

Compliance with Safety and Welfare Requirements: Central Office Site Visit Report
January 28, 2010
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The Safety and Welfare Plan assigns monitoring of certain requirements to the office of the special master (OSM). Donna Brorby and Aubra Fletcher visited DJJ's central office on November 2-3, 2009 to audit compliance with these requirements. This report is based on staff interviews and multiple documents provided by DJJ. The parties had the opportunity to provide comments on a draft of this report, and this final version reflects consideration of comments received.

2.1.4a: *DJJ to install dedicated staff for policy development and policy maintenance by November 21, 2007. 2.1.4a:* *Master schedule completed for updating DJJ policy by January 15, 2007. 2.1.4a:* *Policies updated per schedule and TDOs issued as needed, on an ongoing basis.*

2.1.4a (dedicated staff): The remedial plan requires that DJJ's dedicated policy development staff and training curriculum writers be "knowledgeable of contemporary standards of care and practice in juvenile correctional agencies."¹ DJJ's policy unit staff do not have knowledge of contemporary standards of care and practice in juvenile agencies; they are not, however, responsible for the content of policies.² Program area staff are responsible for substantive policy writing.³ The OSM has not separately reviewed the process for the development of training curricula, but it appears that the training curricula for policies rely on the same source of expertise as the policies themselves. Budgetary restrictions prevent DJJ from sending program area staff to regional and national conferences for their education in contemporary standards of care and practice.⁴

The experts have found that some key policies do not fully reflect contemporary standards, *e.g.*, DDMS, program credits, and use of force.⁵

*Rating: Partial compliance*⁶

2.1.4a (master schedule): DJJ has created a list of prioritized projects, including needed policies.⁷ Though not all needed policies have been listed and prioritized, DJJ's current planning processes are sufficient to identify needed policies on an ongoing basis.

¹ See Safety and Welfare Remedial Plan, p. 12.

² Eleventh Report of the Special Master (November 2009), p. 11.

³ *Ibid.*

⁴ Statements of Tammy McGuire during site visit, November 2, 2009.

⁵ See, *e.g.*, statements of Barry Krisberg and Eric Trupin during teleconference, December 17, 2008; e-mail of Barry Krisberg to Dorene Nylund, et al., January 8, 2009; Eleventh Report of the Special Master (November 2009), Appendix B (Status of Items with Modified Deadlines), p. 4.

⁶ OSM previously deferred to the safety and welfare expert regarding the rating for this item. See Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), pp. 3-4 [hereinafter OSM Monitors' Report, June 2009]. The expert has declined to provide a rating. See, *e.g.*, e-mail of Barry Krisberg to Donna Brorby, September 10, 2009; e-mail of Barry Krisberg to Donna Brorby, September 14, 2009.

Rating: Substantial compliance

2.1.4a (updated policies): Central office has finalized a number of policies this year.⁸ OSM will provide a rating for this item after monitoring policy implementation at the facilities.

Rating: Rating will be provided once the audit round is complete.

2.1.4a: *As appropriate, youth are to receive informational materials and/or briefing within 30 days of policy changes.*

As previously reported, central office has developed a system for informing youth of policy changes on a timely basis.⁹ OSM monitors adherence to this system at the facility level.

Also, DJJ distributed the new Youth Rights Handbook to youth in all facilities in about June 2009.¹⁰ As rules and procedures change, facility staff will be instructed to inform youth via large groups, and youth will receive written updates to insert in their handbooks.

Rating: Substantial compliance

2.1.4b: *Clear separation between juvenile and adult training to be established. Separate DJJ training process plan and tracking system in place by June 30, 2008.*

The safety and welfare plan describes a “clear separation between juvenile and adult training content and expectations.”¹¹

DJJ provided a side-by-side comparison of training offered to peace officers destined for the adult prisons and training offered to future DJJ staff. DJJ also provided a schedule of the most recent academy, which ended in August 2009. A new academy was scheduled to begin in December 2009.¹² The special master’s office defers to the safety and welfare and mental health experts as to whether DJJ’s academy training reflects contemporary standards of care and practice.

DJJ does not have an automated system to track which staff need to receive which trainings, but central office staff are compiling these data.¹³

⁷ See Eleventh Report of the Special Master (November 2009), pp. 12-13. The following sentence is also based on this source.

⁸ For a fuller discussion of the status of individual policies, see OSM Monitors’ Report, June 2009, pp. 4-7.

⁹ See *id.*, pp. 9-10.

¹⁰ Statements of Tammy McGuire during site visit, November 2, 2009. The following sentence is also based on this source.

¹¹ See Safety and Welfare Remedial Plan, p. 21.

¹² Statements of Tammy McGuire during site visit, November 2, 2009.

¹³ *Id.*

Rating: Not rated at this time.

2.1.5: *A minimum of 18 trainers/quality assurance specialists to be filled/assigned by June 30, 2007.*

DJJ provided a document entitled “Program Developers As of August 28, 2009.” The list includes staff from various facilities and disciplines who perform the “program developer” duties as secondary assignments.¹⁴

One of the 18 staff on this list has retired, and two are on special assignment and do not currently serve in this capacity.¹⁵ Two of the remaining 15 staff schedule trainings, so 13 spend time in the field observing the implementation of staff training and coaching staff to adhere to training.

Given the reduction in DJJ’s size since the remedial plan was drafted, the allocation of 13 staff to this purpose may be sufficient. However, unless and until the remedial plan language is modified, OSM measures compliance against the requirement as written.

Rating: Partial compliance

2.2.3: *Designate facility compliance monitors and schedule.*

DJJ provided a list of facilities’ compliance monitors as of September 21, 2009. DJJ has also shared the Office of Audits and Compliance (OAC) audit schedule for the remainder of the fiscal year.¹⁶ OAC’s audits will address “facility policies,” the grievance system, time adds, special education, mental health organizational charts, conflict resolution teams, and the suicide prevention, assessment, and response policy. The *Farrell* Compliance Unit also conducts periodic facility audits, and its role may soon shift to focus on compliance with *Farrell*-related corrective action plans.¹⁷

Rating provided at the facility level only.

¹⁴ Statements of Judi Nahigian during site visit, November 2, 2009.

¹⁵ Statements of Tami McKee-Sani during site visit, November 2, 2009. The following sentence is also based on this source.

¹⁶ See e-mail of Doug Ugarkovich to Bernard Warner, et al., September 29, 2009 (attaching audit schedule). Unless otherwise noted, the remainder of this paragraph is based on this source.

¹⁷ See, e.g., statements of John Blackwell during site visit, November 2, 2009; e-mail of John Blackwell to Judi Nahigian, et al., October 30, 2009; DJJ, “Role of the Farrell Compliance Unit (draft),” November 2, 2009; DJJ, “Court Monitor Audit Finding Corrective Action Plan Process,” August 11, 2009.

2.2.5: DJJ facilities to rewrite local directives and procedures as new policies are adopted, on an ongoing basis.

Central office has begun tracking whether facilities are developing required local procedures, and compliance levels appear to be improving. As of June 2009, the policy unit had never received confirmation from the facilities that a local procedure was developed.¹⁸ The policy unit developed a process for the facilities to provide their local procedures to central office, and by October 2009, some facilities began doing so, though some were unsigned and marked “draft.”

Rating: Substantial compliance

2.2.6: DJJ to update and approve job descriptions by January 31, 2007.

The Safety and Welfare Remedial Plan requires that DJJ update job descriptions “for all living unit and management staff at the treatment team leader [level] and above, incorporating duty requirements and performance measures consistent with agency policy.”¹⁹

DJJ has not updated job descriptions for any relevant position except for case managers.²⁰ DJJ is awaiting the development of the IBTM in order to align the descriptions with the new model.

Rating: Beginning compliance

2.2.7: DJJ to produce annual reports that accurately reflect the status of reform and the state of DJJ. The first annual report is to be produced by August 30, 2007.

A staff person at central office is working on the development of an annual report.²¹ DJJ currently issues *Farrell* quarterly reports and other reports to the legislature.

Rating: Beginning compliance

2.4.3: DJJ must ensure that each facility has a vocational specialist.

The remedial plan requires each facility’s vocational specialist to “provide vocational and career counseling and coordination with parole and re-entry specialists.”²²

¹⁸ Statements of Dolores Slaton during DJJ Court Compliance Task Force meeting, June 11, 2009. The following sentence is also based on this source. In November 2009, DJJ shared with OSM a tracking document maintained by the policy unit.

¹⁹ See Safety and Welfare Remedial Plan, p. 21.

²⁰ Statements of Tammy McGuire during site visit, November 2, 2009. The following sentence is also based on this source.

²¹ *Id.* The remainder of this paragraph is based on this source.

²² See Safety and Welfare Remedial Plan, p. 22.

DJJ has revised the duty statement for its transition coordinator job classification, and the new duty statement came into effect in mid-2009.²³ Transition coordinators must “provide educational, academic and career tech vocational counseling and guidance; coordinate educational transition, re-entry services for students; conduct program effectiveness data collection; and perform other related responsibilities.”²⁴ The duty statement further specifies that these staff will:

- Ensure that each student’s assigned activities align with her or his educational and career/vocational plan;
- “Coach students using activities and strategies which promote problem solving and life skills enhancement;”
- Engage multi-disciplinary resources within the facility, with field parole, and with the community;
- Finalize individual parole plans with treatment staff and the youth;
- Together with field parole, negotiate youth placements with local educational or vocational entities; and
- Together with field parole, “provide follow-up contact with the student and parole.”²⁵

The development of this duty statement is a very positive step. At the facility level, OSM will monitor youth access to these services.

Ratings are provided at the facility level only.

3.5.1b: *DJJ Research to assist with annual reports. Reports must accurately reflect the status of reform and the state of DJJ.*

As noted above, efforts to produce annual reports are in beginning stages. The new chief of DJJ research, Dr. Larry Carr, has not yet been involved in these efforts.²⁶

Rating: Non-compliance

3.3b: *DJJ to create violence reduction committees to review and evaluate incidents of violence quarterly and to develop plans to reduce violence and use of force, by January 1, 2007. (This item is also monitored by the safety and welfare expert.)*

The remedial plan requires each facility’s violence reduction committee (VRC) to submit its violence reduction plan(s) to DJJ’s chief of security “for review, monitoring and sharing of the most effective practices with other facilities.”²⁷

²³ Statements of Tammy McGuire during Chaderjian site visit, November 13, 2009.

²⁴ DJJ, Duty Statement and Performance Standards: Transition Coordinator/Teacher,” undated (provided November 3, 2009).

²⁵ *See id.*, pp. 1-2.

²⁶ Statements of Tammy McGuire during site visit, November 2, 2009.

DJJ's Chief of Security, Jeff Plunkett, called for and received the facilities' violence reduction plans in 2007 and received them.²⁸ He has not reviewed the facilities' updated plans.²⁹ Mr. Plunkett does receive the minutes from each facility's violence reduction committees.³⁰ The formal sharing of best practices among facilities has focused on improving the format for recording meeting minutes.³¹

It would be appropriate for DJJ central office to evaluate the effectiveness and utility of VRCs and identify and share best practices.

Ratings are provided at the facility level only.

3.4a: DJJ to qualify 18 staff as crisis management trainers by July 1, 2007.

Eighteen staff were recertified as safe crisis management trainers in July 2009.³²

Rating: Substantial compliance

3.4b: Crisis management training for direct care staff at Stark and Preston. **3.4c:** Crisis management training for remaining direct care staff. New staff are trained within 90 days of living unit assignment at all facilities.

Safe crisis management training is now provided at the academy which peace officers attend prior to assignment at DJJ.³³ DJJ is compiling training statistics for existing peace officers and for other direct care staff; training statistics for three facilities are available, but they do not account for all direct care staff.³⁴ Available training data reflect that 27% of certain direct care staff have been trained at SYCRCC, 28% at Chaderjian, and 49% at O.H. Close.³⁵

Rating (3.4b): Partial compliance

Ratings for item 3.4c are provided at the facility level only.

²⁷ See Safety and Welfare Remedial Plan, pp. 24-25.

²⁸ Statements of Jeff Plunkett during site visit, November 2, 2009.

²⁹ *Id.* Some facilities update their plans monthly. Statements of Judi Nahigian during site visit, November 2, 2009.

³⁰ We were shown copies of facilities' recent VRC minutes, initialed and dated as received by Mr. Plunkett.

³¹ Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 23; statements of Jeff Plunkett during site visit, November 2, 2009.

³² See document entitled "SCM Instructor Recertification," undated (provided November 2, 2009).

³³ Statements of Judi Nahigian during site visit, November 2, 2009. We were also shown the August 2009 academy's training schedule.

³⁴ The Safe Crisis Management training statistics do not, for example, include any medical or mental health staff.

³⁵ See e-mail of Maria Young-Ramirez to Aubra Fletcher and Doug Ugarkovich, November 5, 2009 (attaching training statistics for three facilities).

3.5: *By January 1, 2007, DJJ to develop and use a database to track all incidences of violence and use of force. This item is also monitored by the Safety and Welfare expert. 3.6b: By April 1, 2007, DJJ to produce quarterly reports on selected PbS data elements.*

3.5: OSM previously reported that data-gathering practices vary across the state, and OSM urged central office to issue clearer guidance to the facilities.³⁶ According to Tammy McGuire, facility staff have access to the PbS glossary, and central office informs the facilities of any change in PbS definitions. More guidance is necessary, however, and should address data collection methods and sources. Central office should also specify whether and how facility data collection should differ between PbS data collection months (April and October) and other months.

DJJ has not conducted a formal, comprehensive audit of data reliability, as required by the plan.³⁷ Central office should examine whether existing automated systems can produce accurate data, and if not, how to improve them. At this time, there does not appear to be an accurate automated system, and DJJ facility staff rely upon manual systems to derive counts of incidents from overlapping data sources (behavior reports, use of force reports, and daily operations reports).³⁸

Regarding the development of annual targets and action plans for each facility, a review of recent minutes from facilities' violence reduction committee meetings indicates that some facilities develop targets and plans and some do not.

Rating: Partial compliance

3.6b: The remedial plan specifies that the report format be approved by the safety and welfare expert.

Rating: OSM defers to the expert.

3.8c: *DJJ to provide training in strategies and procedures to safely integrate gangs and racial groups by July 1, 2008. The safety and welfare expert monitors the quality of the training.*

OSM defers all monitoring related to this item to the safety and welfare expert, at his request.³⁹

Ratings are provided at the facility level only.

³⁶ See OSM Monitors' Report, June 2009, pp. 25-27.

³⁷ See statements of Tammy McGuire during site visit, November 2, 2009.

³⁸ OSM Monitors' Report, June 2009, pp. 25-27.

³⁹ See statements of Barry Krisberg to Aubra Fletcher during meeting, October 23, 2009.

3.9a: By July 1, 2008, DJJ to open sufficient Behavioral Treatment Programs (BTPs), in accordance with remedial plan provisions, for the projected 2008/09 demand.

OSM defers all monitoring related to this item to the safety and welfare expert, at his request.⁴⁰

Rating: OSM defers to the expert.

5.4a-g: DJJ to hire or train trainers in (a) DJJ Integrated Behavior Treatment Model (IBTM), (b) risk/needs assessment, (c) treatment plan development, (d) motivational interviewing, (e) normative culture, (f) interactive journaling, and (g) other formal rehabilitation/treatment programs adopted by DJJ.

5.4a: The IBTM has not yet been developed.

Rating: Non-compliance

5.4b: As previously reported, DJJ hired Orbis Partners to provide this training.⁴¹ The IBTM experts have recommended the discontinuation of some of the Orbis training.⁴² They plan to work with Orbis Partners and DJJ to examine the usefulness of the CA-YASI and related training.⁴³

Rating: Substantial compliance

5.4c: DJJ hired Orbis Partners to provide this training.⁴⁴ DJJ and the IBTM experts are reexamining the usefulness of the YASI-CA assessment tool.⁴⁵

Rating: Substantial compliance

5.4d: DJJ contracted with the University of California San Diego to provide this training.⁴⁶

OSM rates this item based solely on the fact that DJJ hired and trained trainers; this rating is not a reflection of the quality or efficacy of the training, and the mental health experts have not to date observed or evaluated MI training or implementation.

⁴⁰ See *id.*

⁴¹ See Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 29.

⁴² Statements of Barry Krisberg and Eric Trupin during teleconference, October 26, 2009; e-mail of Eric Trupin to Michael Brady, et al., October 22, 2009 (attaching document entitled "Recommendations").

⁴³ See e-mail of Eric Trupin to Michael Brady, et al., November 4, 2009.

⁴⁴ See Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 29.

⁴⁵ See, e.g., e-mail of Eric Trupin to Michael Brady, et al., November 4, 2009; statements of Barry Krisberg and Eric Trupin during teleconference, October 26, 2009; e-mail of Eric Trupin to Michael Brady, et al., October 22, 2009 (attaching document entitled "Recommendations").

⁴⁶ See Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 29.

Rating: Substantial compliance

5.4e: DJJ pursued a contract for normative peer culture training in 2009, resulting in a contract that Dr. Krisberg and the other IBTM experts have advised DJJ to cancel.⁴⁷

In light of Dr. Krisberg's recent recommendation that the normative culture requirement be removed from the remedial plan, OSM declines to rate this item at present.⁴⁸

Rating: Not rated

5.4f: DJJ has contracted with the Change Companies to provide training for trainers in interactive journaling.⁴⁹ The contract also includes assistance in the development of an Intensive Needs Interactive Journaling® Curriculum.

DJJ has drafted a project charter for implementation of interactive journaling training, and DJJ's directors approved the charter in March 2009. The charter does not include a detailed schedule but notes that DJJ must complete the project before the Change Companies contract expires in June 2010.

Rating: Beginning compliance

5.4g: DJJ continues to train staff in safe crisis management, crisis intervention and conflict resolution, and aggression replacement therapy.⁵⁰ Training is not complete, and DJJ may add or substitute other trainings once the IBTM description is finalized.

Rating: Partial compliance

8.10.1: *By September 20, 2008, DJJ to add all needed program space to O.H. Close, Preston, Ventura, Stark, and SYCRCC, such that no regular programs must be canceled due to lack of space. As a part of this requirement, sufficient classrooms must be located in or near BTPs in order to maintain a ratio of one teacher for every six students. 8.10.1: By September 30, 2008, DJJ to add all needed office space to the same five facilities, so that all living unit staff requiring offices have space in or adjacent to the living unit.*

DJJ has \$6.4 million in funds from fiscal year 2007-08 to spend on modular buildings.⁵¹ As of January 2009, DJJ was awaiting facility closure decisions before allocating the funding to

⁴⁷ See statements of Barry Krisberg and Eric Trupin during teleconference, October 26, 2009; e-mail of Eric Trupin to Michael Brady, et al., October 22, 2009 (attaching document entitled "Recommendations").

⁴⁸ See statements of Barry Krisberg during teleconference, October 26, 2009.

⁴⁹ See Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 30. This paragraph and the following are based on this source.

⁵⁰ See, e.g., *id.*; DJJ Training Status Report, October 29, 2009.

⁵¹ Statements of Mark Blaser during central office site visit, January 14, 2009; statements of John Blackwell during site visit, November 2, 2009 (based on communication with Mark Blaser).

specific sites.⁵² DJJ announced the planned closure of Stark on August 27, 2009.⁵³ DJJ staff reported that a proposal for approval to spend the \$6.4 million would be submitted in November 2009.⁵⁴ The approval process takes about two months.⁵⁵

Ratings are provided at the facility level only.

6.6: *Program service day schedules for BTPs ensure structured activity based on evidence-based principles for at least 40% of waking hours. BTPs operate in accordance with these schedules.*

Central office's July 2009 BTP program description includes a sample BTP schedule and states that facilities will document services provided within an electronic tracking system.⁵⁶

Rating: OSM will provide a rating for central office once the audit round is complete.

7.4: *DJJ to request legislative authority and funding for contract services, and issue RFP. The deadline for both requirements is July 1, 2006.*

DJJ sought a contractor to provide residential services for females in 2006, 2007, and 2008.⁵⁷ The process did not result in the identification of qualified bidders.⁵⁸ In the meantime, the program for young women at the Ventura facility has improved.⁵⁹ DJJ intends to create an appropriate women's program there,⁶⁰ which Dr. Krisberg encourages "[w]hile not giving up altogether on the goal of moving the [young women] into smaller and better facilities that are closer to their homes."⁶¹

Rating: Substantial compliance

⁵² Statements of Mark Blaser during central office site visit, January 14, 2009.

⁵³ See statements of Bernard Warner during teleconference, August 27, 2009.

⁵⁴ Statements of John Blackwell during site visit, November 2, 2009 (based on communication with Mark Blaser). The proposal will be guided by DJJ's quarterly "Physical Plant Improvement" report, dated June 2009 (provided as PoP #533, October 13, 2009.) *Id.*

⁵⁵ Statements of Mark Blaser during central office site visit, January 14, 2009.

⁵⁶ See BTP Charter Workgroup, "Behavior Treatment Program," July 15, 2009, pp. 22-25.

⁵⁷ Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 4; Barry Krisberg, draft 2009 formal report, September 2009, pp. 10-11.

⁵⁸ Barry Krisberg, draft 2009 formal report, September 2009, 2009 Formal Report, p. 11; statements of Bernard Warner during Case Management Conference, July 30, 2009.

⁵⁹ Statements of Barry Krisberg during Case Management Conference, July 30, 2009; Barry Krisberg, draft 2009 formal report, September 2009, p. 11.

⁶⁰ See, e.g., statements of Michael Brady and Karen Heintschel during Case Management Conference, July 30, 2009.

⁶¹ Barry Krisberg, draft 2009 formal report, September 2009, pp. 13-14; see also statements of Barry Krisberg during Case Management Conference, July 30, 2009.

8.1.2: DJJ to fill or assign community/court liaison positions by December 1, 2006. These staff will perform functions as outlined in the Safety and Welfare Remedial Plan.

Six central office staff serve as community/court liaisons.⁶²

Rating: Substantial compliance

8.2.4: By July 1, 2008, pending funding (which DJJ must request), DJJ will provide orientation at county detention facilities.

DJJ continues to track juvenile hall orientations given by its intake and court services staff. Provided documents indicate that 38 youth received orientation at five orientation sessions in three counties during the third quarter of 2009.⁶³ During the second quarter of 2009, 111 youth attended four orientation sessions in three counties.⁶⁴

DJJ has asked all California counties to allow orientation sessions at their juvenile halls and provides orientations at counties that have accepted.⁶⁵

Rating: Substantial compliance

8.3.1: Intake process to include documentation of family interviews and assessment. The written report at intake must document contacts and interviews with parents, close relatives, and community service providers during the intake process for each youth. The reports include measures to assess family background, strengths, and functioning. Deadline is July 1, 2007. This item is also monitored by the mental health experts. **8.3.2a:** By November 1, 2006, DJJ is required to facilitate family phone contact within 24 hours of youth arrival. **8.3.2b:** By December 1, 2006, DJJ is required to facilitate ongoing family phone contact. **8.3.3:** By March 1, 2007, DJJ must arrange for family visiting days at least four times per year.

8.3.1: Central office has developed Community Assessment Reports (CARs) for statewide use beginning July 1, 2009.⁶⁶ OSM received a copy of the CAR policy and report form and has provided it to the mental health experts for their feedback.

Field parole agents complete the CARs and provide them to the facility sometime after the youth's arrival at the facility.⁶⁷ The facility's case work specialist completes a "clinic report"

⁶² See DJJ, "Intake and Court Services," October 30, 2009.

⁶³ Intake and Court Services, Juvenile Hall Orientation Log: Quarterly Contact July – October 2009, undated (provided November 2, 2009).

⁶⁴ Intake and Court Services, Juvenile Hall Orientation Log: Quarterly Contact April – June 2009, undated (provided November 2, 2009).

⁶⁵ Statements of Eleanor Silva during site visit, November 3, 2009.

⁶⁶ Statements of program administrator for Preston during teleconference, October 28, 2009; statements of field parole staff during site visit, November 2, 2009.

which draws from the CAR, if received, and from information provided by the county of commitment.⁶⁸

During the site visit, OSM requested verification that a CAR is completed for each new intake but has not received any documentation.

The remedial plan requires that the CARs be based on contacts and interviews with parents as well as “close relatives and community service providers.”⁶⁹ Field parole agents are only conducting family interviews.⁷⁰

Rating: Deferred until all site visits complete and expert feedback obtained

8.3.2a: Provided documentation indicates that 55 of 55 youth who arrived at a DJJ facility between August 1, 2009 and October 28, 2009 had the opportunity to make a phone call within one day of arrival.

Rating: Substantial compliance

8.3.2b: Central office is developing a new youth phone call policy.⁷¹ The policy will mandate a minimum of four collect calls per month per youth and only one direct call per month for youth whose families cannot receive collect calls.⁷²

Failing to ensure more than one youth-family contact per month is not supportive of family connections.

Ratings are provided at the facility level only.

8.4.2a: Disciplinary fact-finding hearings to be held within 14 days, except as provided for in policy. **8.4.2b:** Disciplinary disposition hearings held within 7 days, except as provided for in policy.

DJJ provided very helpful, WIN-generated compliance data for the period between April 2009 and September 2009, broken down by month and facility. These data will inform facility-specific ratings throughout the audit round.

Ratings are provided at the facility level only.

⁶⁷ Statements of field parole staff during site visit, November 2, 2009.

⁶⁸ Statements of program administrator for Preston during teleconference, October 28, 2009.

⁶⁹ See Safety and Welfare Remedial Plan, p. 70.

⁷⁰ Statements of field parole staff during site visit, November 2, 2009.

⁷¹ Statements of Judi Nahigian and Tammy McGuire during site visit, November 3, 2009.

⁷² Statements of Alicia Ginn during site visit, November 3, 2009.

8.6.3a: *DJJ's earn-back policy is to be revised to allow restoration of added time after six months.*

8.6.3a: DJJ revised its DDMS policy in order that fifty percent of disciplinary time adds may be earned back following six months—rather than one year—of good behavior.⁷³ OSM previously assigned a beginning compliance rating in part because this policy change is not retroactive.⁷⁴ OSM now understands the complex administrative difficulties that a retroactive rule change would entail.⁷⁵

Rating: Substantial compliance

8.6.4a: *By March 31, 2007, DJJ is to simplify the description of the Ward Incentive Program (WIP) and create and distribute posters, flyers, and handouts to promote understanding and participation in the Program.*

In March 2009, DJJ revised its “pyramid” flyer depicting the incentive system and its requirements.⁷⁶ Central office re-issued this pyramid to the facilities in July 2009.⁷⁷ Central office issued a new list of youth incentives to facility superintendents in January 2009.⁷⁸

DJJ also issues regular Youth Incentive Newsletters to youth and staff. The July 2009 newsletter features the photos of four youth winners of an incentive program flyer contest. It also describes recent events, depicts each site’s percentage of A-Level youth, and includes a calendar of upcoming incentive events.

DJJ expects to revisit its incentive program and system of sanctions following the finalization of the IBTM description.⁷⁹

Rating: Substantial compliance

⁷³ Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 42.

⁷⁴ *See id.*, pp. 42-43.

⁷⁵ Tammy McGuire explained these difficulties at length during our site visit, and it became clear that selection of an arbitrary date for the rule change would be inevitable. Many affected youths’ parole consideration dates passed prior to the rule change. Also, retroactivity would entail a laborious, partially manual review of every DJJ youth’s record.

⁷⁶ *Id.*, p. 45.

⁷⁷ Statements of Judi Nahigian during site visit, November 2, 2009.

⁷⁸ *See* memorandum of Sandra Youngen to superintendents, January 23, 2009 (attaching document entitled “Individual Youth Incentives”).

⁷⁹ Statements of Tammy McGuire during central office site visit, November 2, 2009.

8.6.4b: *DJJ to revise its policy to allow youth full program credit if youth not responsible for non-participation in assigned/required programs. The deadline was initially March 31, 2007. At DJJ's request, the court has reset the deadline to March 31, 2009.*

DJJ revised its program credits policy to conform to this requirement and distributed it to facilities for implementation on March 31, 2009.⁸⁰

In November 2009, DJJ provided a list of all youth who did not earn the maximum possible program credits in case conferences held between September 14 and October 28, 2009.⁸¹ This is a new, automated tracking document which central office staff intend to generate and review regularly.⁸² For many youth, the document includes a brief explanation of the decision to withhold program credits. OSM identified five cases from the list that seemed to warrant further review by central office. DJJ reviewed the cases and awarded full program credits to four of the five youth.⁸³

Rating: Substantial compliance

8.6.4c: *By March 31, 2007, DJJ must develop standards for awarding program credits for youth participation in restorative justice projects.*

The remedial plan requires DJJ to award program credits (time cuts) based on participation in restorative justice projects.⁸⁴ DJJ must develop non-discretionary standards for restorative justice program credits, based on types of restorative justice activities and/or the activities' duration.⁸⁵ DJJ's recently completed program credit policy does not comply with this requirement.⁸⁶ DJJ should re-visit this as a part of re-examining incentives in connection with development and implementation of the IBTM.

Rating: Non-compliance

⁸⁰ Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 5.

⁸¹ See DJJ, "Justification for Withholding Youth Program Credits: September 14 – October 28, 2009," October 29, 2009.

⁸² Statements of Tammy McGuire during site visit, November 2, 2009.

⁸³ Memorandum of Van Kamberian to special master, et al., January 14, 2010, p. 1.

⁸⁴ See Safety and Welfare Remedial Plan, pp. 73-74.

⁸⁵ *Id.* ("For example, working x hours on a restorative justice project might be worth one program credit, participating in blood drive might be worth several credits, etc.").

⁸⁶ See Program Credits Policy (PoP #374, April 6, 2009), pp. 4-5.

8.7.1a: DJJ is to ensure that Education Services operates the facilities' law libraries by August 20, 2007. **8.7.1b:** Education Services is to track law library needs and conduct annual audits indicating that materials are up-to-date or ordered by June 30, 2010 (deadline reset from August 30, 2007). **8.7.1c:** Education Services is to control the law libraries' budget and manage purchases by June 30, 2010 (deadline reset from August 30, 2007). **8.7.3:** Needed law library materials must be purchased annually by August 30, 2007. **8.7.5:** DJJ is to replace print libraries with electronic or internet materials by June 30, 2010 (deadline reset from August 30, 2007).

8.7.1a: Education Services operates DJJ's law libraries.⁸⁷

Rating: Substantial compliance

8.7.1b: The central office staff person responsible for law libraries will begin auditing facilities in February or March 2010.⁸⁸ A draft audit tool was provided.

Rating: Beginning compliance

8.7.1c: Education Services manages purchases but remains dependent on Juvenile Facilities to administer the budget.⁸⁹ DJJ has submitted a budget transfer request, which it expects to take effect in January 2010.

Rating: Partial compliance

8.7.3: DJJ purchased WestLaw law library materials on DVD in early 2009.⁹⁰ The WestLaw resources consist of the majority of items on the *Gilmore* list, which includes a variety of state and federal codes, digests, reporters, and secondary sources.⁹¹ The DVDs do not include a Shepardizing (KeyCite) feature. As OSM previously noted, access to up-to-date legal information is the purpose of the law libraries and must be provided to all youth; a law library should allow researchers to ensure that information is current.

⁸⁷ Statements of Tammy McGuire during site visit, November 3, 2009; *see also, e.g.*, statements of Susan Harrower during DJJ Court Compliance Task Force meetings, September 3, 2009 and September 24, 2009 (education team leader discussing administration of law libraries).

⁸⁸ *See* e-mail of Jim Cripe to Judi Nahigian, October 29, 2009.

⁸⁹ Statements of Tammy McGuire during site visit, November 3, 2009. The remainder of this paragraph is based on this source.

⁹⁰ Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 55; *see also* statements of Jim Cripe during DJJ Court Compliance Task Force meetings, April 30, 2009 and June 11, 2009.

⁹¹ Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 56. The remainder of this paragraph is based on this source.

Since the OSM monitors' prior report, central office has instructed the law libraries to order certain "street law," or legal self-help, resources.⁹² The monitors previously observed that availability of these resources varied across the state, and many were out of date.⁹³

Rating: Not rated until all site visits complete.

8.7.5: DJJ reports that it has transitioned to an electronic law library system well ahead of its projected June 30, 2010 completion date.⁹⁴ Software and hardware have been purchased and installed. Librarians have been trained.

Ratings are provided at the facility level only.

8.8.2a: *By June 30, 2007, DJJ must designate a religious coordinator to oversee mandated programs, policy, manual revisions, and training. S&W 8.8.2b-d: The religious coordinator is to monitor facilities for (b) provision of services/programs for various faiths, (c) youth access to services/programs/materials, and (d) documentation of services/programs in an automated tracking system.*

8.8.2a: Gregory Brewer coordinates religious services for DJJ.

Rating: Substantial compliance

8.8.2b-d: The remedial plan requires the religious coordinator to monitor the provision of services by conducting field visits and documentation review.⁹⁵ Mr. Brewer visited a few sites at the end of fiscal year 2008-2009, but budget problems since that time have prevented further visits.⁹⁶

With remote access to facility WIN records, Mr. Brewer monitors whether scheduled religious services and programs occur, and whether youth have access to them. His tracking system is no longer fully automated because of limited server space, and his manual tracking is very time-consuming. IT staff are working with him to make slight improvements to his monitoring system, and these improvements will include the capacity for chaplains to document individual and family contacts in WIN.

Based on his tracking data, Mr. Brewer has formulated recommendations for improvement of the system statewide. He is also drafting a chaplain's handbook.

⁹² See statements of Jim Cripe during site visit, November 3, 2009; e-mail of Jim Cripe to Juel Blanchard, et al., May 12, 2009.

⁹³ See Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 51.

⁹⁴ See *id.*, p. 54-55; statements of Susan Harrower during DJJ Court Compliance Task Force meetings, September 3, 2009 and September 24, 2009. The remainder of this paragraph is based on the latter source.

⁹⁵ See Safety and Welfare Remedial Plan, pp. 75-76.

⁹⁶ Statements of Gregory Brewer during site visit, November 2, 2009. Mr. Brewer showed us examples of his tracking system. Unless otherwise noted, the remainder of this section is based on these sources.

Central office also monitors youth grievances related to religious services and programs.⁹⁷ DJJ provided a series of written communications between Mr. Brewer and one facility's superintendent and chaplains regarding youth grievances about access to chaplains.

Mr. Brewer does not formally track youth access to religious materials. DJJ currently has no budget for providing religious materials to youth, but community volunteers often donate them.

Ratings: Ratings will be provided once all site visits are complete.

8.8.2e-g: *The religious coordinator is also responsible for (e) pursuit of state and federal grants, (f) DJJ representation at meetings and conferences, and (g) development of a chaplaincy internship program.*

8.8.2e: The safety and welfare expert confirmed in January 2009 that no grant opportunities for DJJ are available.⁹⁸ OSM thus declines to assign a compliance rating at this time.

Rating: Not rated

8.8.2f: The remedial plan requires the religious coordinator to attend conferences at the State Advisory Council on Institutional Religion (SACIR) and the Association of Chaplains in State Services (ACSS) and/or other state conferences as appropriate.⁹⁹ DJJ has consistently provided documentation of the religious coordinator's participation in these conferences since 2007.¹⁰⁰

Rating: Substantial compliance

8.8.2g: DJJ has not developed a state-wide chaplaincy internship program, and no progress on this item has occurred since February 2008, when it was discussed at the DJJ Chaplains' Advisory Committee.¹⁰¹

Rating: Non-compliance

⁹⁷ See, e.g., Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 57.

⁹⁸ See statements of Barry Krisberg during central office site visit, January 14, 2009.

⁹⁹ See Safety and Welfare Remedial Plan, p. 76.

¹⁰⁰ See, e.g., Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 62; document entitled "Draft: Notes of the SACIR Telephonic Board Meeting," October 22, 2009.

¹⁰¹ Statements of Gregory Brewer during site visit, November 2, 2009; see also Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 63.

8.10.3: By July 1, 2007, DJJ is required to develop a proposal for a new facility that is consistent with the goals of the Remedial Plan. **8.10.4:** By September 1, 2006, DJJ to designate a project coordinator for master plans

8.10.3: DJJ recently provided a design document for a new facility.¹⁰² A rating will be provided by the end of the audit round, based on feedback from the safety and welfare and mental health experts.

Rating: Deferred until expert feedback obtained

8.10.4: In November 2008, DJJ formally designated a project coordinator for DJJ's operational master plan and a project coordinator for DJJ's facility master plan.¹⁰³

Rating: Substantial compliance¹⁰⁴

¹⁰² See PoP #550, November 2, 2009.

¹⁰³ Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 63.

¹⁰⁴ OSM previously deferred to the safety and welfare expert regarding the rating for this item. *See id.* The expert has declined to provide a rating. *See, e.g.*, e-mail of Barry Krisberg to Donna Brorby, September 10, 2009; e-mail of Barry Krisberg to Donna Brorby, September 14, 2009. OSM now assigns a substantial compliance rating because the position is filled, though this rating does not reflect a judgment about whether the position should split into two secondary assignments, or whether the positions are adequately filled.

Compliance Ratings

ACTION ITEM	Section/Item		Rating	Audit Method / Standard
2.1 ADD CENTRAL OFFICE RESOURCES				
Add/appoint Program Director	2.1	1	SC	Position filled / assigned
Add/appoint Farrell Project Director	2.1	2	SC	Position filled / assigned
Program development & implementation team	2.1	3a	SC	Teams in place
Temporary transition team	2.1	3b	SC	
Compliance team	2.1	3c	SC	
Dedicated staff for policy development / maintenance	2.1	4a	PC	
Master schedule completed for updating DJJ policy	2.1	4a	SC	Schedule in place
Policies updated per schedule. TDOs as needed	2.1	4a	NR	Farrell related policies updated per schedule
Youth informed of changes as appropriate	2.1	4a	SC	Information materials and/or briefing provided within 30 days of change
Clear separation between juvenile and adult training	2.1	4b	NR	Separate DJJ training process plan and tracking system in place
Trainers/quality assurance specialists (minimum 18)	2.1	5	PC	Positions filled / assigned
2.2 CLARIFY LINES OF AUTHORITY / CREATE SYSTEM FOR AUDITING AND CORRECTIVE ACTION				
Rewrite local directives & procedures as new policy is adopted	2.2	5	SC	Local directives and procedures in place (on going process)
Update job descriptions	2.2	6	BC	Official job descriptions approved
Produce annual reports	2.2	7	BC	Annual reports produced. Reports accurately reflect status of reform and state of DJJ
2.3 IMPROVE MIS CAPABILITY				
Complete WIN exchange	2.3	1	SC	Exchange operational
Contract for Performance-based Standards	2.3	3a	SC	Contract in place
Establish state-wide PbS Coordinator	2.3	3b	SC	Position filled / assigned
2.5 RESEARCH				
Assist with annual reports	2.5	1b	NC	Reports accurately reflect status of reform and state of DJJ
3.0 REDUCE VIOLENCE AND FEAR				
Qualify 18 staff in crisis management training	3	4a	SC	Trainers qualified

Crisis management training for direct care staff at two facilities	3	4b	PC	Direct care staff are trained. New staff are trained within 90 days of assignment to a living unit.
Develop and use databases to track violence and use of force	3	5	PC	System developed in consultation with S&W expert, plaintiff's counsel and Special Master that includes all PbS data elements relating to violence, injuries to youth and staff, and use of force. System is in place and operational. DJJ audits data reliability and data is determined to be reliable per appropriate statistical measures. Starting in July 2007 and subject to the S&W expert's approval, DJJ develops annual targets and action plans for each facility for reduction of violence, injuries, and use of force. Quarterly reports provided to S&W expert, plaintiff's counsel and Special Master for all facilities and all data elements. Report format approved by S&W expert.
Quarterly reports on selected PbS data elements	3	6b	NR	INCLUDED UNDER 3.5
Open sufficient BTPs for projected 2008/09 demand	3	9a	NR	BTPs are operational and staffed and sized according to the Remedial Plan
5.0 LAY THE FOUNDATION FOR TREATMENT REFORM				
DJJ Integrated Behavior Treatment Model	5	4a	NC	Trainer(s) hired/retained or existing staff trained as trainers
Risk / Needs Assessment	5	4b	SC	
Treatment Plan Development	5	4c	SC	
Motivational Interviewing	5	4d	SC	
Normative Culture	5	4e	NR	
Interactive Journaling	5	4f	BC	
Other programs adopted by DJJ	5	4g	PC	
6.0 CONVERT FACILITIES TO REHABILITATIVE MODEL				
Program Service Day schedule for BTPs	6	6	NR	Schedule ensures structured activity based on evidence-based principles for at least 40% of waking hours. BTPs operating in accordance with approved schedule.
7.0 SYSTEM REFORM FOR FEMALES				
Issue request for Letters of Interest for contract services	7	1	SC	COMPLETED
Request legislative authority and funding for contract services	7	4	SC	RFP issued
8.1 ACCEPTANCE/REJECTION CRITERIA				
Designate Community/Court Liaison staff	8.1	2	SC	Position filled / assigned
8.2 ORIENTATION				

Provide DJJ orientation at detention facilities (pending funding)	8.2	4	SC	Accurate and useful information about DJJ is provided to new commitments before they leave detention. This does not relieve DJJ of the requirement to provide information to youth on new/revised policies per 2.1 4a
8.3 FAMILY INVOLVEMENT				
Community assessment reports at commitment	8.3	1	NR	Monitored by MH Remedial Plan experts
Family phone contact facilitated w/in 24 hrs of commitment	8.3	2a	SC	
8.4a DISCIPLINARY SYSTEM				
8.6 TIME ADDS				
Earn-back policy revised to allow restoration after 6 months	8.6	3a	SC	Policy revised
Description of Ward Incentive Program simplified	8.6	4a	SC	Monitored with 8.4 7a
Full program credit if youth not responsible for non-participation	8.6	4b	SC	Policy revised
Point standards developed for restorative justice projects	8.6	4c	NC	Standards in place. Interview of youth indicate awareness of policy
8.7 ACCESS TO COURTS AND LAW LIBRARY				
Education Services operates law libraries	8.7	1a	SC	Budget, procurement, and operations assigned to Education Services. Written annual audits produced.
Education Services tracks needs and conducts annual audits	8.7	1b	BC	
Education Services controls budget and manages purchases	8.7	1c	PC	
Needed law library materials purchased annually	8.7	3	NR	Annual audits by Education Services indicates materials up-to-date or ordered
8.8 ACCESS TO RELIGIOUS PROGRAMS AND FUNCTIONS				
Religious Coordinator oversees mandated programs, policy, manual revisions, and training	8.8	2a	SC	Job description conforms to requirements of Remedial Plan. Position filled / assigned
Religious Coordinator monitors facilities for:				
Provision of services/programs for various faiths	8.8	2b	NR	Written documentation of monitoring produced upon request. Sufficient resources available to provide religious services to youth as required by law.
Youth access to services/programs/materials	8.8	2c	NR	
Documentation of services/programs in an automated tracking system	8.8	2d	NR	
Religious Coordinator responsible for:				
Pursuit of state and Federal grants	8.8	2e	NR	Grant applications submitted as appropriate
DJJ representation at meetings and conferences	8.8	2f	SC	Coordinator attends conferences of the State Advisory Council on Institutional Religion and Association of Chaplains in State Services and/or other state conferences as appropriate
Development of chaplaincy Internship Program	8.8	2g	NC	Internship program in place
8.10 MASTER PLANNING				

Proposal for prototypical facility	8.1	3	NR	Proposal for new facility developed that is consistent with the goals of the Remedial Plan
Designate project coordinator for master plans	8.10	4	SC	Position filled / assigned