

Farrell v. Cate: Update on Safety and Welfare Remedial Plan Progress

Dr. Barry Krisberg
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Purpose of this Report

This report is designed to offer the Court and the Parties a status report on progress and barriers in implementing the Safety and Welfare (SW) Remedial Plan. It presents data that was assembled by the SW expert with the assistance of Zack Schwartz of the Office of Special Master (OSM) and Renee Plog of the National Council on Crime and Delinquency. This report covers developments through September 15, 2009 and relies on a series of facility site visits to every DJJ facility that occurred in the first half of 2009. Typically, I would spend at least two days on site and interview approximately 10 youth selected at random from institution residents. I would interview all staff who had responsibility in key areas of the SW remedial plan. I would usually tour the facility with particular focus on restricted housing units. To conduct my review, I utilized a checklist on the SW items that is derived from the Standards and Criteria. After the end of a visit, I always held a debriefing session with the superintendent and with DJJ staff. I usually did a quick memo on major issues that was sent to top DJJ managers. I later filed the completed checklist with the informal compliance scores with the OSM and the parties. I also consulted with the OSM and other experts in areas with joint responsibility for monitoring.

While I have not attempted to cover all of the items that are included in the SW Standards and Criteria, I have included those items that I believe are the most critical priorities for ultimately achieving compliance with the Farrell Requirements. In a sense, this report lays out my agenda for DJJ attention and action in the next year. I would like to acknowledge the useful feedback that I received on an earlier draft report by the OSM, the plaintiffs lawyers, and DJJ staff.

I will begin with a review of pertinent quantitative data and then add more qualitative information that is derived from my observations and from interviews with youth and staff in the Division of Juvenile Justice (DJJ). I have also received over 540 Proof of Practice documents pertinent to the SW Remedial Plan in addition to hundreds of pages of materials that were supplied by the facilities that received site

visits. While the accuracy and quality of DJJ data is still very much a work in progress, it is the best information that we possess and can be used to form general conclusions on matters requiring more focused attention.

Reducing Fear and Violence

In my opinion, the preliminary goal of the SW Remedial Plan is to reduce fear and violence among youth and staff in DJJ facilities. Not only is this objective crucial per se, but the reduction of violence has direct impacts on many other aspects of life in DJJ such as school attendance, participation in treatment programs, time add and time cuts, the disciplinary system, the use of force, and the number of youth placed in restricted housing units.

The SW Remedial plan contains many short-term and long-term plans that seek to reduce violence. These activities include the implementation of a validated security classification system, reduction in the size of living units, the creation of violence reduction committees at each facility, the deployment of Crisis Resolution Teams, and the systematic collection and analysis of data on levels of violence throughout DJJ. Violence reduction is the primary goal in the design and implementation of Behavior Treatment programs. Because it is recognized that gangs in DJJ play a significant role in the violence in various facilities, the SW Remedial Plan requires that DJJ implement a comprehensive approach for integrating gangs in DJJ. The Integrated Behavioral Treatment Model (IBTM) also will contain a major component dealing with curtailing violent behavior among DJJ youths.

DJJ has made some progress in implementing new improved data systems such as the WIN Exchange, the PbS data, and the Quarterly Statistical Reports (formerly known as CompStat). All of these systems will need further refinement and there will be a need to audit the quality and consistency of these data. Going forward, these data should provide the basis for more targeted research on Farrell-related issues. There is still a need to ensure that DJJ upper management makes better use of these data to guide future decisions. It is encouraging that DJJ is attempting to utilize these data as part of their Dashboard reports. The SW expert will be working with DJJ compliance staff to make more use of the existing SW

data and to reduce the reliance on anecdotes and unsubstantiated opinions. Getting the facts straight is a central part of the reform effort.

At the end of this report there is a series of tables and charts that summarize the rates of all violent incidents in DJJ and for individual institutions for the first six months of 2005-2009. The data from 2005-2006 were compiled from Daily Operations Security Reports. In subsequent time periods, the data was taken from Quarterly Statistical Reports produced by DJJ. Violent incidents included batteries on staff or youth with or without weapons, group disturbances, “gassings”, forced sexual acts, and physical altercations involving mutual combat. The rates are computed by dividing the number of incidents by the average daily population.

These data possess limitations due to changing definitions used by DJJ to collect data and less-than-ideal clarity among facility staff in collecting these data. Policy changes at DJJ may also affect reporting of incidents. I believe that much more work needs to be done to establish more uniformity in the definitions of key terms, data collection methods, and the consistency of these data across sites. However, it remains clear that while the short term trends are merely suggestive, there seems scant evidence that there have been significant improvements in the rates of violence and the UOF in DJJ.

As a further example, the data presented at the end of this report on attempted suicides as reported by DJJ as part of its monthly reports of Sentinel Events to the OSM and the Court Experts is subject to non-uniform definitions across DJJ on what constitutes a suicide attempt. The data that I present in this report are based on Serious Incident Reports. The OSM has noted that differing methods of looking at Self Injurious Behavior that produce various counts in the DJJ facilities. The concentration of these suicide attempts at living units C and D at HSG is especially troubling. My point in presenting these data is to alert the parties and the Mental Health experts that there may be a major issue on suicide attempts that requires urgent attention. While I know that DJJ and the Mental Health experts are working intensely on solutions, I wanted to note that the frequency of suicide attempts creates a climate of fear and unease among all staff and youth at the most effected institutions – so this is a Safety and Welfare issue as well as a Mental Health concern. Also, these Serious Incident Reports reveal that there were over 50 group

disturbances in DJJ over the past 12 months. These are generally defined by DJJ as physical conflicts that involve 10 or more youth and require a security response. A disproportionate number of these group disturbances have occurred at Preston. These events should merit further analysis since DJJ is planning to increase the population at Preston as HGS is turned over to the Adult side of CDCR.

These data show that rates of violent incidents in DJJ rose by 50% from 2005 to 2007 and then declined by 16% in 2008. The violent incident rate was only slightly lower in the first six months of 2009 (90 per 100 youth) and still higher than comparable rates in 2005 and 2006 (74 per 100 and 82 per 100, respectively) before almost any of the Farrell reforms were implemented. While DJJ staff may have perceived a real drop in the number of violent incidents, the steadily declining DJJ population meant the rates of violence were almost unchanged. As the population dropped, the number of incidents went down, but the prevalence of violence and UOF among the remaining DJJ population has not substantially improved yet.

Somewhat different findings emerge by looking at trends in the most serious DDMS cases (Level Three) filed on DJJ youth. These infractions include the most serious assaultive behavior as well as other related problems in DJJ institutions such as drug use by youth or possession of contraband. The DDMS rates are another window into how well DJJ facilities are functioning. The rates of Level Three DDMS cases rose from the 3rd quarter of 2006 to the 2nd quarter of 2007, and then dropped off in the last quarter of 2007 and the first quarter of 2008. By the 3rd quarter the rates of serious DDMS charges rose to previous and higher levels, dropping slightly in the second quarter of 2009 to levels comparable to 2006. The overall trend shows little significant change in the Level Three DDMS rates during 2006-2009 despite efforts by DJJ management to encourage the use of lower level DDMS charges to respond to youth misconduct when possible. Yet, these data do not report significant reductions in rates of serious misconduct. Trends for each facility are also provided in the appendix.

The rate of Use of Force incidents in DJJ per 100 youth was essentially unchanged from the first six months of 2005 to the first six months of 2009 —52 incidents per 100 youth to 54 incidents per 100 youth, respectively.

Until its closure, El Paso de Robles has the very highest rates of violent incidents, with Preston being a close second. Rates of violence at Heman G. Stark (HGS) appear to be lower than other facilities, but this may be a function of the fact that most HGS youth were in restricted programs in their rooms, and were given very limited time in school or in day rooms.

These data generally correspond to my interviews with youth during site visits to all DJJ facilities. Youth at Ventura, SYCRCC, and OHC generally reported feeling safe, whereas most youths at Preston and HGS did not report that they felt safe at these facilities. Other observations indicated that Preston experienced a large number of group disturbances in 2008-2009. Also, violent incidents at the school at HGS led facility administrators to attempt to offer alternative education services in the living units for many of the youth.

There has been some significant progress at DJJ in attempting to reduce fear and violence as was envisioned by the SW Remedial Plan. DJJ has substantially implemented a security classification system and separated youth who were at high risk of assaultive behavior from those who posed much lower risks. DJJ moved most of the high risk youth to single rooms. At this writing, there was only one dormitory at OH Close that held high risk youth. DJJ anticipates that the number of high risk youth that are housed in this dormitory will continue to be reduced. While the security classification system seemed to reduce conflicts in the living units, there was an increase in violence in the schools that is not currently covered by the security classification system.

As noted above, the population in the living unit sizes has been greatly reduced and the ratio of staff to youth in DJJ has increased. There will be some planned reductions in staffing in DJJ due to pressures on that Division to reduce its per youth costs, but these changes are not expected to greatly reduce the staffing ratios.

DJJ facilities are now holding regular meetings to consider violence reduction strategies. Data on violence is being collected through both the PbS data collection and the Quarterly Statistical Reports. There are discussions about potential violence reduction strategies such as cutting down on contraband and increased staffing at certain school sites. DJJ has begun training its staff on delivering Aggression

Replacement Therapy to youth. The DJJ has finally completed the design of the BTP program that will be pilot tested shortly. While the DJJ staff believe that the BTP program will be a major tool to reduce violence in institutions, this model has yet to be tested anywhere else in the Nation. It is crucial that the rollout of the BTP be done in a deliberate and phased way so that the difficulties in implementation can be assessed and adjustments to the model can be made.

Lagging behind are plans to train staff in the implementation of the Normative Culture Model that has shown success in reducing violence in other juvenile facilities in other states. The Peace and Unity Campaign at SYCRCC is a variation of this Normative Culture model. DJJ is behind in plans to design and roll out an evidence-based gang reduction model. The DJJ has experienced some positive results by introducing Project Impact (an anti-violence program run by former CDCR inmates) at several facilities, but there is acknowledgement that more needs to be done. The Crisis Resolution Teams are working to head off the escalation of violence, but there are scant data thus far showing the effectiveness of the CRTs.

It is unknown at this point whether there has been an impact on facility violence due to the changing composition of the DJJ population after SB 81 resulted in a decline in admissions of non-violent offenders and many parole violators. Further, the closure of HGS and the movement of these youths to other facilities may increase the potential towards more institutional violence.

Developing a Model Treatment Program

Essential to the Farrell remedial plans is the design and implementation of a clearly defined and well-organized treatment program. This has come to be referred to as the Integrated Behavioral Treatment Model (IBTM). Successful implementation of this model should fundamentally alter how DJJ operates to improve recidivism outcomes, increase youth and staff safety, and provide the framework for all of DJJ policies and programs. The overall goal is to change the organizational culture of DJJ from an ineffective punitive adult prison paradigm, to an evidence-based treatment and rehabilitative system that helps youth

master key social and interpersonal skills that they will need to succeed upon release. The IBTM must be practical and operated in a coordinated manner throughout DJJ.

When the remedial plans were being negotiated among the parties, it was the advice of most of the court experts that the emerging IBTM would be based on best practices from existing juvenile correction systems. States that were frequently mentioned as prototypes were Washington, Colorado, and Missouri. The court experts agreed to support DJJ's choice of the Washington State Juvenile Rehabilitation Agency (JRA) as the starting point for the development of the California model. The JRA model had been operational for several years, subject to extensive research, and already possessed a detailed and in-depth description of how to operate this approach. Moreover, the proximity of Washington State permitted on-going consultation and allowed easy site visits by DJJ staff.

In July 2007, DJJ contracted with Orbis Partners to develop a risk and needs assessment model, offer case management training to staff, and to help introduce "evidence-based" treatment programs into DJJ. It was never clear to the court experts, or to some DJJ top managers for that matter, whether Orbis Partners was to play some significant role in the design of the IBTM that is required by the SW Remedial Plan.

DJJ engaged in very limited consultation with the court experts on the development of the IBTM and the completeness of the information provided or its responsiveness to court experts' concerns was less than ideal. For example, the court experts raised issues about the definition of measurable changes in DJJ as a result of the new treatment model. We questioned whether the Orbis Partners ideas were applicable to the population now in DJJ. I submitted citations to articles and books on the treatment of violent juvenile offenders, but never heard back from Orbis or DJJ as to whether they had considered these materials.

Even more troubling was that the first attempt by DJJ to describe their proposed IBTM—presented to the court experts in early 2009—consisted of a one-page document that described a very generic approach to correctional treatment. By March 2009, this IBTM description was expanded to 6 pages. In contrast, the written description of the Washington JRA model was approximately 125 pages.

The court experts believed that the JRA materials would provide a very useful starting point for DJJ to support modifications as needed.

It was the view of the court experts that DJJ had not assigned the proper staff to the project and the services of Orbis did not appear sufficient to supplement these staff to meet DJJ's obligations on the design and implementation of a treatment model. In response to this dire situation, the court experts identified two excellent professional resources, Dr. Angela Wolf of NCCD and Dr. Henry Schmidt of JRA to help DJJ staff to get the IBTM written down and provide the relevant research backup. But, even after these experts were brought into the developmental process, DJJ made poor use of their expertise over the next 60 days and their contributions were not reflected in subsequent work products that were shared with the court experts. Apparently, DJJ also had planned to abandon its agreement to pilot test the IBTM at two facilities.

These ominous signs of a potential failure led to discussions among the parties that were supported by a June 22, 2009 memo that I drafted. As a result of this memo and extensive negotiations among the parties, it was agreed on July 2, 2009 that the design of the IBTM, the development of an implementation strategy, and an operational manual would be developed by me and other experts, Eric Trupin, Terry Lee, and Barbara Schwartz. These court experts would retain the services of Drs. Wolf and Schmidt and we would consult with DJJ staff as needed.

At this writing Drs. Wolf and Schmidt have established a work plan, have met with several DJJ staff, and will be revisiting a number of DJJ facilities. We have scheduled the first of a planned series of semi-monthly meetings between the court experts and the parties to discuss progress in the development of the IBTM design.

It should be noted that while the model treatment program does not cover all aspects of the SW Remedial Plan, it is the foundation for all of the other elements. For example, it is likely that the requirement to implement evidence-based and gender responsive programming for young women in DJJ may require further adaptations of the IBTM approach. Some existing policies and procedures will have to be adapted to be in synch with the IBTM and support the overall approach of the IBTM. The IBTM

design will also require a future analysis of staffing, budget, and program space to support its successful implementation. It should also be noted that the court experts are working first on the design of the conceptual model. Later there will be a written document that sets out a detailed implementation plan as well as milestones for putting the IBMT in place. The court experts, with the excellent assistance of Drs. Wolf and Schmidt will draft an operational manual to guide staff delivering the IBTM.

Developing a Comprehensive Gang Integration Model

The role of gangs in creating conditions of fear and violence in DJJ is well known. Gang behavior has been a major contributor to group disturbances, individual assaults, and some youths' unwillingness to attend school, and the delivery of treatment services.

Previously, I have noted that DJJ had a focus on identifying the gang membership of individual youth at intake and on-going assessments of gang participation are considered in treatment plans, housing assignments, and incentive levels. A major challenge of the DJJ gang approach is that the structure of gangs is always shifting, both in institutions and in the community. For example, Crips and Bloods were dominant groups in DJJ, but the declining number of African American youths has changed the influence and behavior of these groups. Recently according to staff, a group known as the Fresno Bulldogs were creating major problems at Preston and other DJJ facilities. The number of violent incidents involving alleged Bulldogs has declined in 2009. DJJ staff had no clear explanation for the declined gang activity in DJJ institutions by the Bulldogs. The number and complexity of gangs from the Latino community has also changed. It also has been a challenge for DJJ staff to assess and respond to violence that is driven more by racial conflicts as opposed to gang affiliations. The other challenge for DJJ is to decide whether to isolate groups who fight, thus giving in to the gang mentality, versus the need to reduce violence and keep youth and staff safe.

DJJ does possess some policies and practices pertinent to gangs such as creating "gang free" living areas for youth who wanted to renounce their gang membership. DJJ does employ gang specialists among its security staff. These individuals are mostly charged with gathering intelligence about gang

membership and behavior. The gang specialists have sometimes gotten involved in informal dispute resolution among feuding groups. DJJ has generally taken the position that gang behavior constitutes serious rule violations and will be sanctioned severely via the DDMS. Periodically, DJJ has recruited community volunteers and some contractors to offer educational sessions and counseling to potential and actual gang members. One current program, Project Impact, employs formerly incarcerated people to talk to the youth about the harmful aspects of gangs to their communities, families, and themselves.

The SW Remedial Plan calls for DJJ to recruit a national expert on gangs, and work with that person to develop a comprehensive gang model for DJJ. To date, DJJ has been unable to secure the services of a nationally recognized gang expert. There are several issues that have complicated this search. First, virtually all national gang experts are very knowledgeable about gang interventions in the community, not in juvenile corrections facilities. Experts in prison gangs have tended to rely on very punitive methods that may not be used by DJJ for its juvenile court commitments. Second, many “gang experts” are skilled in identifying gang affiliations, an expertise already possessed by DJJ. Third, few gang experts are versed in intervention and prevention approaches in correctional facilities. Fourth, some potential national gang experts were unavailable or posed difficult contracting issues to DJJ. None of the above minimizes the need for DJJ to seek advice and expertise outside its fairly narrow and largely unsuccessful past responses to gang activity in DJJ institutions. I have offered my services to be the “national expert” on gangs to guide the DJJ development of a comprehensive gang strategy. I am working directly with Larry Miranda and other staff to help build this strategy.

DJJ did contract with the University of California, Davis for a literature review on gang intervention. The product was superficial, incomplete, and not very useful for program development. My view is not very different from several DJJ managers that have read the draft. I have attempted to supplement these materials by sending along the latest research in gang interventions both in juvenile corrections facilities and in the community.

As noted earlier, I have agreed to work closely with the DJJ group working to develop the comprehensive gang strategy. I believe that DJJ must place a priority on completing this plan and that staff not be given conflicting assignments. There also appears to be too many individuals in DJJ seeking information about effective gang interventions. These inquiries and analysis should be consolidated under the designated DJJ gang task force that is already working on this assignment.

I have forwarded to Larry Miranda and Michael Brady the names of community resource people who run very effective community gang intervention programs. I would recommend that DJJ convene a series of meetings with these groups to help flesh out the gang strategy. DJJ needs these groups and individuals to train its staff, especially the CRT and Gang Specialists. Further, there should be gang training that is substantially different from what is offered now and that training should be offered by community gang intervention experts. DJJ should not expect that its staff, by themselves, can exert a major effect on reducing gangs in its institutions. Rather, DJJ needs to learn how to contract with and form partnerships with community groups who understand the context of gang behavior, and who can offer direct counseling to those youth who are most gang-involved.

Other parts of the DJJ comprehensive gang model should include a review of all existing gang policies as well as curriculum used in small and large groups. Gang reduction should be part of the future work on Normative Culture and there should be a close dialogue with the group developing the IBTM. DJJ is placing great expectations on the new BTPs to reduce gang problems. While the BTP model is promising, we will need to carefully monitor its actual operations to gauge the effect on gangs.

There should be a clearly articulated and written gang strategy that should be required reading of all DJJ staff. This document must lay out key assumptions, approved methods of gang identification, and appropriate interventions. This design statement should include all of the elements described above. Moreover, the design should spell out the roles of all staff in reducing gang behavior, including security personnel, education staff, mental health clinicians, as well as case managers and parole agents. Due to the delays so far, I would urge that DJJ submit a draft of the comprehensive gang strategy for review and approval by the court experts in SW, MH and Education in 90 days. Pending expert advice, I would urge

DJJ to expeditiously adopt the new gang intervention approach. It is also imperative that DJJ refine its current data on gang behavior and employ these data to measure progress.

Gender Responsive Programming in DJJ

In early 2006, DJJ filed an SW Remedial Plan that called for consultation with national experts on gender responsive programming and the issuance of a Request for Information (RFI) to identify resources outside of DJJ that could provide for high quality residential services for young women. The SW plan also called for introduction of gender responsive programming that was developmentally appropriate.

To date, DJJ has engaged in very limited consultation with Dr. Barbara Bloom, a nationally recognized expert of gender responsive programming. Dr. Bloom characterized this consultation as “drive by consulting” – meaning that her involvement was limited to a few meetings with assigned DJJ staff. In April of 2006, the RFI was issued and it yielded 24 responses. The Governor’s budget for 2006-2007 included funding to contract for girls residential services. In April 2007, the DJJ issued a Request for Proposals for \$5 million with the intent to award regional contracts. There were bidder’s conferences and clarification of who would be responsible for paying for health care costs.

On May 1, 2007 DJJ increased the total dollars available to \$8 million. The solicitation was managed by CDCR through its ordinary channels. Later DJJ agreed to take responsibility for exceptional health care costs. The response to the RFP was very limited and DJJ determined that it was in the best interests of the state to cancel the RFP.

In 2008, the RFP was redrafted and released again. This time DJJ sought names of potential providers from the SW court expert and several knowledgeable outsiders. This second version removed any dollar limits to the contracts, but the response was still limited. Only one group was deemed qualified and a site visit by DJJ and Dr. Angela Wolf in 2009 led DJJ to decide not to award any contract at that time.

In February 2009, the second RFP was cancelled. So as 2009 began, there were two failed efforts to find alternative residential providers and DJJ staff seemed out of ideas in terms of continuing the search process for contracted services for girls. Since the SW court expert was not permitted in the meeting in which CDCR staff discussed and rated the submitted proposals (as per CDCR rules), I cannot speak to the qualifications of groups that never received a site visit. Further, I was not involved in conversations with county probation departments that might have generated additional options for DJJ. It is still puzzling to me that DJJ was unable to find appropriate bidders, especially given that CDCR has a proven track record of purchasing residential services for adult women. We were told that CDCR rules prohibited a more proactive role in finding suitable non-profit or county alternative residential options for DJJ young women.

In the intervening three years, there had been improvements in certain aspects of the care of girls at Ventura and DJJ pledged not to turn the Ventura facility over to adult prison health care beds. Further, it was my judgment that another DJJ attempt at an RFP would take many more months to achieve and might not produce any different results than previously observed. DJJ has brought on board a manager who will focus exclusively on girls programming. I recommended that the parties reconsider significant revamping of the program at Ventura as a possible way to improve gender responsive services. The parties have agreed at a recent case conference to have DJJ come up with an alternative approach to providing high quality gender responsive programming at Ventura and to submit their revised plan by year-end.

While not giving up altogether on the goal of moving the girls into smaller and better facilities that are closer to their homes, I strongly recommended that DJJ retain the services of national experts such as Barbara Bloom, Stephanie Covington, Barbara Owen, and Lawanda Ravoira to design and implement a true gender responsive approach. I envision a relationship of these experts to DJJ that is quite similar to the one now in place for the design and development of the IBTM. I am confident that with the extensive consultation, training, and mentoring by Barbara Bloom and her colleagues, DJJ can

design and implement an evidence-based and gender responsive model at Ventura. How to move the DJJ women into more appropriate settings should be an ongoing goal of the SW Remedial Plan.

I would urge DJJ to seek an agreement among the parties to employ the above named experts to perform a number of key tasks. First, there needs to be an outside and independent assessment of any assessment tools and curriculum that DJJ labels as gender responsive. This should lead to a design of what should be part of a gender responsive approach in DJJ. Second, the national experts should provide intensive training and mentoring to staff at Headquarters and Ventura on topics such as adolescent female development, the impact of trauma on young women offenders, reproductive health issues, gender responsive risk and needs assessments, and true evidence-based programs for girls. There must also be training for staff at Ventura on reducing use of force in dealing with misconduct by girls. In addition to offering training, these experts should be asked to mentor staff and to periodically evaluate the implementation of a gender responsive model. There must also be a focus on developing more effective reentry programs for girls in DJJ. These experts should review all pertinent DJJ policies, especially those in the health, mental health, and education arenas to ensure fidelity to the core principles of gender responsive programming.

This set of consultant services is the minimum that should be required of DJJ to meet the promises made to the court in the SW Remedial Plan. I would recommend that DJJ submit to the court its revised plan to implement improved services for girls before the end of 2009.

Improving DJJ Facilities

The overall condition of DJJ facilities remains quite poor. There are substantial issues of deferred maintenance and continuing problems of lack of adequate program space. Most DJJ facilities consist of prison-like cells or dorms. There is nothing about these facilities that would support a model treatment approach. Good programs can sometimes take place in bad buildings, but poor physical conditions make decent and effective treatment harder to implement. Given the age, poor conditions, and design of current

DJJ facilities, the beginning stages of reform will have to occur under adverse conditions. Serious and concerted planning to replace antiquated DJJ facilities needs to start now.

There are now no approved plans for DJJ to construct new facilities to replace its existing housing options. It should be recalled that the SW Remedial Plan (pp. 68-69) makes it clear that antiquated DJJ facilities must be replaced.

Over the past year, DJJ has continued a modest effort to paint some of the worst graffiti-plagued rooms. There are still serious issues with plumbing, including leaking sinks and toilets, poor lighting in the rooms, inadequate ability for staff to observe youth in their rooms, and dangerous recreation areas including broken pavement in sports areas and gopher holes in fields. The grounds in most of the facilities are virtually unusable for regular outside recreation and sports activities. For example, all of the roofs at Ventura are leaking and need replacement. The Protestant Chapel is unusable due to severe roofing issues. I have heard repeated accounts by DJJ facility managers that heating, air conditioning, sewage and electrical systems are near collapse at some DJJ facilities such as Preston. The planned closure of HGS is a positive step forward, since this facility was one of the worst in DJJ.

DJJ has made some progress by assigning Mark Blaser to oversee facility maintenance issues. He has established a system of regular reporting of problems to headquarters, and a system to track when repairs are completed. This is a definite improvement over the situation in which Headquarters staff did not appear to be fully informed about facility maintenance problems. There is now a clear chain of reporting on repair issues and a tracking of requests for substantial physical plant repairs.

The problem remains that the facility problems of DJJ are under the auspices of CDCR plant maintenance. Many CDCR adult facilities face even larger maintenance and repair issues and may command more top CDCR management attention than the serious facility problems in DJJ. Further, the Governor has virtually eliminated any budget for deferred maintenance in CDCR – so it is unlikely that substantial improvements will occur in DJJ facilities in the next year. This is clearly unacceptable under the requirements of the SW Remedial Plan.

Program space in DJJ facilities is in short supply. Educational space and vocational facilities are in urgent need of upgrading and repairs. There has been limited renovation of some facilities such as Chad and SYCRCC. Construction of classrooms and additional space at HGS will now benefit adults in CDCR. DJJ continues to depend on purchasing temporary buildings to serve as program space and classrooms. It has only been in the last few months that the temporary buildings have been operational at some DJJ facilities. The temporary buildings are a stopgap measure and not a comprehensive solution to the deficiencies of classroom, vocational, and treatment space.

These facility problems will be exacerbated as the closure of HGS requires the opening of virtually every remaining living unit in DJJ. For example, SYCRCC is racing to rehabilitate a housing unit in which the walls were literally crumbling. Immediate plans for SYCRCC will require reclaiming the Drake Unit which has been utilized to house juveniles from Los Angeles County. As noted above, Preston has severe physical plant issues and will now be expected to manage even more youth. Ventura will need to adjust to a new population in which there will be many more males than females, making equal access to common buildings a challenge. DJJ is still discussing options for the use of the CTC at Stark, when that facility is “repurposed” to handle adult inmates.

At this point, DJJ does not possess a comprehensive facility master plan that has been approved by CDCR or the Governor. While some DJJ estimates show that the population will stabilize at current levels or even grow by a small amount, the overall size of the DJJ population is very dependent on policy considerations being debated by the Legislature. Further, should the Legislature or the Governor choose to close another DJJ facility as a budget balancing step, there is no apparent way that DJJ can stay within the Farrell limits of living unit size. A comprehensive plan is more than a recitation of architectural and building issues. Ultimately, DJJ must project the numbers and types of youth that it will serve in the next decade or so, the kinds of educational, medical, mental health and treatment programs that it intends to offer, and the needed facility requirements to support those plans.

DJJ had initially contracted for a prototype design for additional new facilities, but the initial cost estimates exceeded \$1.5 million per room. DJJ management has reported that they are going through a “value engineering” process to bring down the costs of new DJJ facilities. DJJ has recently received an updated programming and conceptual design statement from KMD Justice and Planning that purports to reduce the per ward bed costs to \$ 873,917. The SW Expert has not yet gotten a briefing from DJJ on how these cost reductions will be achieved. The fact remains that CDCR has allocated no additional funds or commitments to raise bond money to replace existing inadequate DJJ facilities.

There seems to be little reasonable expectation, given current facts that DJJ will be able to substantially remedy the grave facility problems that it is facing. Further, indecision at CDCR over which facilities may be closed in the near future has been an excuse to not invest in substantial repairs and improvements. This situation virtually assures that DJJ will be on a collision course with plaintiff’s attorneys and the court in terms of key elements of the Farrell agreements. The DJJ should be compelled to deliver a realistic and sensible plan to the court to resolve these issues in a timely fashion. Making do with grossly substandard facilities is not a viable option for DJJ.

Restricted Housing

The SW Remedial Plan called for a significant reduction in the use of restricted housing by DJJ, and the elimination of Special Management Programs (SMPs). The parties have agreed on January 31, 2005 that TD is never to be used as punishment and in January 9, 2006 there was a stipulated agreement that TD should only be utilized in emergencies or as a last resort. DJJ has made substantial progress in this area. For instance, the rate of youth in TD was 46 per 1000 youth in 2007 for the first six months of 2007, but this number has dropped to 7 per 1000 for a comparable period in 2009. For SMP units (including the informal pilot BTPs at Preston) the rate dropped from 47 per 1000 in the first six months of 2007 to 38 per 1000 in 2009.

The average stay for youth placed in TD has dropped from 77 hours in the Second Quarter of 2007 to 28 hours for the same period in 2009. TD units have been closed or are rarely used at several DJJ facilities, whereas these units were traditionally filled to capacity in 2004-2007. TD is no longer the default movement after some serious incident occurs. DJJ staff are making greater use of room confinement or finding other ways to manage difficult behavior. Several of the facilities such as OHC have evolved practices in which youth are isolated for very short time frames and then quickly returned to regular programming.

Although not as dramatic as the declining use of TD, the average length of stay in SMP units (including the informal pilot BTP at Preston) has also declined from 70 days in the first quarter of 2008 to an average of 30 days in a comparable period in 2009. DJJ expects to completely phase out SMP units as the new BTP model comes on line. While the BTP design looks promising, it will be important to insure that these new behavior management units do not substantially increase either the number of youth experiencing restricted housing or the time spent isolated from regular programming.

DJJ has also developed better tracking of the provision of mandated services, including education and counseling for youth in restricted housing units. Based on my observations and interviews with staff and youth at various DJJ facilities (and supported by similar observations by the OSM), it appears that most youth in restricted housing units spend at least three hours a day outside their rooms. This compares with older practices in DJJ in which youth were out of their rooms for only one hour a day. DJJ staff has come to accept the premise that adequate staffing ratios can permit these youths to have more normalized programs. Also, DJJ has been focused on planning to return youth who are placed in restricted housing to regular units. The CRTs have been especially helpful in returning youth to regular programming.

Still troubling are the trappings of traditional DJJ practices such as youth counselors and other staff wearing “anti-stab” vests in these units. There is no evidence that these added security precautions are actually warranted by the alleged increased danger to staff that are assigned to these units. DJJ is still working to comply with requirements that youth in restricted housing receive the legally mandated educational hours. Further, there is still an entrenched view among some DJJ staff that restricted housing,

including seclusion and isolation, has a treatment value. Hopefully, better staff training and turnover, and the implementation of the IBTM will improve this situation.

The restricted housing units at HGS and Preston have never met the SW Standards and Criteria that these rooms be “clear, well lit, and graffiti free, with fully functioning plumbing”. This has been pointed out by the SW expert, but improvements have been very limited. These rooms are often barren with nothing but a slab bed and a toilet and sink. DJJ needs to consider the relationship of these deplorable living units with the goals and objectives of the IBTM.

Developing and Revising Policies Relating to Safety and Welfare Issues

This past year, DJJ began moving on a number of policies that were requiring modification as per the SW Remedial Plan. The policy development process had been clogged up in past years. I would credit Michael Brady, Tammy McGuire, and the Court Compliance Unit for moving this policy process along. Moreover, despite some reluctance in the past, DJJ seems far more open to share draft policies with the court experts and to consider our input. DJJ has a useful table of contents for the new policies and a realistic schedule to continue promulgating new policies.

Policies have been completed in such key areas as DDMS, UOF, Restricted Housing, and the Grievance System. There are also new policies describing the Program Credits Policy, Family and Visiting Contacts, and the Access to Religious Services. All of the policies that I reviewed were not perfect but did constitute significant steps forward compared to past policies and practices. I felt that it was important to start the implementation of the revised policies, even while recognizing that more refinements will be needed in the future. By their nature, DJJ policies will need regular updating subject to legislative changes or court requirements. Perhaps most important will be the reconciliation of all of these policies with the design and principles of the IBTM. For example, since the IBTM places such importance on positive youth incentives, it will be a high priority for DJJ to amend their youth incentive policy to support the new IBTM. Further, there will be an on-going need to harmonize policies that cut across the various subject areas of the Farrell case.

Once decisions are made at Headquarters on new policies, DJJ has been effective in offering training to all pertinent staff who must implement these policies. Often DJJ has included facility staff in the formulation of new policies and this inclusion makes the implementation process go efficiently. Training has been completed in a timely fashion and adjustments to the WIN system have been made to assist in monitoring compliance with new policies. DJJ has organized a Compliance Unit that is testing whether the policies are being properly instituted.

DJJ has a system of informing youth about changed policies in writing and through group briefings in the living units. New policies are now displayed in most of the living units that I visited. DJJ is working on a Youth Rights Manual and an Orientation Process for new admissions. I have recommended that DJJ engage youth to review and help them finalize the Manual and the Orientation Process. I have not had the opportunity to review the latest DJJ drafts in these areas and I await the chance to sign off as appropriate.

Youth seem generally inclined to accept the new policies; however the young residents of DJJ that I have interviewed rarely see policies per se as the answer to all of their concerns. Youth consistently refer to staff attitudes and refer to aspects of the organizational culture of the facilities as more important to them.

DJJ still has not come to an agreement with key youth advocates on the content of policies on Access to Lawyers. For a time, DJJ resisted a serious engagement with the advocates, but now is committed to meetings that will iron out differences. There remain important policy discussions that must be completed with all of the court experts involving mental health, SW, education, and youth with disabilities. It is sometimes the case that DJJ will develop policies that are needed by the organization but not central to the Farrell case. I would urge to place policy development in Farrell-related issues on a priority basis. It is also clear that there are internal inconsistencies in some DJJ policies. For example, there are two separate policies that cover program credits and incentive credits. These two policies should be merged and integrated into one coherent statement on determining release dates.

DJJ must not view the policy process as static. There should be on-going outside reviews on how well the policies are achieving the larger goals of Farrell and of DJJ. Youth and family member input and advice on developing policies should be routinized by DJJ. As noted earlier, there are still cases in which staff are following the new policies but that further improvements can and should be made. Examples of policies needing further development include the UOF with mental health and disabled youths, Strip Search Policies, and expanded family contacts for all youth, not just those who have achieved Level A status. DJJ is beginning the implementation of the DDMS policy. This is a very complicated policy and while my observations on early implementation have been positive, I intend to monitor the full roll-out of the new DDMS policy in the next round of site visits.

Concluding Observations

Although I have presented a range of data collected by DJJ on matters contained in the SW Remedial Plan, these data are less than ideal. This is the best information we have, but DJJ must invest in compiling more reliable and valid information. Further, DJJ management may use data more frequently than in the past but management at Headquarters and in the various facilities is still heavily influenced by anecdotes and guesses. In several areas, DJJ staff respond to crises with tactical or reactive steps, there is still a great need to develop the capacity of managers to think and act strategically.

There is still little uniformity in practices across the institutions. The new policies have improved this situation somewhat, but there is a need to strike a balance between allowing innovation at facility level and fairness and consistency across at DJJ.

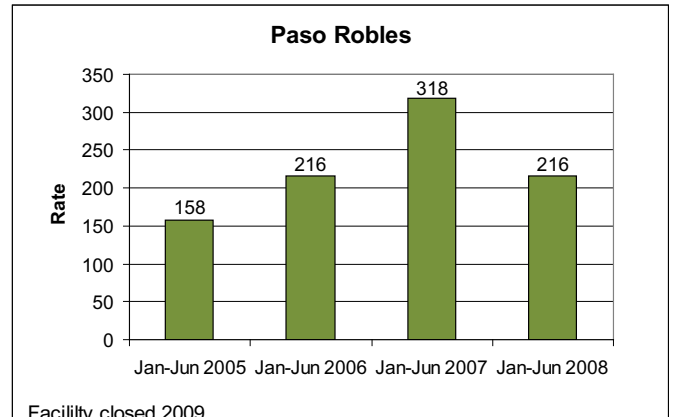
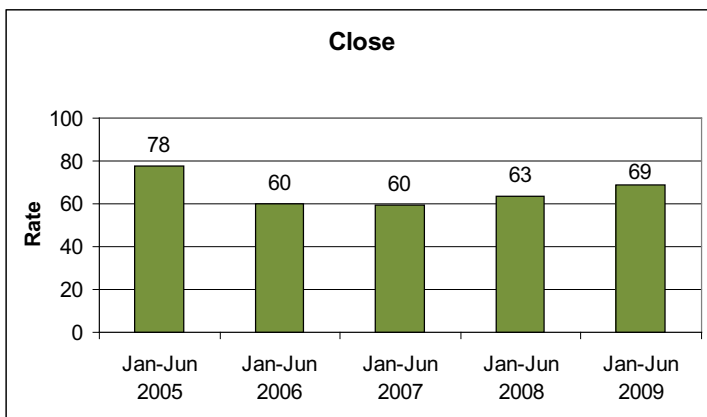
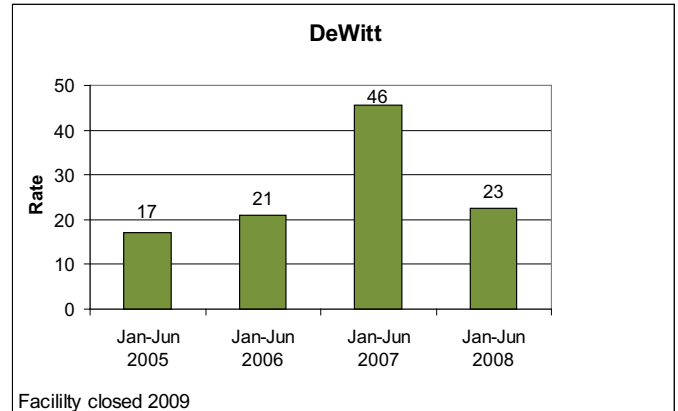
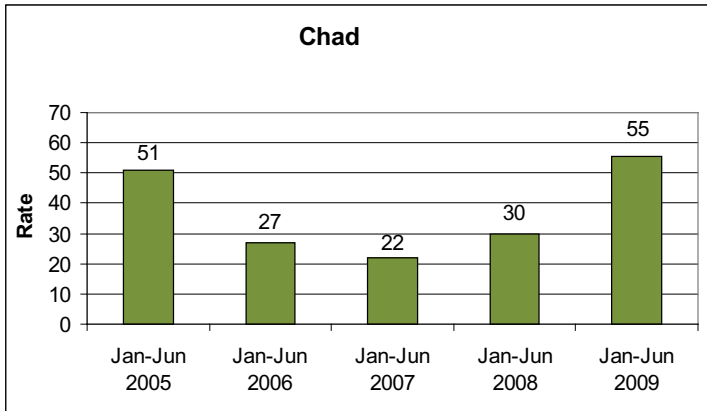
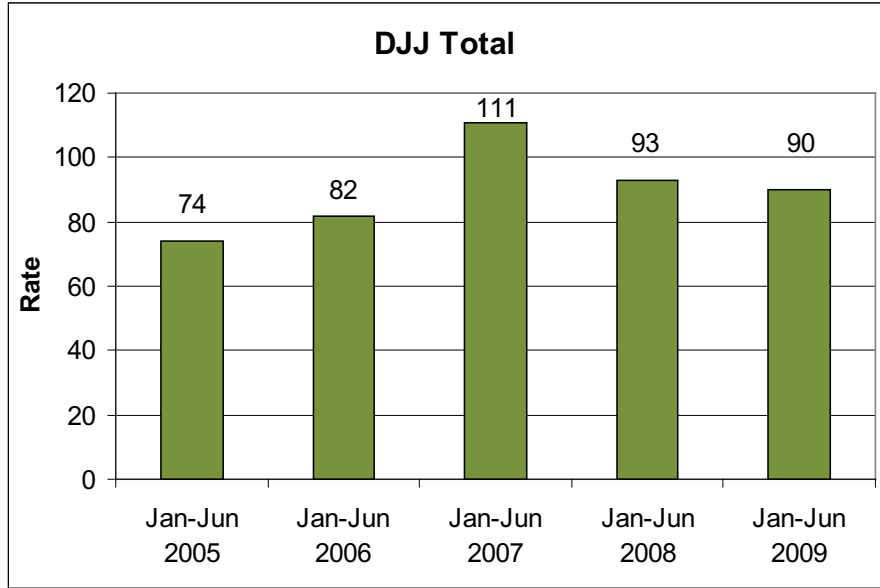
DJJ has “thrown” a lot of training at staff but there are serious questions whether any of this training has resulted in positive changes. Certainly, there is no data or research that supports that view. Still lacking is a clear vision to guide DJJ and all of its programs. It may have evolved to be less of an oppressive youth prison system, but the Division is a long way from the proven juvenile corrections models in Missouri and Washington State. Managers talk about wanting evidence-based practices but the research needed to support those directions is still very rudimentary in DJJ. Moreover, the research is

clear that the positive and trusting connections with treatment staff are more related to outcomes than any particular curriculum or therapeutic modality.

In my interviews with dozens of DJJ youth, two clear conclusions emerge. First, youth are frightened about the prospects of their return home and do not believe that DJJ is offering them the life skills to succeed on the outside. Aftercare and reentry services remain in need of stronger internal leadership and much greater attention. Therapy behind “razor wire” has not proven to be an effective method of reducing recidivism rates. Second, youth feel disconnected from staff. When they are feeling anxious, stressed, troubled, or threatened by other youth, DJJ residents do not generally feel that they can talk with DJJ staff. The youth report that mental health clinicians are often detached and less than fully available to them and living unit staff still communicate that they are “too busy”. These findings are mystifying given the rich staffing ratios in DJJ, even under its “new business model”. There are notable exceptions to these findings at facilities such as SYCRCC and OHC. In general, the youth see the CRTs as listening to them and playing a constructive role. Almost in every facility, the chaplains are viewed as sympathetic and helpful to these troubled youngsters. These observations suggest the urgent need for a clear articulated and communicated leadership vision to support the treatment and educational goal of DJJ. The other key lesson is that DJJ must pay attention to staff morale and improving the organizational climate within DJJ.

Appendix

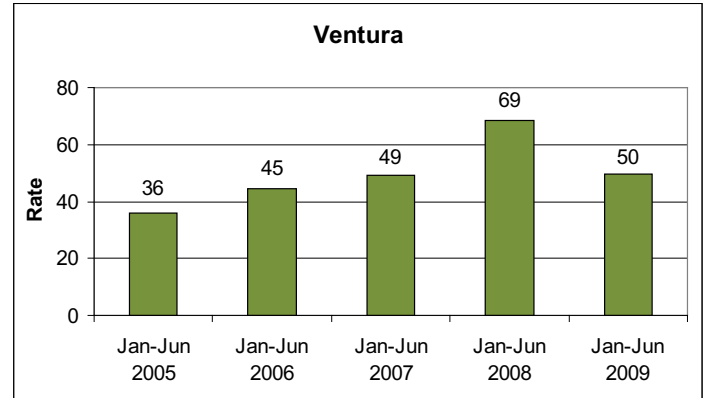
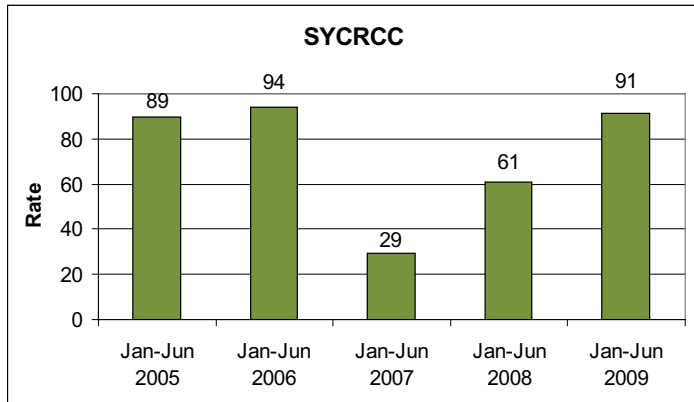
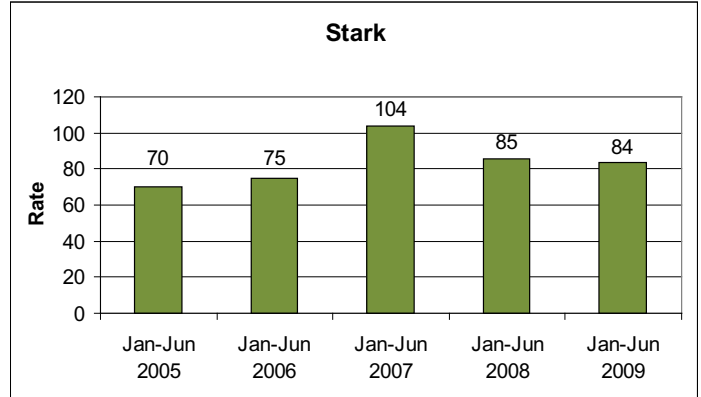
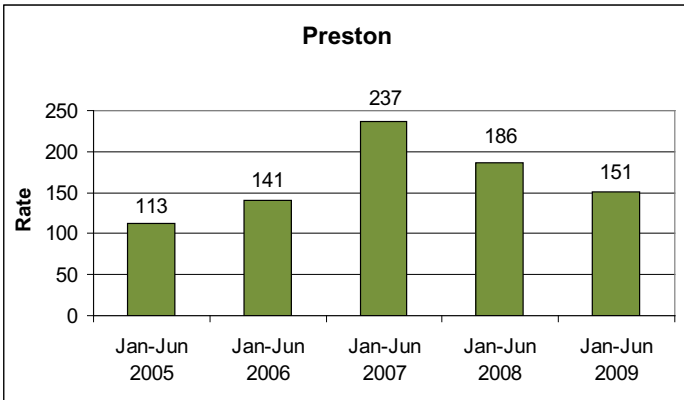
All Violent Incidents, Rate per 100 Youth



Source 2005-2006: Daily Operations Security Reports, Monthly Population Data (see Third Report of the Special Master, Appendix A)

Source 2007-2008: QSR/CompStat ("Batteries on Staff w/o Weapon," "Batteries on Staff w/ Weapon," "Gassings," "Batteries on Youth," "Group Disturbances," "Forced Sexual Acts," "Physical Altercations (Mutual Combat)," "Average Daily Population")

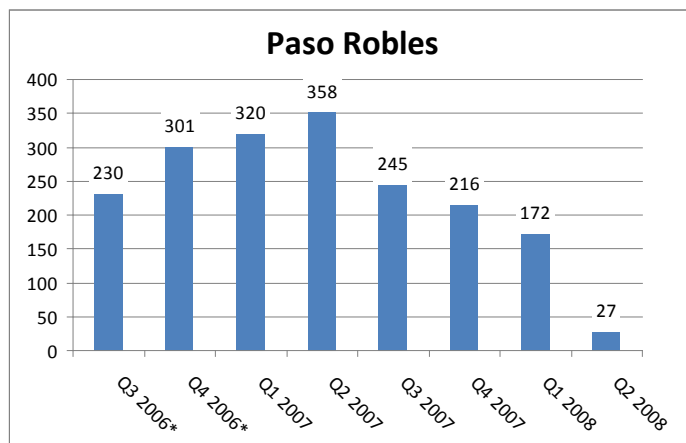
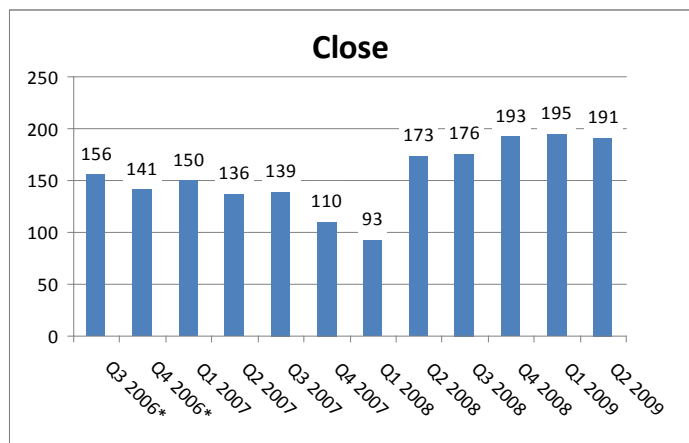
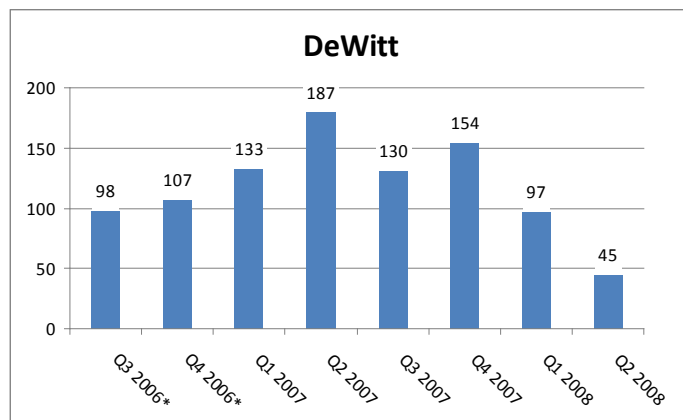
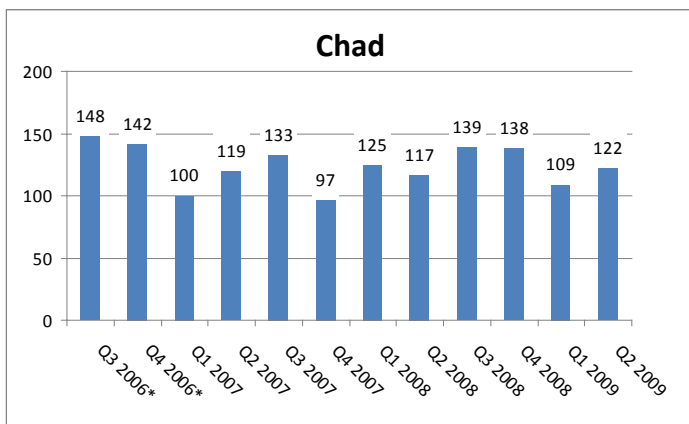
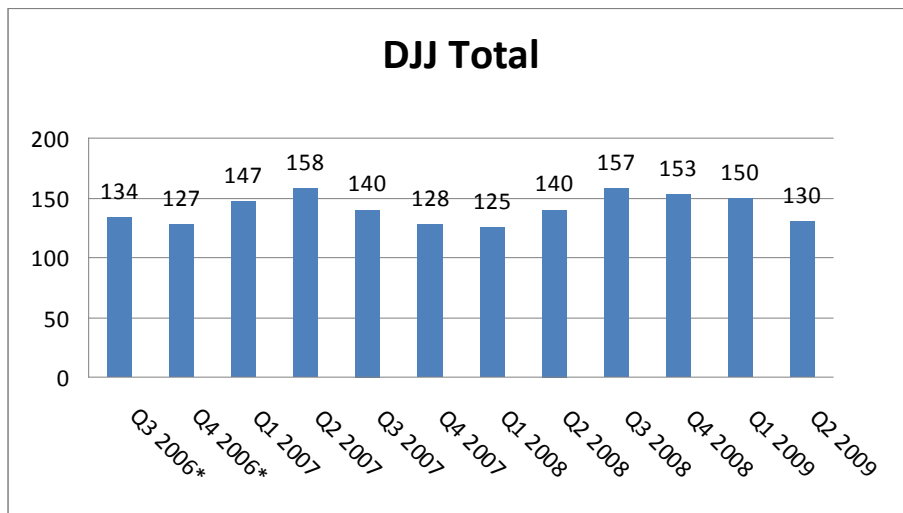
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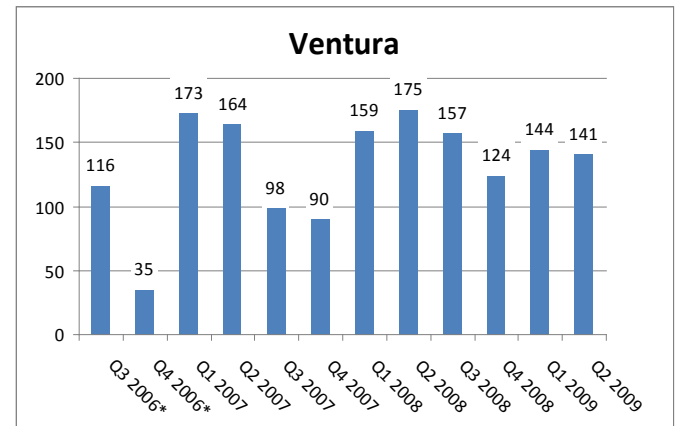
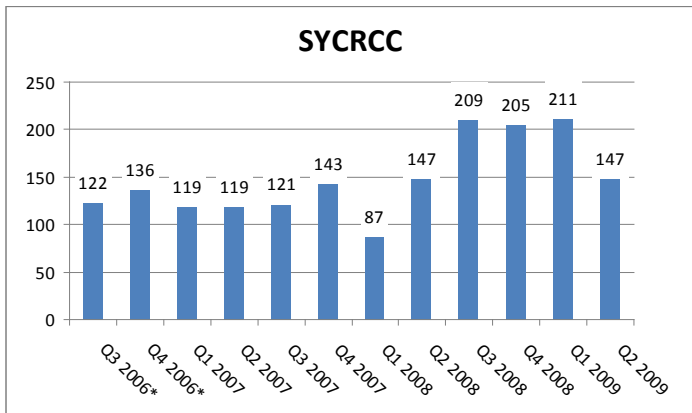
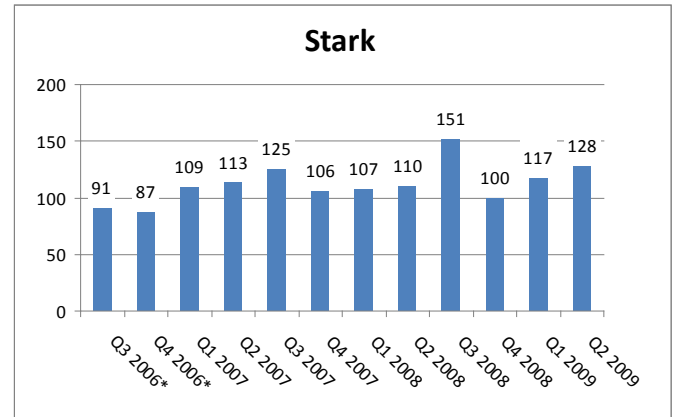
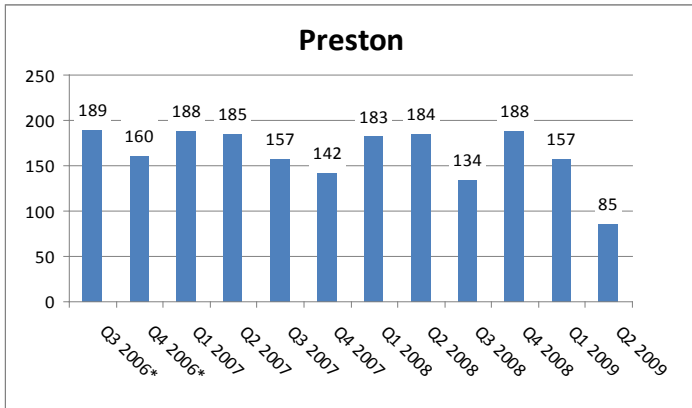
Level 3 DDMS Cases, Rate per 100 Youth



Source: CompStat/QSR ("Level 3's Filed," "Average Daily Population")

* Note: Data for Q3 & 4 2006 is underreported, as some facilities counted only DDMS actions that were sustained.

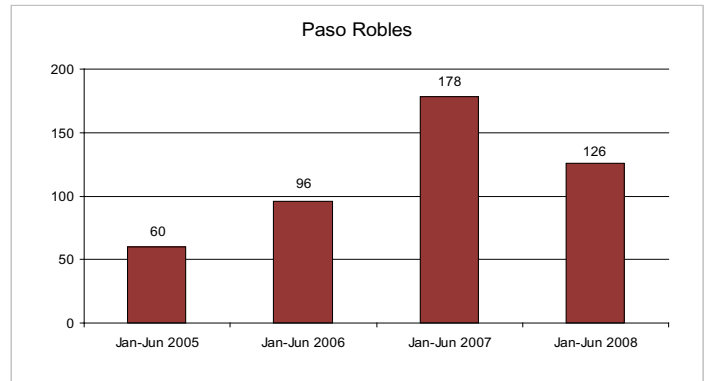
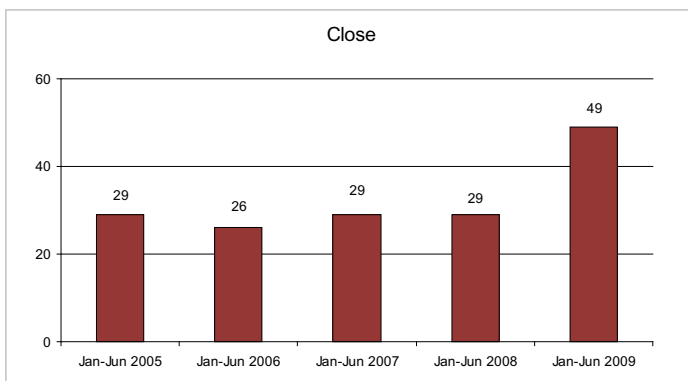
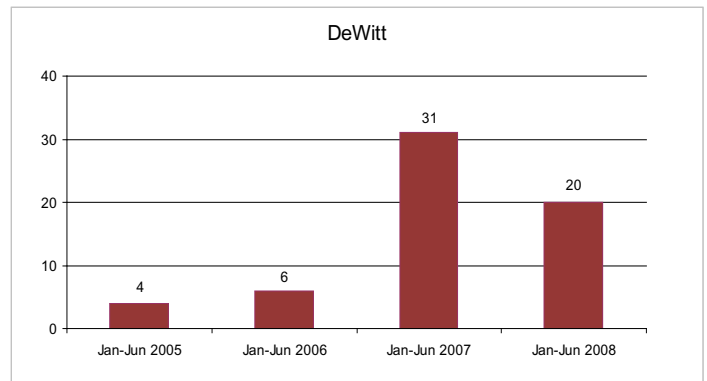
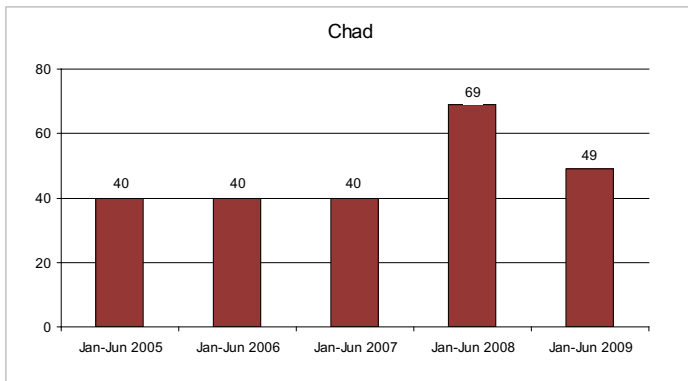
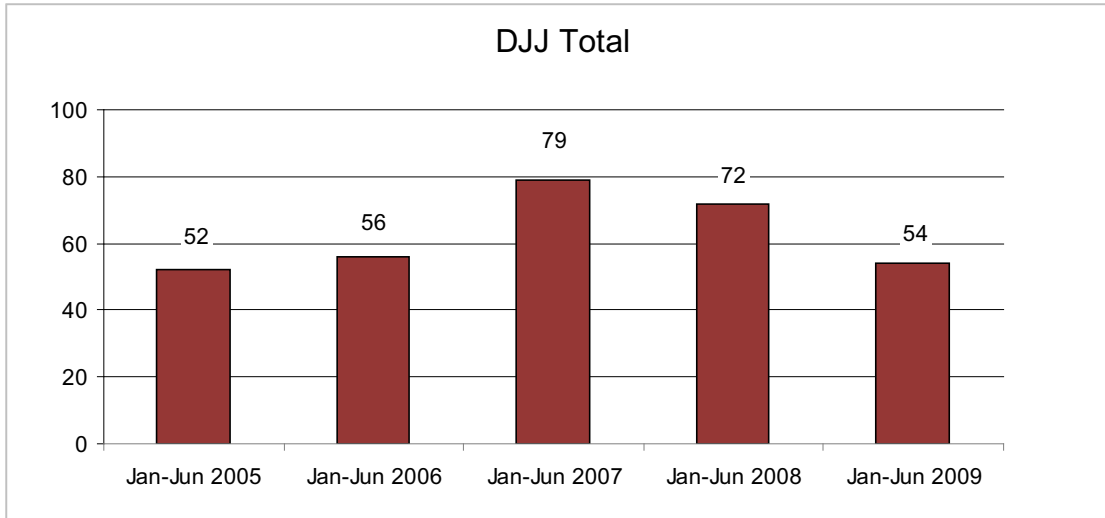
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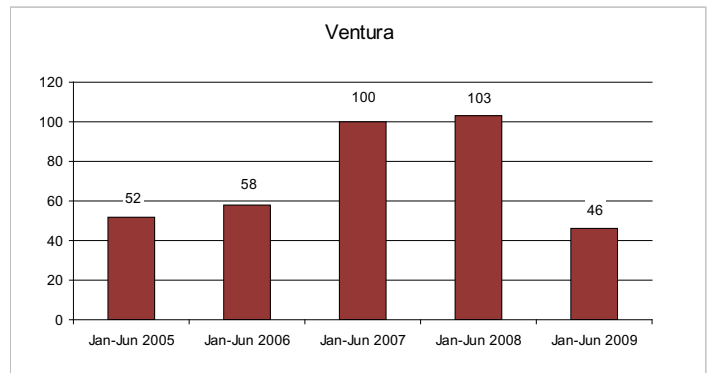
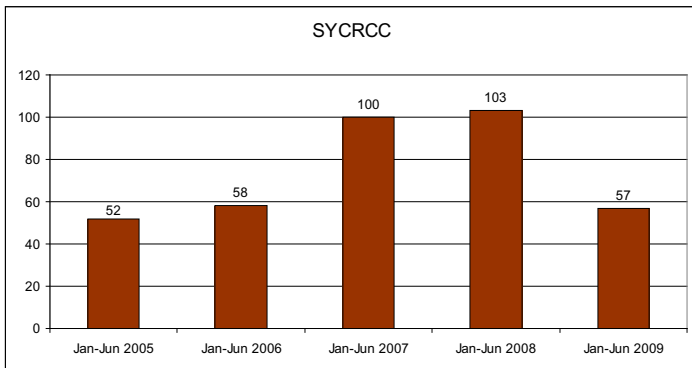
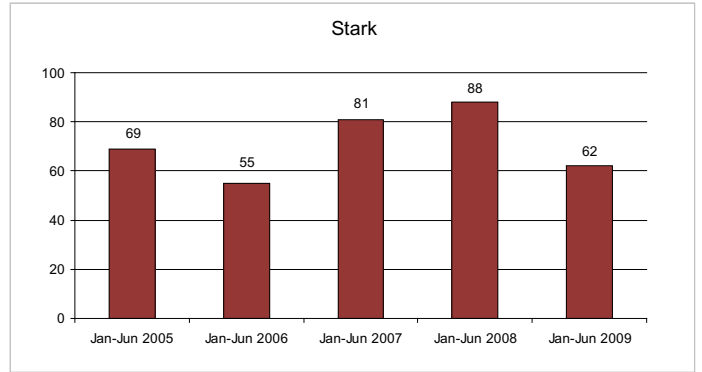
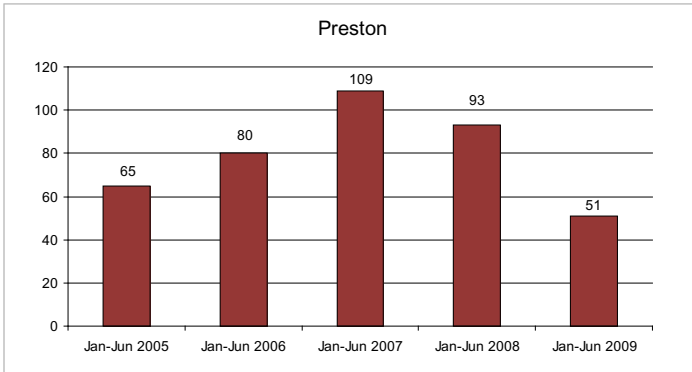
Total Use of Force Incidents, Rate per 100 Youth



Source 2005-2006: Daily Operations Security Reports, Monthly Population Data (see Third Report of the Special Master, Appendix A)

Source 2007-2008: CompStat/QSR ("Total Use of Force Incidents," "Average Daily Population")

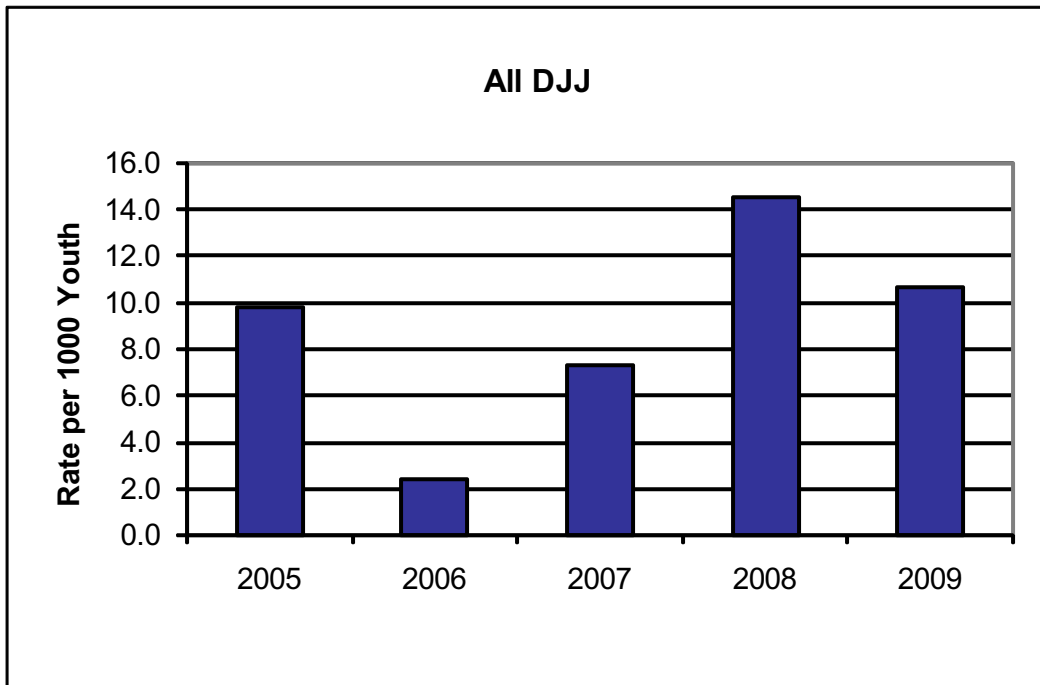
Total Use of Force Incidents, Rate per 100 Youth



Source 2005-2006: Daily Operations Security Reports, Monthly Population Data (see Third Report of the Special Master, Appendix A)

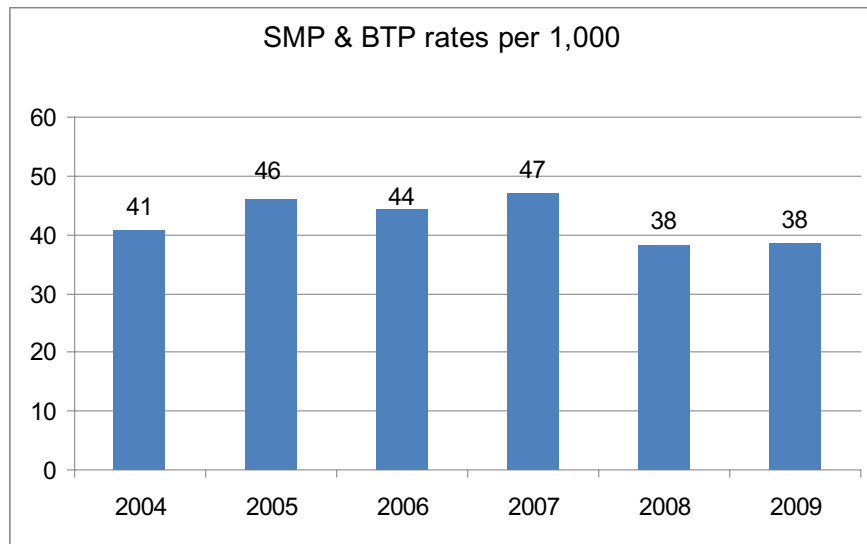
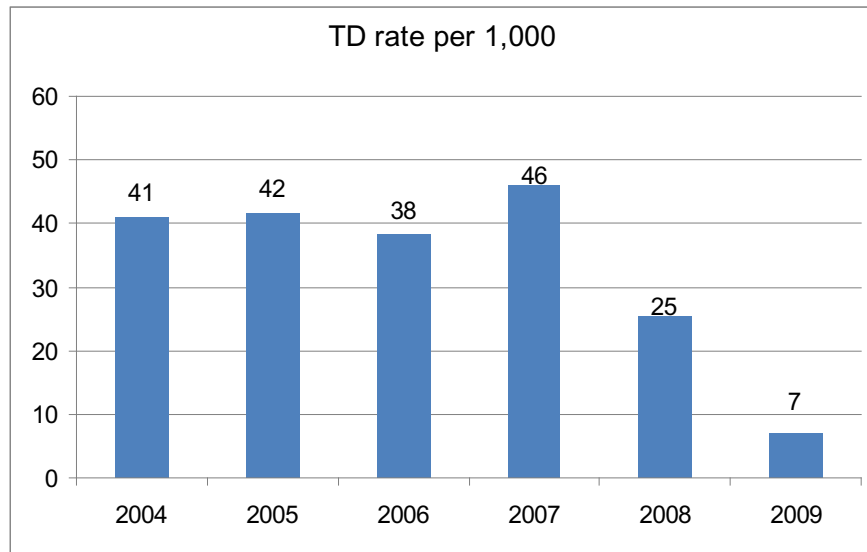
Source 2007-2008: CompStat/QSR ("Total Use of Force Incidents," "Average Daily Population")

Suicide Attempts, Rate per 1,000 youth



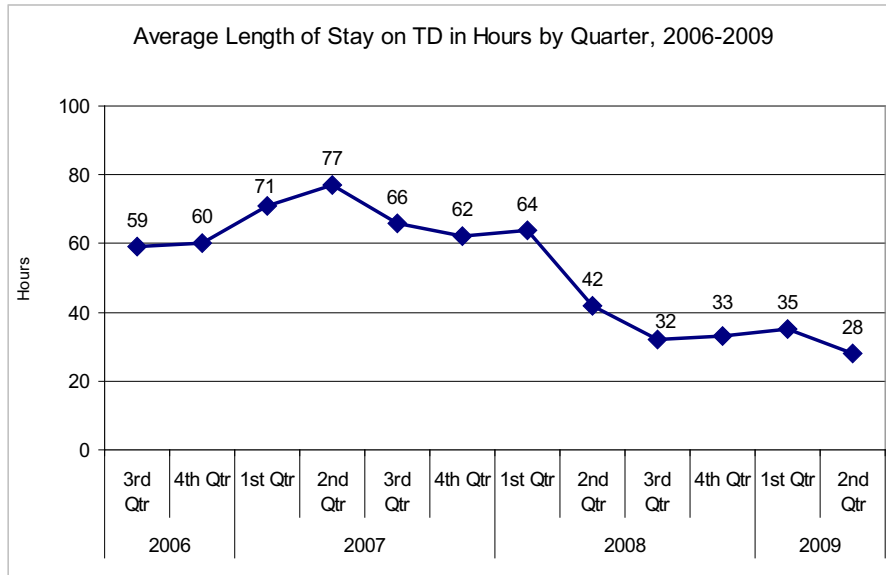
Note: 2005-2006 data collected from Daily Operations Reports, 2007-2009 data collected from CompStat

Restricted Programs



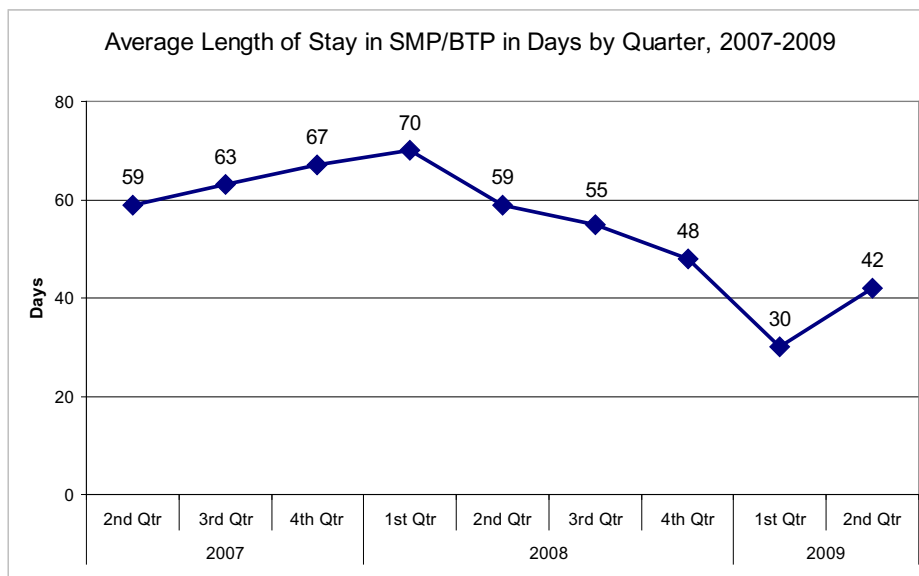
Source: WIN Population Data for Second Friday of Month (TDs, SMPs, DJJ Pop.); WIN Population Data for First Day of of Month (BTPs)

Average Length of Stay



Average length of stay has declined by 52.5% from the 3rd quarter of 2006 to the 2nd quarter of 2009.

LOS has declined by 63.6% from the high of 77 hours in the 2nd quarter of 2007 to 28 hours in the 2nd quarter of 2009.



Length of stay in SMP and BTP has declined by 29% from the 2nd quarter of 2007 to the 2nd quarter of 2009. From a high of 70 days average length of stay in the 1st quarter of 2008, LOS has dropped by 40% to 42 days in the 2nd quarter of 2009.

LOS during the first quarter of 2009 is likely understated due to the lack of information regarding Preston's BTP program.

Until the fourth quarter of 2008, the data includes only SMP's.

Sentinel Events August 2008 - August 2009

Facility	Group	
	Disturbances	Suicide Attempts
Chad	1	17
Close	3	0
Preston	33	1
Stark	9	25
SYCRCC	7	0
Ventura	0	14
DJJ total	53	57