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SUPERIOR COURT OF CALIFORNIA

CITY AND COUNTY OF ALAMEDA

MARGARET FARRELL, Plaintiff, vs. JAMES TILTON, Defendant.	Case No.: RGO3079344 FOURTH REPORT OF SPECIAL MASTER

Pursuant to paragraph 28 of the November 2004 Consent Decree, the special master submits for filing the attached report. The report reflects monitoring in this case through June 15, 2007 with some updates through July 20, 2007. It includes reports of the education and mental health experts. The special master's report and its appendices were circulated to the parties' in draft form. This final version reflects consideration of the parties' comments.

Dated: July 27, 2007

Donna Brorby
Special Master

SUPERIOR COURT OF CALIFORNIA

CITY AND COUNTY OF ALAMEDA

MARGARET FARRELL, Plaintiff, vs. JAMES TILTON, Defendant.	)	CASE NO. RG03079344

FOURTH REPORT OF SPECIAL MASTER

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APPENDICES

I. INTRODUCTION

This report reflects the monitoring reports submitted by the subject area experts and monitoring by the Office of the Special Master ("OSM"), since the last special master's report in December 2006, through mid-June 2007. Pursuant to procedures that the parties, experts and special master developed to guide the monitoring and reporting, the special master provided this report and the appended monitor's and mental health and education experts' reports for the parties' comments. These reports now reflect the authors' consideration of the parties' comments. The next special master's report will append reports by the disability and medical experts that have been provided to the parties for comment. The special master expects that the safety and welfare, mental health and sexual behavior treatment experts will submit reports for filing with the next special master's report as well.

II. SAFETY AND WELFARE

The parties filed the Safety and Welfare Remedial Plan in July 2006 and the standards and criteria for monitoring compliance with it at the end of October 2006. It is the most comprehensive of the remedial plans in this case. Responsibility for monitoring compliance with the plan is shared among the safety and welfare and mental health experts and the OSM. Based on the schedule set by the deadlines in the plan (many of which were established by the standards and criteria), the experts and the OSM began their monitoring in February 2007. Monitor Cathleen Beltz's report on the status of DJJ's compliance with some of the standards and criteria assigned to the OSM for monitoring is attached as part of Appendix A.

One of DJJ's first responsibilities under the Safety and Welfare Remedial Plan is to "build the capacity for change" by increasing management resources and effectiveness, developing clear and consistent policies, holding staff accountable for compliance with

policies, developing a management information system that provides the information managers need and by training staff in the standards of care and practices that characterize treatment-oriented juvenile correctional facilities.[1] While DJJ has taken some steps forward in the development of its organizational infrastructure,[2] its efforts are not keeping pace with the timetable established in the Safety and Welfare Remedial Plan.

A. Leadership/Management Vacancies

Shortly after DJJ's current chief deputy secretary assumed his position in August 2005, DJJ assembled a "reform team" in its central office. This team, designated the "program development and implementation" team in the Safety and Welfare Remedial Plan, is currently comprised of sixteen individuals, including two senior mental health clinicians.[3] Its numbers comply with the requirements of the Safety and Welfare Remedial Plan but it has only two of the four senior mental health clinicians or administrators that the Mental Health Remedial Plan requires.[4] The "reform team" has been impressive in its members' drive, dedication and productivity since its inception.

DJJ still does not have a director of programs.[5] This is a key leadership and management position serving directly under the chief deputy secretary, with responsibility for all treatment and rehabilitation programs. The director of programs will have to be one of

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[1] *See*, Safety and Welfare Remedial Plan, p. 8.

[2] For example, DJJ's recruited a director of facilities from the Washington program that it is adapting to its needs pursuant to the safety and welfare plan. She started work in November 2006, was recently confirmed by the legislature and brings important experience and perspective to leadership and management.

[3] Appendix A (Beltz Report) pp. 3-4; *see also*, Safety and Welfare Remedial Plan, pp. 19-20.

[4] The Safety and Welfare Plan Remedial requires a total of 11 team members plus dedicated analysts and support staff to make up three teams with fluctuating membership -- the program development implementation, temporary transition and compliance teams. The Mental Health Remedial Plan requires that four senior clinicians and/or senior administrators with expertise in mental health services be members of the program development implementation team. At the end of June, DJJ should have 18 trainers and quality assurance specialists in addition to the 11 members of the aforementioned teams. See Appendix A (Beltz report), p. 3, 11. DJJ staff told Monitor Beltz that DJJ is on track to meet that deadline. The special master will revisit this subject in her next report.

[5] *See*, Appendix A (Beltz report), p. 2.

a few leaders and managers driving the reform of DJJ's facilities from adult-prison-type facilities to juvenile corrections facilities with evidence-based treatment programs. Thus, he or she will have to bring substantial, relevant skills and experience to the position. This is a deeply internal matter and the special master does not begin to have enough information to understand why DJJ has not been able to fill the position or what DJJ needs to do in order to fill the position with an appropriately skilled and experienced candidate. The chief deputy secretary credibly reports that he very much wants to fill the position, that he personally is recruiting nationally for candidates and that DJJ has almost filled the position at least twice. The position is a gubernatorial appointment, subject to legislative approval; thus, actors outside of DJJ play a role in the selection process. Internal candidates may be deterred by the fact that the position lacks peace officer status.

Additionally, since the parties entered into the November 2004 Consent Decree, the relatively high-level position of *Farrell* project manager has been vacant for all but approximately six months. Most recently, the position has been vacant from the end of January until mid-July 2007.[6] The Consent Decree explicitly requires that DJJ assign a "project manager to manage the remedial plans resulting from this Decree." It further requires the project manager to "be at the CEA I level, or equivalent Exempt level, with support as necessary to successfully manage the development and implementation of the remedial plans."[7] At least partially because it has lacked a project manager, DJJ has not yet been able to track its obligations and progress under the remedial plans adequately. This lack

[6] *Ibid*; see also, *First Report of the Special Master*, pp. 45-46 and *Second Report of the Special Master*, p.7. DJJ announced the appointment of a *Farrell* Project Director on July 16, 2007. Angus July 16, 2007 e-mail.
[7] Consent Decree ¶ 32.

of adequate tracking has contributed to DJJ's failure to meet so many of the deadlines set in the remedial plans.[8]

B. CDCR/DJJ Business Systems Deficiencies

A mid-2005 reorganization appended DJJ to the adult prison system within the then-new California Department of Corrections and Rehabilitation ("CDCR"). As a result of the reorganization, DJJ is dependent on the CDCR "matrix" to perform basic organizational functions such as contracting, information technology development and support, and hiring personnel. Two years later, the matrix has yet to work sufficiently well to meet DJJ's needs. This threatens DJJ's reform efforts.

1. Contracts

As discussed below in section IV on medical care, DJJ has not been successful in securing the contracts it needs to meet youth health care needs, despite diligent efforts of capable staff.[9] Medical contracts may have been subject to particular confusion due to the transfer of CDCR's medical contracts section to the supervision of the receiver in the *Plata*[10] case concerning medical care in the adult prison system.[11] But, in response to the special

[8] *E.g.*, the DJJ memorandum tracking progress against deadlines that was filed with the Joint Case Management Conference Agenda in April 2007, reflected an *ad hoc* effort at the time to identify all deadlines in *Farrell* remedial plans and DJJ's progress up to the time of the memorandum. For a more specific example, the special master informally inquired about the apparent delay in the implementation of the "V-DISC" mental health screening tool in October 2006. Not getting a substantive response, the special master initiated a formal inquiry in January 2007. In February, DJJ assigned a staff member to manage the project of getting the contract in place, noting that the V-DISC project "[had fallen] between the cracks." (The project was successfully managed and the contract was executed in June.)

[9] Another pair of capable DJJ staff devoted inordinate effort to the renewal of the contracts under which the court-appointed *Farrell* experts are paid and still most of the renewals were *not* in place as the contracts for fiscal year 2006-07 expired. After a similar problem last year, the special master tracked the steps towards consummating the contracts this year by several telephone calls and e-mail messages to the responsible staff. DJJ's requests for contracts apparently went unattended in the CDCR contracts office for most of seven weeks. Then, the contracts were completed in a flurry of activity in the course of a little less than two weeks. All of the contracts were completed before the end of the first week of July.

[10] *Plata v. Schwarzenegger*, No. C01-1351 TEH, United States District Court for the Northern District of California.

[11] See, Appendix C (special master's memorandum to medical experts concerning medical contracts), p. 2.

master's inquiries about contracts issues during the past eight months, several staff from different offices and all the staff that the special master spoke to about contracts expressed serious concerns about lengthy delays in processing contracts requests and a general lack of communication while requests are pending. The same CDCR contracts group processes all DJJ contracts requests and they seem to handle all requests in a similar way. DJJ has succeeded in finalizing some contracts, of course, but the staff effort and delays that are generally involved are a significant impediment to its timely implementation of the remedial plans. CDCR has promised to fix the problem,[12] but so far the system has been unresponsive to DJJ's contract needs.

DJJ candidly noted in its last Quarterly Report that the "length of time it takes to process contracts will continue to jeopardize certain [Safety and Welfare Remedial Plan] deadlines."[13] DJJ did not cite examples, but the lapse of eight months between DJJ's August 2006 submission of its request for a contract for risk/needs assessment and CDCR's April 2007 promulgation of the Request for Proposals ("RFP") is illustrative.[14] The RFP was due to be issued by October 1, 2006, as an early step in DJJ's development of its program design and treatment model. DJJ then was supposed to have six months to develop a treatment program design and eight months to develop a treatment model, in consultation with experts (possibly including the successful bidder on the risk/needs assessment).[15] The RFP was issued six months late, just six weeks before DJJ was due to complete its program design, and ten weeks before DJJ was due to complete its treatment model.[16] DJJ, working with

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[12] Statements of Secretary James Tilton in October 20, 2006 meeting with counsel and special master.
[13] DJJ Quarterly Report, *Farrell vs. Tilton*, Safety and Welfare section, p. 3 (April 2007).
[14] Krisberg, Interim Report, p. 4 (April 25, 2007); statements DJJ staff to special master May 2007.
[15] Safety and Welfare Remedial Plan, pp. 42-43, Items 5.1 and 5.2.
[16] The mental health experts are very concerned that DJJ develop and implement a more uniform, coherent and evidence-based therapeutic model for the youth in its custody, especially youth in mental health treatment programs and/or youth with elevated suicide risk. Appendix B (Lee/Trupin report), p. 7, 8; Lee/Trupin, Mental

CDCR contracts staff, did succeed in entering into a contract for risk/needs assessment in late June 2007.[17]

As noted below in section V. on sexual behavior treatment, another contracting problem delayed progress in the development of the Sexual Behavior Treatment Program by a year. Similarly, implementation of the mental health screening tool "V-DISC" was delayed many months by DJJ's and CDCR's difficulties in developing and entering into contracts.[18]

Different kinds of contracts raise different issues. Contracts that are novel or complex or unusually large in scope legitimately take longer to develop and execute than simpler contracts. Exigent circumstances may interfere on occasion. Further, state law does impose requirements on public contracts with which CDCR and DJJ must comply. But, in the unanimous opinion of the subject area experts, who together have had experience with several state systems, DJJ's difficulties in consummating contracts and paying contractors goes beyond anything that can be reasonably explained or justified. Rather, DJJ's contracting problems are symptomatic of organizational dysfunction that will impede operations until it is successfully addressed.[19] DJJ and CDCR have begun to attempt to address the contracts issues.[20] The special master will monitor developments in this area carefully especially because previous DJJ CDCR attempts to address the issue together have petered out without success.[21]

Health Experts Review of N.A. Chaderjian Youth Correctional Facility, p. 4; repeated statements of Drs. Lee and Trupin to the special master.

[17] DJJ's funding for the contract otherwise would have expired June 30, 2007.

[18] See note 8 above. The special master participated in several meetings and telephone conferences and was copied on email that documented the progress from January – May 2007.

[19] Statements of the experts during a meeting with the special master on February 16, 2007.

[20] *See*, Appendix C (medical contracting memorandum), p. 3.

[21] *Ibid.*

2. Information Technology

DJJ's progress towards compliance with the Consent Decree and the remedial plans also has been hampered by insufficient information technology support, as exemplified by the delays in completing the WIN Exchange and related new WIN features. The responsible CDCR office, Enterprise Information Systems ("EIS") does appear to be taking steps to provide DJJ with better technical support. This is another area that will bear close monitoring.

The Ward Information Network ("WIN") is DJJ's primary management information system for many purposes. To date, WIN's usefulness has been compromised by its inability to track data across facilities. The long-planned "WIN Exchange" is intended to enable the storing and tracking of youth information across facilities so that all of a youth's information will travel with him when he transfers from one facility to another. The Safety and Welfare Remedial Plan (filed July 10, 2006), requires DJJ to complete the implementation of the WIN Exchange by January 1, 2007.[22] It has not yet been completed.[23]

The commitments that DJJ made in the Consent Decree and the remedial plans on file in this case have changed some of its information needs, requiring modifications of the WIN system. In late 2004 pursuant to the Consent Decree, for example, DJJ revised its policies and procedures for the management of potentially self-harming youth. The revised policies included a new status, "high risk observation," and they changed some particulars related to "suicide watch." The way WIN tracked youth on "suicide watch" was not compatible with

[22] *See*, Safety and Welfare Remedial Plan, p. 22.
[23] Statements of WIN senior programmer to special master during conference call with CDCR counsel, July 20, 2007; see also, Appendix A (Beltz report) p. 4.

the revised policies.[24] Similarly, the Education Remedial Plan imposed new requirements for special education services that were not aligned with information tracked in WIN.[25]

More than two years ago, DJJ and CDCR Enterprise Information Systems ("EIS") staff responsible for supporting DJJ's WIN system identified 11 new "features" that EIS needed to build for WIN so that DJJ staff could enter and track the information that would facilitate and document compliance. The new features related to the management of potentially self-harming youth and the provision of required special education services, as well as the implementation risk classification and reclassification, the use of a program of positive incentives for youth, the provision of services to disabled youth and other issues. The CDCR WIN support group has completed eight of the 11 new features. The responsible manager believes that the ninth will be completed in August 2007. WIN Exchange will be implemented after these nine new features are completed and operational. The final two features are scheduled for development this fiscal year.[26]

The delays in completing the WIN Exchange and the related new WIN features resulted from a combination of the vagaries of software development and an insufficient number of programmers at work on the projects.[27] The CDCR EIS group serving DJJ is only

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[24] At least through September 2006, DJJ was not able to get WIN modified so that staff could track youth on high risk observation status. This impeded attempts to implement the policy during this time. *See*, *Third Report of the Special Master*, p. 12.

[25] The education experts note difficulties with WIN resulting in inaccurate special education data at five DJJ facilities. *See*, Appendix D (Gordon/O'Rourke report), p. 8 and Attachments A and B, Item 5.9.

[26] Statements of WIN senior programmer to special master during conference call with CDCR counsel July 20, 2007. DJJ has a contractor that is responsible for the WIN Exchange project. Completing WIN Exchange in August or early September depends on whether it can be completed in the existing contract. If an additional contract is necessary, completion of WIN Exchange will be delayed by the time it takes to execute the contract. *Ibid.*

[27] Effective July 1, 2005, CDCR/DJJ secured funding to increase the group supporting the WIN system from one to six staff members. There was, however, a six-month delay to January 2006 before the responsible manager received approval to fill the new positions, probably due to the dislocation that attended the reorganization. The manager filled the positions in February 2006. It took some time to train the new programmers in WIN. Then, two programmers left the group for promotions in the fall of 2006 (shortly after the safety and welfare plan was filed with the January 1, 2007 deadline for implementation of the WIN

now close to full strength. Thus, it remains to be seen whether it will be sufficient to support DJJ's information technology needs from now on. With the completion of the new WIN features and the WIN Exchange, technical support time will be freed up for other projects. The managers of CDCR's EIS group that serves DJJ are meeting with top-level DJJ managers to initiate an information technology steering committee in August 2007.[28]

DJJ has made some progress in the development of systems to increase management information in the areas of youth violence and use of force. It entered into a contract for Performance-Based Standards ("PbS") in October 2006 (less than 60 days after the Safety and Welfare Plan due date), and has proceeded to implement PbS at all facilities. It expects to collect data on incidents of violence and use of force on a daily basis and in a uniform way at all facilities by the end of June 2007.[29]

3. Personnel

Several experts have reported that compliance in their areas is being hampered by a high level of vacancies and/or delays in the filling of positions.[30] In January 2007, the Court ordered that DJJ begin tracking its vacancies so that the issue could be more fully

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Exchange). The responsible manager did not fill the two vacancies until February 2007 because he did not feel that he had the time to hire and train new programmers before then. At this time, the responsible manager and the programmer who has worked with WIN for more than a year are fully productive. The two newer programmers are still being trained and not yet as productive. The group is supplemented by two retired annuitants (together a maximum of 1.0 FTE) and a contractor responsible for the WIN Exchange project. In addition to the WIN group, there are 6 additional CDCR EIS staff plus a retired annuitant (maximum 0.5 FTE) dedicated to support other DJJ software applications. Statements of WIN senior programmer to special master during conference call with CDCR counsel July 20, 2007 and e-mail from Pankaj Varshney, CDCR Enterprise Information Systems, to Katie Riley, July 23, 2007.

[28] Statements of WIN senior programmer to special master during conference call with CDCR counsel, July 20, 2007.

[29] *See*, Appendix A (Beltz report), p. 6. Collection was supposed to begin November 1, 2006. The delay in implementing the system for data collection is another indication of a need for more IT support than it has been getting.

[30] *See*, text accompanying notes 90 and 91 in the section VI. on education below; *Second Report of the Special Master*, p. 13, 19; *Third Report of the Special Master*, p. 14.

considered.[31] From February through June 2007, DJJ generated a series of "vacancy reports," all of which were incomplete and/or inaccurate. In early July, after a lengthy "reconciliation" of staff at all facilities against authorized positions, DJJ provided what it has affirmed is an accurate and complete report of filled and vacant positions. This report is attached hereto as Appendix E. According to the data in DJJ's report, three facilities have overall vacancy rates under 10% (Close 6%, Nelson 8%, and Pine Grove 4%), three facilities have overall vacancy rates in the range of 11 to 15% (Chaderjian, Preston, and SYRCC), central office and two facilities have overall vacancy rates in the range of 16-20% (Paso, Ventura), and Stark has an overall vacancy rate of 23%.[32] Vacancy rates in the youth correctional counselor position range from 2% at Chaderjian to 28% at Stark. Vacancy rates in psychologist (including senior psychologist) positions range from 18% at Ventura to 68% at Stark.[33] The report does not yet effectively address the reasons for the vacancies and strategies to address systemic issues.[34]

C. Policy Development

One of the basic tenets of the Safety and Welfare Plan is that DJJ is to become a policy-driven system.[35] At this time, however, the time it takes to develop and promulgate policy is substantially impeding DJJ's compliance in this case. DJJ has not, for example, completed the first policies required by the Consent Decree, the Mental Health Remedial

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[31] Case Management Conference Order, January 24, 2007.
[32] *See*, Appendix F, OSM calculations from DJJ staff vacancy report. The Northern California Youth Correctional Center is a part of the Stockton complex of DJJ facilities. It does not house youth unless they are housed at the Outpatient Medical Unit (OHU). Staff assigned to NCYCC provide services to more than one of the Stockton complex facilities. Using the numbers in the DJJ report, the overall vacancy rate at NYCCC is 14%. *See*, Appendix F.
[33] *See*, Appendix F.
[34] CDCR's Undersecretary, Kingston Prunty, met with counsel and the special master April 2007 to discuss the staffing vacancies issue. He promised that CDCR/DJJ would provide the information concerning obstacles to filling vacancies and plans to overcome them.
[35] *See*, Safety and Welfare Remedial Plan, p. 8.

Plan and the Safety and Welfare Remedial Plan.[36] The staff responsible for policy development are insufficient to the task of producing the amount of new and revised policy that is required by the remedial plans.[37]

At end of March 2006, DJJ reported that it was "in the process of identifying the complete workload related to policy development and revision" and of developing the master policy table of contents and policy development schedule that were due to be completed in January 2007 according to the Safety and Welfare Plan.[38] While these are the appropriate steps for DJJ to be taking, it needs also to create a realistic plan for developing necessary policies within a time frame that is consistent with DJJ's schedule for implementation of the remedial plans in this case. Pursuant to the Safety and Welfare Remedial Plan, by November 21, 2007, DJJ is required to have "sufficient and appropriate dedicated staffing for developing and maintaining polices for juvenile corrections based on contemporary standards of care and practice."[39] The special master will report on the status of progress towards that goal in her next report.

III. MENTAL HEALTH CARE

A. Mental Health Experts' Assessment of Licensed Mental Health Care Beds Resource and Need[40]

The mental health experts conducted a preliminary assessment of DJJ's current resources for licensed mental health care beds against the need for such beds. As the Mental Health Remedial Plan reflects, DJJ must:

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[36] *See*, Section III. C, below (mental health policies) and Appendix A (Beltz report), p. 3-4 (policy schedule). DJJ staff informed Monitor Beltz that DJJ had not completed the development of disciplinary, time-add and grievance policies that are overdue under the Safety and Welfare Remedial Plan. Statements of DJJ staff, central office meeting, May 31, 2007.

[37] Statements of DJJ staff to Monitor, meeting May 30, 2007.

[38] DJJ Quarterly Report (April 2007), Safety and Welfare Remedial Plan Matrix Tracking Document, first page.

[39] Safety and Welfare Remedial Plan, pp. 12, 21 and Action Item 2.1.4a.

[40] The mental health experts have reviewed and approved this section of the special master's report.

> comply with state law and regulations requiring that inpatient health services be provided in licensed facilities. The inpatient level of care includes long term and short term acute, sub-acute and intermediate care that psychiatric units in hospitals provide, and sub- or non-acute care that is provided in skilled nursing or similar facilities for mentally ill persons who require 24 hour nursing and/or related services (*see* Title 22 California Code of Regulations §§ 79751 and 79753).[41]

The mental health experts visited seven of the eight DJJ facilities and participated in a telephone conference with staff at the eighth facility. They interviewed staff and youth, reviewed health care records, and reviewed all available data relevant to assessment of the need for the licensed facility level of care.[42] Their report of findings and recommendations is attached as Appendix B.

As the experts explain in their report, their analysis is preliminary for a few reasons. First, DJJ is not yet tracking all necessary utilization and needs data; the data that DJJ was able to provide to the experts is incomplete.[43] Second, DJJ's population has been decreasing steadily and may continue to decrease. Finally, implementation of reform plans could increase or decrease the need for licensed mental health care beds (e.g., more and better trained staff might identify more patients requiring licensed care or they might be successful in managing youth at facilities and thereby prevent the deterioration or decompensation that requires transfer to a licensed bed).[44]

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[41] Mental Health Remedial Plan, p. 35.

[42] *See*, Trupin and Lee, *Farrell* Experts' Report on Licensed Mental Health Beds in the California Division of Juvenile Justice (2007), attached as Appendix B, pp. 2-3.

[43] The mental health plan requires DJJ to develop the capacity to track the needs and utilization data. *See,* Mental Health Remedial Plan Standards and Criteria Item 5.21a, b and c. Before and during January 2007, DJJ provided the experts with the data it kept "manually" using Microsoft Excel and maybe other software or systems. The experts worked with DJJ staff to develop a list of data that DJJ would build the capacity to track, first manually and later automatically. The list includes the data that DJJ currently tracks manually, and additional data elements. *See,* Mental Health Remedial Plan Standards and Criteria Item 5.21.a and b. The experts provided DJJ with a proposed list of data for DJJ to track on March 14, 2007 (date of OSM transmittal e-mail). The experts, special master and DJJ conferred over the experts' suggestions on May 4, 2007. DJJ and the experts reached substantial agreement on the data that would be kept by the end of May 2007, but they still are finalizing the formal written list. In the meantime, the special master has advised DJJ to work on developing the required timetable for the tracking of the new data elements. *See,* Mental Health Remedial Plan Standards and Criteria Item 5.21c.

[44] *See* Appendix B (Lee/Trupin report), pp. 1-2 and Mental Health Remedial Plan 35, 40, 45.

DJJ has access to 40-plus licensed beds by operating one Correctional Treatment Center ("CTC," 10 beds), having a memorandum of understanding with the Department of Mental Health ("DMH") (20 bed Intermediate Care Facility or "ICF," plus access to up to 10 state hospital intermediate care beds) and contracts with two private hospitals. This appears to be more than enough licensed beds to meet the needs of DJJ youth.[45] There are, however, serious deficiencies both in the interface between DJJ facilities and the licensed bed facilities and in the utilization and distribution of the licensed beds.

First, DJJ does not have access to any licensed beds for acute psychiatric care and crisis stabilization in northern California. Further, almost all of its intermediate level licensed beds are in southern California as well. Adult youth in northern California requiring intermediate licensed care may be placed at Napa State Hospital; otherwise, northern California youth must be transported to southern California for care in a licensed facility. The rigors of transportation for the patient and a concern for family contact apparently serve to deter or delay referrals of northern California youth.

Second, many DJJ clinicians report a hesitancy to refer patients (both male and female) with significant externalizing behaviors and/or "primarily Axis II issues" and/or patients who are likely to be considered "potentially aggressive" by the licensed facilities that serve DJJ. Some clinicians reported a belief that the licensed bed facilities that serve DJJ youth (even DJJ's own CTC) would not accept such patients; others reported that the licensed facilities would not provide appropriate care because they did not like that kind of patient. The mental health experts found evidence that patients with externalizing behaviors who required a licensed bed level were not always referred and transferred when they should have been. Thus, at this time, DJJ is not adequately meeting the licensed mental health care

[45] Current utilization is at approximately one-half of capacity. Appendix B (Lee/Trupin report), p. 6.

bed needs of (1) northern California youth and (2) male and female youth with significant externalizing behaviors.[46]

DJJ mental health leadership has been working to improve on the interface between DJJ and licensed bed facilities and to address the problems described above. There have been improvements especially in communication between DJJ facilities and DJJ's CTC at Heman G. Stark and referrals from the facilities to the CTC.[47] Representatives from DJJ and DMH met in late 2006 and early 2007 and created the "DJJ Coordinated Clinical Assessment Team Process" to facilitate the acceptance and transfers of DJJ youth needing inpatient care to DMH. The mental health plan requires continued periodic meetings between DMH and DJJ to facilitate the appropriate transfers of youth between the agencies and to provide continuity of care.[48]

The mental health experts appropriately defer to DJJ to determine how it will better serve youth needs of its youth for licensed bed mental health care. They suggest that the options for meeting the needs of northern California youth include (1) licensing a DJJ-managed CTC or combination CTC/ICF in a northern California location and (2) greater collaboration with private hospitals and/or DMH. It appears that the number of licensed beds needed in northern California is approximately the same as the number needed in southern California. For as long as DJJ continues to house female youth,[49] it either needs to improve its collaboration with the private hospital on which it currently relies to provide beds for female youth with significant externalizing behaviors or to improve its capacity to care for females in a CTC facility of its own. Finally, it needs to train and manage its clinical staff in

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[46] *See*, Appendix B (Lee/Trupin report), pp. 4-7.
[47] *See, Id.*, pp. 5-6.
[48] See, Appendix A (Beltz report), pp. 8-9.
[49] DJJ is considering contracts with private providers pursuant to meet the needs of female youth. See, Safety and Welfare Remedial Plan, Item 7.4.

a way that will ensure that its own CTC(s) appropriately admits and treats youth with significant externalizing behaviors.[50]

The mental health plan provides that the expert's licensed bed report was to be provided to the parties by January 31, 2007, and that DJJ was to develop a plan to meet the needs for licensed bed care by May 31, 2007, four months later. This timing would have given DJJ an opportunity to pursue regular funding for fiscal year 2007-08. In fact, the experts' report was provided to the parties at the end of May. DJJ therefore should complete its plan by the end of September. It should take all reasonable steps obtain any necessary funding on a schedule that makes it possible to provide adequate licensed bed mental health care as soon as reasonably possible.

B. Policies And Procedures For Youth With Acute Psychiatric Needs And Potentially Suicidal Youth[51]

The Consent Decree requires that, by November 1, 2004, DJJ "develop policies and procedures to immediately provide for the treatment and management of wards on suicide watch and those with acute psychiatric needs." It further requires that these policies and procedures "be adopted to provide interim treatment and management of these wards pending the development and implementation of the remedial plans in this area." The Consent Decree also requires that they "be in the form of criteria that institutions must meet for these wards, including number of hours of clinical intervention per week and maximum number of in-room hours per day."[52] Finally, it provides for the implementation of these policies and

[50] *See,* Appendix B (Lee/Trupin report), pp. 3-7.
[51] The mental health experts have reviewed and approved this section of the special master's report.
[52] Consent Decree ¶ 7.c.

procedures by December 15, 2004. The parties extended the implementation date to June 1, 2005 by the Mental Health and Rehabilitation Interim Plan filed in April 2005.[53]

As the special master previously reported, in November 2004, the mental health experts approved, on an interim basis, DJJ's revised policies and procedures governing the observation and management of youth who may be acutely psychotic or at risk to commit suicide. DJJ completed the staff training purportedly needed to implement the interim policies and procedures by December 2005.[54] Nonetheless, as of September 2006, DJJ had *not* succeeded in implementing them. Though the interim policies and procedures promised "specific measures . . . to minimize isolation" and as much normal activity as was clinically appropriate, in fact suicide watch and high-risk observation continued to be characterized by inappropriate isolation, idleness and deprivation. Almost all youth on suicide watch or high risk observation status were confined alone in observation rooms without any of their normal clothes or possessions, in ungainly suicide resistant clothing, for 21 or more hours per day; they had little human contact or activity when they were allowed out of their rooms. Youth commonly were on high risk observation or suicide watch for a few days.[55]

In September 2006, the mental health experts recommended that DJJ revise the interim watch/observation policies and procedures. The parties and the experts agreed that, by December 2006, DJJ would produce a draft of watch/observation policies and procedures that incorporated more elements of what the mental health experts regarded as good practice.

DJJ produced a draft of revised watch/observation polices and procedures by early

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[53] The mental health plan did not supersede these Consent Decree requirements. DJJ's compliance efforts and consultation with the mental health experts relative to policies and procedures for meeting the needs of acutely mentally ill and youth at risk for self-injurious behavior proceeded simultaneously with the finalization of the remedial plan.

[54] *First Report of Special Master*, pp. 32-33.

[55] *Third Report of the Special Master*, pp. 11.

December 2006.[56] The mental health experts reviewed the draft and suggested substantial modifications. At this point, DJJ's policy-writing unit assumed primary responsibility for drafting the policies and procedures. DJJ gave the policy unit's draft to the experts, the OSM and plaintiff's counsel in late March 2007.[57] The experts suggested modifications of that draft as well and DJJ responded to the suggestions by providing another revised draft at the end of April. 2007.[58] In early May, the mental health experts generally approved the April version as a substantial step forward. They and plaintiff's counsel urged DJJ to finalize and implement it. The draft had not been finalized and promulgated by mid-June 2007 when the experts provided further and more specific comments and recommendations. Due to DJJ internal concerns consistent with one of the experts' latest recommendations, DJJ is making a further significant revision.[59] It expects to promulgate the finalized policies and procedures by mid- or late-October.[60]

With the further revision, the mental health experts find that the substance of the DJJ's draft policies and procedures is generally consistent with contemporary standards for basic management of potentially self-harming youth. They recommend that the draft be finalized, promulgated and implemented and that DJJ develop further policies concerning the treatment of potentially self-harming youth. As a part of implementation, DJJ will have to provide systemic training on the new policies and procedures including training for clinicians that clarifies their responsibilities and options. The mental health experts also reiterate their

[56] Ugarkovich e-mail with draft, December 8, 2007.
[57] Angus e-mail with draft, March 29, 2007. The time it took to complete a policy in draft on an expedited basis is consistent with other evidence that DJJ does not have sufficient resources and/or systems for the policy development that is necessary for the reform charted by the remedial plans.
[58] Angus e-mail with draft, April 20, 2007.
[59] Angus e-mail, July 18, 2007.
[60] *Ibid.*

longstanding strong recommendation that DJJ provide its clinicians with training that increases their skillfulness in treating self-harming youth.[61]

C. Other Mental Health Policies

The mental health plan requires DJJ, after consultation with the Consent Decree mental health experts and by January 31, 2007, to adopt formal criteria delineating levels of mental health care.[62] DJJ sent the mental health experts a proposed draft of formal levels of care criteria on June 13, 2007, inviting their comments and recommendations.[63] The experts will provide their feedback by the end of July 2007.

The mental health plan also requires, as of December 31, 2006, that DJJ develop written policies and procedures on the transfer of youth requiring long-term inpatient care to DMH, or their return to the committing court.[64] These policies and procedures have not been developed.[65]

D. Mental Health Infrastructure

DJJ has yet to appoint a "senior administrator with experience in implementing mental health programs to oversee and direct implementation of [the mental health] remedial plan and its coordination with other plans." This appointment was due by the end of February 2007.[66] It has yet to establish and activate the dedicated mental health training

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[61] As discussed in the *Second Report of the Special Master*, the mental health experts recommended particular cognitive behavioral training pursuant to ¶13 of the November 30, 2005 Stipulation Regarding Safety and Welfare Remedial Plan and Mental Health Care Remedial Plan ("November 30 Stipulation") in May 2006. Indeed, the parties included ¶13 in the November 30 stipulation based on the advice of Dr. Trupin, one of the mental health experts. DJJ was not in a position to contract for that or similar training at that time. See, *Second Report of the Special Master*, pp. 11-12. The mental health experts have continued to urge training for clinicians in an evidence-based approach to the treatment of potentially self-harming youth as a first step in the development and implementation of DJJ's Integrated Treatment Model.

[62] Mental Health Remedial Plan Standards and Criteria Action Item 5.6.a.

[63] Ugarkovich e-mail with draft, June 13, 2007.

[64] Mental Health Remedial Plan Standards and Criteria Action Item 5.19.

[65] See Appendix A (Beltz report), pp. 16-17.

[66] *See*, Appendix A (Beltz report), p. 11; Mental Health Remedial Plan pp. 75-76 and action item 12.1 and 12.3.

team that the mental health plan requires by January 31, 2007.[67] This again is a matter of building the capacity for change.

Achieving "pay parity" with CDCR for clinical mental health positions, in April 2007, was a step towards addressing the important issue of clinical vacancies.[68] But the mental health experts have repeatedly urged that DJJ enhance its clinicians' skills and begin to implement a uniform evidence-based treatment approach in the mental health treatment program units.[69] They have not yet observed progress in these areas.[70] The mental health plan requires appointing the experienced senior administrator and creating and activating the mental health training team as first steps in building DJJ's capacity to implement the Mental Health Remedial Plan in coordination with other plans.

IV. MEDICAL CARE

The Consent Decree medical experts completed their first round of monitoring compliance with the Health Care Services Remedial Plan in March 2007. They were prepared to submit their first monitoring report in April 2007 when DJJ raised new substantial concerns about the standards and criteria they were using in their report.[71] DJJ made detailed requests for extensive additional modifications to the standards and criteria in early May 2007. The experts considered the concerns and specific suggestions carefully and

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[67] *Ibid.*

[68] *Id.*, at 9; statements of DJJ chief psychiatrist to special master June 2007.

[69] Appendix B (Lee/Trupin report), p. 7, 8; Lee/Trupin, Mental Health Experts Review of N.A. Chaderjian Youth Correctional Facility, p. 4; repeated statements of Drs. Lee and Trupin during meetings over the mental health plan leading to its completion and filing in October 2006. See also, Safety and Welfare Remedial Plan, pp. 42-43, Items 5.1 and 5.2 (treatment program design due May 30, 2007; treatment model due August 1, 2007) and Mental Health Remedial Plan p. 30 (treatment in residential mental health programs is based on the overall integrated treatment model, with additional psychiatric services)

[70] Lee/Trupin, Mental Health Experts Review of N.A. Chaderjian Youth Correctional Facility, p. 4; statement of Eric Trupin to special master during telephone call July 18 (during site visit at Heman G. Stark).

[71] The experts had prepared the draft standards and criteria during the summer of 2006, in consultation with the parties and the special master. They "field-tested" the standards and criteria during their first round of site visits conducted September 2006 through March 2007, and modified them based on the field-test. The experts had thought that the parties had advised them of all substantial concerns during the process of preparing the version that they field-tested beginning in the fall of 2006.

considerably modified the standards and criteria. The parties met with the experts and the special master to finalize the standards and criteria on May 30, 2007. Agreement was reached in principle as to all issues. The medical experts promulgated their final version of the standards and criteria and their first report soon after, in early July 2007. The report of their first round of monitoring will be filed with the special master's next report.

Without the benefit of a report from the medical experts, the special master can provide an update on some matters noted in the *Third Report of the Special Master*. The increase in the salary for the central office Pharmacy Manager position resulted in the filling of that long vacant position in March, 2007.[72] DJJ has not yet been able to replace the Clinical Records Administrator it lost in September 2006, however. It reports that this is a difficult position to fill state-wide for all state agencies that have such a position without indicating why this is so. It put in a request for contract to CDCR to secure coverage for the position in December 2006, and informed CDCR that this was the highest priority of its requests for contracts for medical services, but that request has not yet been acted upon.[73]

As illustrated by the situation with the request for a contract to cover the Clinical Records Administrator position, DJJ's efforts to cover vacant medical (and mental health) positions by contract continue to be hindered by the failure of CDCR contracts staff to process their contracts requests to completion. Since the reorganization that made it part of CDCR, DJJ has not had its own contracts staff and it is dependent upon CDCR to process its requests for contracts. A majority of DJJ's requests for medical contracts made during the last fiscal year have languished for six to twelve months without being processed to

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[72] Statements made during special master meeting with certain DJJ central office health services staff including the pharmacy manager, June 4, 2007; DJJ Quarterly Report (April 2007), Health Services Remedial Plan section, part II.

[73] *Ibid*, and statements made during special master meeting with DJJ central office health services staff and CDCR contracts staff, June 13, 2007.

completion. During the past year, DJJ health services staff responsible for making and tracking contract requests for DJJ have not been able even to get regular and current information about progress in the processing of DJJ contract requests. Their priorities for the order in which their requests are processed have not been respected. They have not been able to control the terms of the contract proposals put out on their behalf. They have given up on making requests for contracts that they know do not fit CDCR's standard model for health services contracts.[74]

The DJJ central office staff responsible for requesting medical contracts and the CDCR managers responsible for processing the requests met in June 2007 as a part of determining the status of DJJ requests for medical contracts. They developed an action plan and met again in July.[75] CDCR has assigned additional staff to DJJ to improve DJJ's ability to interface with CDCR to get its contracting needs met.[76]

V. SEXUAL BEHAVIOR TREATMENT PROGRAM

As the special master reported in her last report, the critical work of DJJ's sexual behavior treatment consultant was stalled for approximately 13 months by delays in payment and contract renewal.[77] The consultant's contract finally was renewed in April 2007. The sexual behavior treatment expert is in the middle of a round of monitoring and intends to complete a report for filing with the next report of the special master.

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[74] *See*, Appendix C (special master's memorandum re medical contracting), p. 3.
[75] Agreements made during June 13, 2007 meeting of special master, CDCR contracts staff and DJJ medical administrative staff; Katie Riley statement to special master July 6, 2007, as the July meeting was about to begin.
[76] *See*, Appendix C (memorandum concerning medical contract requests).
[77] *Third Report of the Special Master*, p. 16.

VI. EDUCATION

The Consent Decree education experts, Drs. Thomas O'Rourke and Robert Gordon, conducted their second round of compliance audits at all DJJ facilities during the period September 2006 through April 2007. Their second Summary Education Program Report with two appendices is attached as Appendix D.[78] The summary report displays compliance status for each facility, the audit criteria and recommendations where action is required to remediate serious deficiencies. The detailed reports and comprehensive recommendations should guide DJJ's continuing reform efforts in the area of education for regular and special education students. In the following summary, the special master will highlight findings and recommendations concerning systemic issues that appear to be critical to compliance with the Education Remedial Plan ("education plan").[79]

The education experts found significant improvement in compliance from their first to second round of monitoring, and further improvement over the course of the second round; the last three facilities monitored showed progress on systemic issues beyond that achieved in the facilities monitored earlier.[80] Comparing the second round audits to the first round audits, every DJJ school site except Lyle Egan High School at Heman G. Stark increased its proportion of "substantial compliance" audit items and decreased its proportion of "non-compliance" audit items.[81] The experts attribute some of the improvement to the success of

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[78] The experts provided the special master, and the special master provided the parties, with the individual facility audits as they were completed.

[79] The education experts have reviewed and approved this summary.

[80] Statements of both experts to the special master during telephone discussions June 12 and 15, 2007. The last three facilities monitored were James A. Weiden High School at Preston, Mary B. Perry High School at Ventura and Jack B. Clarke High School at SYCRCC.

[81] *Cf.*, O'Rourke, Gordon "California Education Services Remedial Plan Summary Report, Attachment B (May 2006), attached as Appendix G to the *Second Report of the Special Master*, to Attachment B of this year's report attached as Appendix D. Unlike the other sites, Lyle Egan High School failed to prepare for the education experts' audit and failed to provide the experts with the documentation they require for their audits. Statement of Thomas O'Rourke during telephone discussion with the special master, June 12, 2007. Though

DJJ's special training session for education managers from all facilities designed to improve their understanding of the auditing requirements related to the educational program.[82] The state-wide availability of the educational policies in electronic format has increased access to the educational requirements.[83] The experts recommend continued ongoing state-wide training in all areas of partial and noncompliance.[84]

With the N.A. Chaderjian High School having regained its accreditation, all of DJJ's school sites are accredited by the Western Association of Colleges and Schools.[85] DJJ continues to meet all DOE and WASC standards for textbooks, library books and educational supplies[86] though most of the school sites have failed to meet the education plan requirements for the automated library system and mini-libraries on housing units.[87] DJJ continues to make progress in screening, identifying and providing services to English Language Learner eligible students.[88]

Though progress is being made in the teacher recruitment and hiring process, only two school-sites were able to finalize hires within a reasonable period of time.[89] This prolongs vacancies and reduces DJJ's chance of hiring the most competitive candidates.[90]

DJJ has increased the number of students who are offered a transition class to prepare them for successful re-integration into the community and made this class a part of the

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this failure is troubling, it is anticipated that the facility will regain ground in the audit results next round. The negative audit results this round – a 20% increase in "non-compliance" audit items – likely reflects a lack of documentation rather than actual circumstances or practices in some areas.

[82] O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007.

[83] *See*, Appendix D, Attachments A and B, Item 4.24.

[84] O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007.

[85] *See*, Appendix D, Attachments A and B, Item 1.1.

[86] *See*, Appendix D, Attachments A and B, Item 4.5.

[87] *See*, Appendix D, Attachments A and B, Items 4.8 and 4.19.

[88] *See*, Appendix D, Attachments A and B, Item 1.7.

[89] *See*, Appendix D, Attachments A and B, Item 2.4.

[90] O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007.

required curriculum.[91] More attention should be paid to the development of transition plans specifically designed to meet the identified needs of special education students as specified in their Individual Education Plans ("IEPs").[92]

The implementation of the standardized academic calendar and the five-period school day this year is a significant step toward providing a sufficient number of courses to meet the needs of the student population.[93] The five-period school day is not yet being used to full advantage, however, because so many students are not attending or are not even scheduled to attend for an average of 240 minutes daily.[94]

Six of eight school sites continue to be in substantial compliance with the requirement to develop High School Graduation Plans ("HSGPs"). Most schools did not conduct the required HSGP semi-annual reviews.[95] School administrators must monitor the process of semi-annual reviews to ensure that students are making progress towards graduation.

Many DJJ students are *not* making sufficient progress towards graduation and other educational goals due to absenteeism and class cancellations.[96] The school sites generally failed to provide the compensatory services that are required for special education students to make up for missed and cancelled classes. Strategies outlined in the remedial plan to improve school attendance must be implemented at both the central office and site levels

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[91] *See*, Appendix D, Attachments A and B, Item 1.8.

[92] In the development of special education transition plans, there is a need to document the acquisition of functional skills and hands-on-knowledge that would enable the student to re-enter the community and continue education or training. IEPs reviewed at all sites contained transition goal outcomes that were vague and not measurable. Teachers are aware of transition plan limitations and express optimism that form revisions expected as a result of the new IDEA requirements would enable them to address this deficiency. Templates and checklists covering transition plan development requirements have been provided by the reviewers to DJJ central office and site-based administrators and are currently being reviewed for implementation. O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007; *see also*, Appendix D, Attachments A and B, Item 5.19.

[93] *See*, Appendix D, Attachments A and B, Items 3.1 and 3.2.

[94] O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007.

[95] *See*, Appendix D, Attachments A and B, Item 1.4.

[96] *See*, Appendix D, Attachments A and B, Items 1.5/6 and 3.15.

(e.g., the education plan requires policy and procedure to eliminate class cancellations, plans to remediate deficient attendance, and attendance incentives).[97] Additional available substitute teachers are needed to prevent class cancellations due to teacher absences.[98]

A year ago, the education experts and the special master commented on the critical need for plan-required written cooperative agreements at each DJJ facility detailing how custody, treatment and education management and staff are to work together to ensure that youth receive all necessary services, including their full school day.[99] The last two facilities that the experts audited this round, in April 2007, had written cooperative agreements in compliance with a written directive of DJJ's chief deputy secretary.[100] It is expected that the other facilities will also implement the provisions of the directive prior to the next cycle of site reviews.

Cooperative agreements should begin to address student absenteeism due to conflicts between treatment appointments and class schedules. The Consent Decree education and mental health experts have all recommended that DJJ study the feasibility of incorporating mental health and rehabilitative treatment services into the school curriculum within the five-period day or potentially by adding a sixth period dedicated to this purpose. This extended use of available school space and personnel would enable students to earn elective course credit toward meeting high school graduation requirements in addition to reducing conflicts between education and treatment programming.[101]

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[97] *See*, Appendix D, Attachments A and B, Items 3.18, 3.19, 3.20 and 3.29.
[98] *See*, Appendix D, Attachments A and B, Item 2.6. Substitute teacher lists were often found to be inaccurate and did not reflect the actual number of substitute teachers available on a consistent basis. *Ibid.*
[99] *See*, *Second Report of the Special Master*, p. 19.
[100] O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007. *See also*, Appendix D, Attachments A and B, Item 3.16.
[101] O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007.

Another cause of student absenteeism is the practice of excluding youth from school for their disruptive behavior. None of the sites has fully implemented a formal school behavior management system with a highly structured alternative behavior management classroom, as required by the education plan. The education plan requires a behavior management system and a structured alternative classroom to meet the dual objectives of maintaining order in classrooms and keeping students in school. The education plan also provides for a Student Consultation Team ("SCT") to intervene with students with academic or behavior problems. Only Weiden High School at Preston had a Student Consultation Team that was fully functioning according to DJJ policy and procedures.[102]

Instructional programs for both regular and special education students in the restricted settings continue to be inadequate. Segregated students are not offered access to full school day programming at any of the schools. Central office and site-based administrators should pursue the use of technology, including distance learning, to increase educational service hours without compromising security for segregated students. Additional staff and instructional space must be identified and provided in order to ensure equal educational access to these students.[103]

All sites have excellent vocational facilities. Technical job studies and surveys for vocational course planning have been instituted state-wide. Student enrollment in vocational classes continues to be very low. Full utilization of these facilities and staff should be a

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[102] O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007. *See also*, Appendix D, Attachments A and B, Items 3.5-3.13, 3.33-3.35. The Weiden High School SCT model should be shared with the other sites and replicated. Continued training needs to occur with policies and procedures related to the SCT. O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007.

[103] O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007. *See also*, Appendix D, Attachments A and B, Items 3.36-3.39.

priority for central office and site-based administrators to ensure that students are provided with employment skills to prepare them to re-enter the community.[104]

DJJ has developed curriculum guides that align core and vocational courses with the California Education Code for Public Schools. Core academic guides are now electronically available; they are a valuable tool to the classroom teachers.[105]

Quarterly teacher observations were *not* being consistently conducted at any of the school sites. Site-based administrators must consistently conduct quarterly teacher observations to document evidence of instructional planning, use of course syllabi and delivery of the state approved curriculum. Observations with documentation must be based on the rubric for classroom observation aligned with the California Standards for the Teacher Profession ("CSTP").[106]

The experts found consistent deficiencies in the provision of services to special education students.[107] They recommend particular attention by central office staff and school site-based education administrators to special education training and that follow-up be focused on formally measuring implementation of special education training objectives.[108] Substantial special education training was documented during the past year, but it appears to have had modest impact. Next steps include improving continuity of services as students

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[104] O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007.
[105] *See*, Appendix D, Attachments A and B, Items 4.1-4.4.
[106] *See*, Appendix D, Attachments A and B, Items 3.1 and 3.2.
[107] *See also*, Appendix D, Attachments A and B, Section V.
[108] The regional program specialists are now conducting quarterly site reviews at each school. They appear to be monitoring the school's compliance in each special education area covered by the consent decree. The education experts recommend that central office and site-based administrators develop a system for monthly follow-up on the monitoring recommendations and to continue to update the current Special Education Manual to include changes mandated by IDEA revisions and No Child Left Behind legislation. Each assistant principal responsible for special education programming should be responsible to follow-up on the monitoring recommendations of the regional program specialists to assure their implementation. O'Rourke e-mail to special master, June 15, 2007.

enter DJJ and move between DJJ facilities[109] and addressing many deficiencies in the processes for development and implementation of IEPs.[110] The on-going issues of errors in the WIN management information system and difficulties establishing an interface between the WIN system and the special education data must be resolved.[111]

Beginning with the 2005-2006 monitoring cycle, the education experts and the special master highlighted the problem posed by the fact that DJJ does not have a permanent superintendent of education to develop and carry out the educational program state-wide. Though DJJ has improved its level of compliance with the education plan over the past year, it still is plagued by what have been intractable problems that result in DJJ students being provided far less education than they are entitled under state law. It will require the leadership of a strong and secure superintendent of education, backed by the chief deputy secretary, to effectuate the changes that are necessary. More work needs to be done to ensure

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[109] At most sites the system for requiring receipt of complete educational records for all students entering the DJJ system from the community or transferring from one facility to another has not been fully implemented. Adherence to policies and procedures for records transfer needs to be monitored by central office and site administrators. There has not been any progress in the development of written policy, procedures or practices that would require that the CYA and clinic administrators work collaboratively with Intake and Court Service units to ensure compliance with regulations regarding the provision of IEP's prior to the acceptance of the physical custody of the student. O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007. *See also*, Appendix D, Attachments A and B, Section V.

[110] School sites must immediately implement IEPs of incoming students. Any IEP change must be made by the IEP committee with adequate documentation or rationale. IEP's written by DJJ staff must address how the student's disability affects involvement in the general curriculum. All sites must improve the provision of general education classes in the frequency and duration indicated in IEPs. When the IEP requires access to the general curriculum, such access and a full school day must be provided. Supplemental aids and program modifications that support the student's involvement in the general curriculum must also be provided. IEP meetings must be held within the prescribed time frame and documentation must be maintained indicating that regular education teachers not present at the IEP meetings were made aware of the IEP provisions for students in their classes. Teachers must document progress reviews of IEP benchmarks and, when necessary, make IEP changes based on progress or lack of progress. Special education eligibility documents must be kept current according to guidelines. Central office and site-based administrators must address all of the issues of students' access and attendance in order to achieve compliance with both the Consent Decree and IDEA requirements. Central office and site-based administrators must not only monitor the completion of reports but also take responsibility for accuracy and timeline expectations to ensure quality control. O'Rourke and Gordon E-mail and Memorandum to special master, June 5, 2007. *See also*, Appendix D, Attachments A and B, Section V.

[111] O'Rourke and Gordon e-mail and memorandum to special master, June 5, 2007. *See also*, Appendix D, Attachments A and B, Section V.

that school principals have the level of autonomy from facility superintendents necessary for the principals to be able to manage the education program to meet the needs of the youth population.

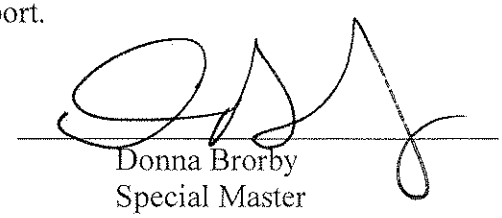
VII. ACCESS FOR YOUTH WITH DISABILTIES

The disabilities expert has completed his second round of monitoring. He submitted his second round report in late June 2007. The special master will file it with her next report.

VIII. CONCLUSION

The special master respectfully submits this report.

Dated: June 18, 2007



Donna Brorby
Special Master

PROOF OF SERVICE

I, James Eno, declare that:

I am employed in the City and County of San Francisco, California. I am over eighteen years of age, and not a party to the within cause; my business address is 605 Market Street Ninth Floor, San Francisco, California 94105-3211.

On July 30, 2007, I caused to be served the attached FOURTH REPORT OF SPECIAL MASTER on the parties in said cause by placing in a United States mailbox a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, addressed as follows:

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I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on July 30, 2007 at San Francisco, California.

James Eno