatory sentence profiles of admissions, releases and active prison population, as follows:

CATEGORY	ADMISSIONS	RELEASES	POPULATION
Mandatory	28.8%	13.1%	50.0%
No Mandatory	71.2%	86.9%	50.0%

If one of the goals of mandatory sentencing is to prevent the release of the affected inmates, then the strategy would appear to be working, according to these statistics. Comparatively speaking, very few mandatory sentence inmates are being released to the streets in Arizona. Consequently, as can be seen from the time served averages given in the section on releases, the overall average (2.3 years) is close to the average for non-mandatory sentence inmates (2.0 years). It is also close to the average projected prison term for non-mandatory sentence commitments (2.5 years). In other words, time served averages for all releases are driven primarily by time served for inmates without mandatory sentences.

This fact has two major consequences. For one, time served averages for releases vastly underestimate expected prison terms for all inmates, since they ignore, for the most part, mandatory sentence inmates. As noted in the section on commitments, the average expected

prison term for admissions is 4.7 years (5.1 with Class 1 felons included). This is more than twice the average time served for all releases. Interestingly enough, as demonstrated in the table above, the percentage of mandatory sentence inmates among admissions is more than twice what it is for releases. Instead of an approximate 2-year cycle of admissions and releases, we are seeing a cycle closer to 5 years. The other shoe (releases) drops after an average of 5 years rather than 2 (following the corresponding admissions).

The second major consequence is that we are unable to observe the true impact of mandatory sentencing by analyses of release data alone. It is necessary to look at either court commitments, or active prisoners, or both, as we did in this report, to gain a true perspective on this issue. The Department of Corrections has published figures on time served for releases which indicate a fairly steady time served average of 24 months over the last 10 to 15 years. While these data are technically correct, the resulting trend is very much misleading, for three reasons:

1) Release data fail to reflect the build-up of mandatory sentence inmates in the prison population. Insufficient time has passed since enactment of the mandatory sentencing statutes for them to be reflected in their proper proportions in release statistics.

2) The profile of releases has changed toward a less-violent type of inmate over time, which would tend to deflate the overall time served average. Increased admissions of DWI offenders, plus the advent of Shock Incarceration, have exacerbated this trend, as has the drug war and the growing influx of drug offenders.

3) For most individual categories of crime, time served has been rising over time, but this fact has been masked by the changing profile of releases, as discussed above.

In tracking time served for Part I offenses (VIOLENT: Homicide, Rape, Robbery, Aggravated Assault; PROPERTY: Burglary, Larceny, Arson, Motor Vehicle Theft) we find the following:

Average Time Served (in Months) for Releases

PERIOD	VIOLENT	PROPERTY	ALL PART I
1974-1982	32.6	18.4	24.6
1983-1991	40.6	29.3	29.7
% Increase	+24.5%	+29.3%	+20.7%

Since drug crimes and DWI are not Part I offenses, they are not represented in the figures above, and hence cannot artificially deflate time served averages for these crime categories. A close analysis of the data indicate that the composite Part I figures are also misleading to an extent, since the less serious crimes within this category are on a higher rate of incline. In the case of violent crimes, for example, the least serious crime (assault) has risen much more dramatically in numbers than have other violent crimes. Similarly, larceny has risen more rapidly than the more serious crime of burglary.

Average Time Served (in Months) for Releases - Part I Property Crimes

CALENDAR YEAR	BURGLARY	LARCENY	ALL PROPERTY
1974	18.8	19.0	18.5
1975	17.0	16.9	17.0
1976	19.8	22.3	20.0
1977	16.3	18.6	16.6
1978	18.3	17.5	18.1
1979	18.1	19.6	18.0
1980	19.2	20.9	19.1
1981	18.4	19.0	18.1
1982	19.4	20.9	19.3
1983	18.6	17.4	17.8
1984	25.2	22.6	23.5
1985	22.5	20.4	21.2
1986	24.6	21.6	22.7
1987	26.0	22.0	23.3
1988	30.0	19.0	23.2
1989	30.9	22.3	25.4
1990	32.9	22.7	26.7
1991	35.2	21.4	26.6
1974-1982	18.4	19.8	18.4
1983-1991	27.8	21.2	23.8
% Change	+51.1%	+7.1%	+29.3%

Average Time Served (in Months) for Releases - Part I Violent Crimes

CALENDAR YEAR	HOMICIDE	RAPE	ROBBERY
1974	46.4	44.2	27.6
1975	39.0	34.0	22.5
1976	71.8	39.3	34.4
1977	53.6	39.2	25.6
1978	51.1	36.1	26.1
1979	62.5	42.2	35.1
1980	56.5	44.9	30.9
1981	54.3	36.3	35.0
1982	42.9	37.6	36.0
1983	72.0	35.9	38.8
1984	56.9	38.1	41.7
1985	52.3	37.4	45.6
1986	55.0	36.9	46.8
1987	64.0	39.0	56.0
1988	65.0	47.0	54.0
1989	69.1	47.5	51.9
1990	57.3	48.4	53.8
1991	67.2	58.1	53.7
1974-1982	53.5	39.6	31.0
1983-1991	62.2	43.2	49.3
% Change	+16.3%	+9.1%	+59.0%

Average Time Served (in Months) for Releases - Part I Violent Crimes (Continued)

CALENDAR YEAR	AGGR. ASSAULT	VIOLENT	ALL PART I
1974	22.0	30.8	24.3
1975	25.6	28.2	22.1
1976	26.5	38.9	27.5
1977	21.6	31.7	22.8
1978	21.5	29.4	23.2
1979	21.5	37.3	27.5
1980	21.5	32.0	25.0
1981	20.2	32.1	23.7
1982	21.7	31.8	24.4
1983	23.1	38.6	25.3
1984	28.0	38.6	28.9
1985	28.1	39.5	28.1
1986	24.7	37.5	28.0
1987	26.0	42.2	30.2
1988	26.0	42.4	30.2
1989	26.3	41.1	30.7
1990	26.3	39.6	30.8
1991	30.2	43.6	32.5
1974-1982	22.2	32.6	24.6
1983-1991	26.7	40.6	29.7
% Change	+20.3%	+24.5%	+20.7%

The results above are interesting in light of our previous findings regarding expected prison terms for various crimes:

Expected Term in Prison for Court Commitments - FY 1989-91

A.R.S. CHAPTER	EXPECTED TERM IN PRISON (Years)
CHAPTER 11 - Homicide	18.3
CHAPTER 14 - Sexual Offenses	15.1
CHAPTER 19 - Robbery	7.4
CHAPTER 12 - Assault	3.9
CHAPTER 15 - Burglary	3.9
CHAPTER 18 - Theft	2.4

The tables given previously indicate that time served for homicide, rape and theft increased to a lesser extent than did time served for robbery, burglary and aggravated assault:

Average Time Served (in Months) for Releases - Part I Crimes

PART I CRIME	% INCREASE IN TIME SERVED*
Homicide	16.3%
Rape	9.1%
Robbery	59.0%
Assault	20.3%
Burglary	51.1%
Theft	7.1%

* From 1974-1982 to 1983-1991

The variations in change of time served can be explained as follows:

1) Expected terms for homicide and rape are much longer than for other Part I crimes, and we would not expect any changes associated with mandatory sentencing to impact time served figures for releases for some time to come.

2) Expected terms for robbery, burglary, and aggravated assault are in the intermediate range, and in this case there has been sufficient time for mandatory sentencing to seriously impact time served for releases in these categories.

3) Larceny (theft) carries a low expected prison term and any impact on time served

associated with mandatory sentencing probably reached a relative peak somewhere in the mid-1980's, hence we would not necessarily expect to see a dramatic change from 1974-1982 to 1983-1991.

Thus, our analysis of historical time served patterns for various offenses is consistent with the hypothesis that mandatory sentencing has contributed to increased lengths of stay and consequently to a higher rate of population growth under the new criminal code. Unfortunately, comprehensive sentencing data on new commitments are not available prior to FY 1989 to allow us to systematically address the issue of historical impact.

Nonetheless, as noted in the document prepared for the Department's briefing to the Joint Legislative Study Committee on the Arizona Criminal Code Revision in October, it was estimated that the current (June 30) total bed allocation for mandatory sentenced inmates is 2.3 times what it would be absent mandatory sentencing. To quote from that paper: "In turn, it can be estimated that 3,704 or 24.4% of the June 30, 1991 population can be attributed solely to mandatory sentencing and not to other causes." (Note: This estimate was developed in a manner paralleling the technique applied to court commitments.) Thus, our estimate is that, instead of a population of 15,150 as of June 30, 1991, we might have expected approximately 11,446 inmates had mandatory sentencing not been available historically. In comparing the historical impact estimate (24.4%) with the projected future impact estimate (48.3%) developed previously, the clear suggestion is that much of the eventual impact of mandatory sentencing on prison population has yet to be experienced.

With regard to the global issue of the impact of mandatory sentencing on prison population, it should be noted that our analyses are limited to the impact of mandatory sentencing on the lengths of prison terms. There is also the possibility that mandatory sentencing has resulted in a higher rate of inflow from the courts. As noted in the Knapp report, mandatory sentencing appears to provide prosecutors with an unusually powerful plea bargaining tool. There is the possibility, which remains untested, that mandatory sentencing has led to a higher conviction rate in felony cases, and in turn an accelerated growth in prison commitments. Any impact of this type would be above and beyond that demonstrated in this report.

To test this hypothesis, the Department compiled data provided by the Supreme Court on felony filings and convictions over the period 1977-1990 (with some adjustments for a change in reporting from a calendar to a fiscal year basis beginning in 1987). The results of this analysis are as follows:

SUPERIOR COURT CASES	1977-1983	1984-1990
Felony Filings (Avg.)	12,643	21,486
Felony Convictions (Avg.)	6,974	14,032
Conviction Rate	55.2%	65.3%

The observed increase in the conviction rate has contributed to prison population growth in Arizona, but it remains conjectural as to whether or not the increase is due to mandatory

sentencing. In a future report from the Department, an attempt will be made to isolate the relative contributions of the various possible sources of prison population growth in this state. In addition, that report will address the issue of prison population growth on a national and state-by-state basis and will attempt to rank-order states according to various indices of punitiveness and system change.