

**April 10, 2009**

**To:** Donna Brorby

**From:** Barry Krisberg

**Subject:** Revised Summary of S&W Headquarters Audit

Here are my impressions of areas of progress and instances in which more work needs to be done on the S&W Remedial Plan. These observations are based on two days of intensive meetings with many DJJ Headquarters that occurred on January 14-15, 2009 that were organized by Tammy Maguire. I have also been given four binders of documents to cover each of the areas in the S&W Standards and Criteria. DJJ staff was candid in helping my understanding of the status of many items in the S&W Remedial Plan. These meetings were also attended by Racial Stern of CDCR Legal and Van Kambarian of the DOJ, among other DJJ staff... I also had a two hour phone conference with DJJ managers on March 23, 2009 and a written summary of their concerns about the draft report. Where appropriate I have incorporated this feedback in this revised report.

The goal of this memorandum is give a broad overview of progress towards the goals of the S&W Remedial Plan to DJJ and to the plaintiff's attorneys. I have also completed a grid that offers Compliance Ratings on the individual items in the Remedial Plan. It should be noted that there are several topics, such as Adding Central Resources or Access to Religious Services that that are being monitored by the Office of the Special Master (OSM). Staff from the OSM attended most of the two day audit so that our work could be coordinated. In some of these areas, I will offer my own opinions on whether actions to date have met the spirit and intent of the S&W Remedial Plan.

There have been several areas of notable steps forward such as the WIN system and some important new policies. Security Classification and reduced use of Restrictive Housing have also seen progress in reform. Areas that require ongoing and continuous attention remain the lack of proper program development of the IBTP, the terrible maintenance and physical plant issues, potential misuse of UOF, especially with females, and at the larger DJJ facilities, excessive reliance on time adds to manage youth conduct, and the limited progress in DJJ in reducing the actual rates of violence, especially involving gangs in some of its facilities.

## **2.1 Add Central Office Headquarters Resources**

The original Remedial Plan recognized that DJJ had lost many staff positions to the merger with CDCR and lacked the staff capacity to implement the complex and intertwined tasks of the various Farrell Remedial Plans. While the report of the OSM will cover progress in this area, it appears that DJJ has assembled substantial staff resources to address Farrell issues. In the past, a major concern was the need to fill the critical position of Farrell Project Director on a long term basis. Further, there was concern expressed by me and others that the roles of various DJJ staff were, at least,

ambiguous, relative to accomplishing the Farrell reforms. For many months, the clear accountability for the S&W plan was missing. Meetings often consisted of many DJJ staff that seemed to be working on similar parallel projects.

The arrival of Michael Brady has been a great step forward. DJJ now has a Farrell Litigation Manger. He has oversight over implementation all of the remedial plans. DJJ has also designed Sandra Emert of the Project Management Office to work on these remedial plans. There are now weekly Task Force meetings chaired by Michael Brady in which all pertinent DJJ staff are involved in reviewing progress and timely problem solving of difficult issues. As one example, Mr. Brady has seemingly unblocked, the heretofore stalled policy development process relative to Farrell. Of equal importance, Mr. Brady has unequivocally communicated to DJJ staff that the Farrell experts and the Plaintiffs counsel are “partners” in making needed and promised reforms. This change of better defined authority in the DJJ and a more collaborative spirit is very positive.

It is worth noting that the issue of Headquarters staff resources will remain a challenge for the Farrell consent decree in the immediate future. First, the DJJ youth population is almost half of what it was when the initial Headquarters staffing levels were defined, second, the catastrophic state budget crisis makes almost certain that there will be further reductions in DJJ staffing and budget resources in the future. The Farrell experts have been made aware of various staffing analyses being performed at the request of the CDCR and the Department of Finance, but no information has been shared with us to date. We have recently been told by Mr. Brady that he will share the DJJ staffing proposals with the Farrell experts for their input and possible support. There are also serious debates going on in the Legislature that could lead to significant downsizing of DJJ staffing levels, both in the field and in Headquarters. These external budget forces are likely to have a major impact on DJJ’s ability to meet the court sanctioned Remedial Plans.

The DJJ appears to have departed from the literal requirements that were contained in the S&W Standards and Criteria. For example, the original plan called for Program Development and Implementation Teams, Temporary Transition Teams, and Compliance Teams. DJJ is now attempting to consolidate the work of these groups under the rubric of their project management system. There exists a revised DJJ Organization Chart, but this diagram is a fairly traditional picture of lines of authority and offers little guidance on how reforms actually emerge and are translated into action. The DJJ has requested a modification of the original Standards and Criteria staffing requirements. I would urge that the Plaintiffs lawyers, DJJ, and the Farrell experts resolve this issue quickly.

It appears to me that DJJ must work to consolidate and streamline its Headquarters processes. Budget problems aside, DJJ Headquarters needs to be “right-sized” to avoid overlapping, duplicative, and sometimes, conflicting agendas. It is also my observation (and shared with me confidentially by several DJJ top managers) that the CDCR “Matrix Management” theory stands in the way of positive steps forward. Too often, the different streams of management of institutions, education and health care create friction and frustration, delaying final decisions as issues move up the organizational ladders. The

“big picture” or vision sometimes gets lost in the organizational confusion. Further, I continue to be puzzled by the separation of “Reform Staff” from Operations staff. Where DJJ reforms have worked well, there has been strong and active participation from facility-based staff. It is critical that current operations not be isolated from the reform planning and implementation if real progress is to be made in institutionalizing the needed changes. For example, increasing training resources will have a limited effect if the new content is not integrated into the DJJ culture, or if middle managers are not committed to reinforcing the new concepts on routine staff supervision, feedback, and personnel evaluations.

### **2.3 Improve MIS Capability**

DJJ has made substantial progress in putting the WIN Exchange System into operation. The updated system allows staff to examine data on youth as they transfer from various institutions. The system is being used effectively to support the operation of new policies in the area of classification, WGS, and the DDMS system. The WIN system is being used effectively in case conferences and by the Crisis Resolution Teams on a regular basis. DJJ has worked to “scrub the data” to identify errors and missing data in the system. DJJ staff generally report that the WIN system is helpful and that Bob Eaton and his staff are very responsive to requests for help.

There is general support and awareness of the WIN system at the facility level. The WIN system has a number of report formats that are being used by many at the facility level to track compliance. DJJ still needs to make sure that management staff at each facility are familiar with the reports in WIN that can help them self monitor their progress with the various components of the S&W Remedial Plan.

In my view, there are three major priorities for future development of the WIN Exchange System: (1) develop the capacity to integrate the Risks and Needs Assessment data in WIN; (2) develop a system to monitor youth participation and progress in various treatment options; and (3) develop a routine system to audit the accuracy and completeness of the data in WIN.

Part of the S&W Remedial Plan also requires that DJJ assess its overall MIS needs and develop a plan to address deficiencies, including having sufficient technical staff to be responsive to user needs. This review should include a strategy to utilize WIN not only as an individual-based administrative management system, but also to generate regular aggregate reports to Headquarters and institutional management for ongoing planning and compliance tasks. CDCR has completed a “gap” analysis of the elements of the DJJ MIS and they have just shared that “gap” analysis with me. The DJJ view is that they must first focus on getting these automated systems up and running. Next they will look at defining usable reports, trend analysis as well as the necessary information to inform operations and policy development. In view of severe state budget pressures and demands that DJJ seek cost reductions, one cannot stress enough the importance of this definition of key data elements and reports to preserve the MIS progress made to date.

Another part of the MIS requirement of the S&W plan involves contracting for the implementation of the PBS system. This has been accomplished and DJJ has established a statewide coordinator for PBS as well as coordinators at each facility. Generally, the PBS system has been smoothly implemented and DJJ has moved quickly to upgrade the quality and quantity of the data in the PBS system. Many of the facilities are learning how to utilize PBS as a quality assurance tool and to assist facility staff to develop corrective action plans.

It is less clear if DJJ Headquarters staff is using PBS in its system-wide management. It often appears that DJJ top management use PBS to try to prove success with remedial plan compliance. In my view they are using the PBS national averages inappropriately to make their case. Since many quantitative measures in PBS have not changed very much over the past two years, it seems as though DJJ is arguing (and losing that argument to the experts, plaintiffs attorneys and the Court) that there were no problems in the first case! This comparison of the DJJ PbS scores to the national Non- representative sample in PBS is an inappropriate use of PBS.

PBS could and should be used by DJJ Headquarters to compare progress across facilities and to monitor changes in the PBS measures over time. DJJ Headquarters staff should also be capable of summarizing across all facilities the areas that are identified for corrective action as well as the progress of the facilities in making these needed improvements. Right now the PBS system generates individual facility reports that are not aggregated across all DJJ locales. Further, the PBS data does not appear to be reviewed by DJJ in terms of its consistency with findings that emerge from the Compstat or Daily Ops reports. It is unclear to me if or how the PBS is used by DJJ compliance monitoring staff.

There have been some concerns expressed at the facility level that the PBS definitions are still somewhat out of synch with practices at DJJ, especially in the areas of UOF. Further, staff at OHC and Chad have expressed concern that the institutional climate surveys may be generating inaccurate data – that the data shows DJJ institutional climate issues such as safety or access to medical care, as worse than they actually are. The move to collect data from all youth and not just a sample may be creating some issues. Staff have also raised the concern that collecting PBS data on a semi-annual basis may be giving a distorted picture of progress, or the lack thereof. There are several items in the S&W plan that require monthly or, at least, quarterly, measurements. Further training of all DJJ managers on the interpretation and utility of the PBS data would be a great benefit to achieving the goals of the various Remedial plans.

A final component of the Standards and Criteria in the S&W area involves the strategic use of the in-house research capacity to assist in meeting the goals of the Farrell consent decree. Specifically, the research personnel were to conduct validation studies of assessment and security classification tools. It was envisioned that research staff would be employed to assist DJJ managers to establish measurable objectives and measures of success for various programmatic and operation components of the S&W plan. The consent decree states “The research manager must be a critical advisor in the

development of effective measures and reporting processes and the establishment of standards of data quality and validity” (p 19).

I see no evidence that this has occurred. While research staff often attend large group meetings, it is very unclear if they play any decision-making role. DJJ has suffered by the overall decline in research expertise within CDCR and the elimination of a dedicated DJJ research unit. The loss of Dr. Rudy Hapaanen as the leader of the DJJ Research Section is a major blow to the credibility of DJJ research. Research at DJJ appears as an afterthought and not a core part of management and planning. I know of no formal research plan that outlines research objectives or defines the resources, internal or external, needed to accomplish these goals. DJJ must develop competent plans to evaluate the key components of the IBTP. DJJ research should play a much larger role in monitoring all aspects of the Farrell remedial plans that require the collection and analysis of objective data. Further, the DJJ could be using its research resources to assemble prior literature and to survey best practices in a wide variety of operational areas. Research in DJJ has been allowed to collapse. There seems to be some beginning efforts to rebuild that capacity, but competent professional leadership is needed. Also critical is that DJJ managers value research participation in the planning and program development process. I would recommend that DJJ establish an independent research advisory group that would recruit leading CA researchers from universities and non-profit research centers. This group could help DJJ define a meaningful research agenda and approach. It appears that various “charters” that define future DJJ efforts to meet the requirements of the Farrell decree each contain tasks for the research staff. DJJ has promised to share these “charters” with me. I have also suggested that there is a summary document that lists and prioritizes all of the assignments that will be accomplished by the research staff.

### **3.0 Reduce Fear and Violence**

DJJ has made some significant progress in this area. Several of the core parts of the S&W Remedial Plan are well underway. Whether these achievements have actually reduced fear and violence is another issue. Preliminary data compiled with help from the OSM staff indicate that the rates per 100 youth violence incidents throughout DJJ have been reduced since 2007 but have returned to levels that were seen in 2006 and 2005 – still at unacceptable levels. I have attached these data to this report. This finding suggests a needed look at whether there are other areas of the S&W plan that need to be strengthened to bring the rates of violence down.

Great progress has been made in implementing the security classification system. DJJ has been able to identify high-risk youth using an empirically-derived screening tool. DJJ has moved youth to generally separate high-risk from low-risk youth. Moreover, DJJ has implemented a routine reclassification system that is based on youth behavior. This system is working effectively despite some minor delays in integrating the reclassification process in the WIN system. Further, the classification process is well managed by Headquarters staff and consistency in classification has been substantially achieved. A major contributor to progress has been the leadership of Steve Lesh who

brought the experience and the credibility of his work at DJJ facilities to expedite the implementation process. This has been an area in which excellent two-way communication between the institutions and Headquarters has made progress possible. First and foremost, the feedback from the institutions is that Headquarters has been responsive to individual problem-solving and prompt in offering guidance.

Three unfinished items in the classification area include (1) tracking and routine reporting on performance data on whether the implementation of high-risk living units has created any safety issues; (2) development of guidance for staff on best methods of managing the high-risk living units, especially the complete elimination of high-risk dormitories; and initiation of a valid study of the operation of the security classification system. For example, DJJ needs to examine whether the locus of violence in DJJ has shifted from the living units to the schools. Further, it appears that staffing levels working in high-risk units are not different than in the lower-risk units. Staff in high-risk units have not received any additional training to better manage these units. DJJ is beginning to extract data on institutional violence in the high-risk units. It is still unclear how DJJ will consolidate the security classification screening with the risk and needs screening tools. At present many DJJ residents are not included as part of the security classification process such as the youth in mental health units and sex behavior treatment programs, young women in DJJ, and the youngest residents in the DJJ system. I would urge DJJ to examine how security classification is achieved in these specialized units and if a refinement or augmentation of the security classification is needed.

DJJ was also required by the S&W Remedial Plan to revise its use of force (UOF) policy. This process has gone on for a long time. There is a current draft of the UOF policy that has received input by the Farrell experts. The draft is an improvement over previous versions but still fails to meet the standard of supporting the conversion of DJJ to a model treatment model. There has been progress made to encourage greater use of non-force responses to institutional conflicts. UOF review policies has been somewhat improved. I still see unresolved issues with respect to the UOF with young women in DJJ, with youth in the mental health units, and with disabled youth. In particular, DJJ needs to work to reduce the use of force in instances involving “controlled UOF” and circumstances in which the force is used by staff to respond to “defiance and failure to follow staff instructions”. While one could reasonably disagree on the UOF in fighting and riot situations, I believe that DJJ needs to discourage the UOF in other instances in which imminent harm is not obvious.

The new UOF Policy was sent to me on Feb. 24, 2009 and I will be reviewing it soon. Michael Brady is working hard to expedite the policy development process. The preliminary draft of the new UOF policy represents progress from past policies but still has not been focused as supportive of and connected to the IBTM. While the new UOF is a reasonable move at this point, it is imperative that DJJ specify the contours of the IBTP and revise all of its policies to be consistent with a model treatment approach.

As noted above, DJJ has implemented improved data systems such as PBS and Compstat to monitor the UOF and violence in its institutions. While these data systems are not

perfect, they do yield useful information for management and operational purposes. DJJ still needs to provide guidance to its managers to actually fully utilize these data to develop corrective action plans. The DJJ is still heavily influenced by anecdotal information and should routinize the use of data in its internal management. Again, the DJJ needs to use these data to identify and solve problems, not try to “prove” that problems don’t exist. DJJ should establish a specific plan to audit and examine the statistical validity of the data bases used to assess violence and UOF. There continue to be issues involving multiple counting of single events because several staff write behavioral reports for one event. As noted above, there are continuing concerns about the accuracy of the PBS data, especially with respect to measuring UOF. Further refinement of these data bases should be a high priority for DJJ research staff.

It is anticipated that DJJ, in consultation with the S&W Expert will develop annual targets and action plans to reduce violence and the UOF for each facility. To my knowledge, work on this objective has not yet begun. These action plans and measurable reductions in violence and UOF are key to making progress. Research staff could be very valuable assets in helping DJJ managers to meet this goal. Once these outcome measures and proposed actions are defined, a system of quarterly progress reports can be generated to allow transparency in this area.

During the past year, the DJJ implemented a pilot test to determine if closer monitoring of the use of chemical agents would be a useful approach to reducing the overall use of force. I reviewed and approved the design of the pilot at Paso Robles and concluded that the test was done properly. The results revealed that the careful measuring of chemical agents did not have any significant effect of the use of these agents. DJJ concluded that the pilot suggested that a further rollout of this chemical agent policy was probably not worthwhile. The DJJ has decided not to expand the pilot and I concur with their conclusion. This is not to say that the use of chemicals is not a significant problem in DJJ, but rather that the measuring of chemical agents on a daily basis is not a particularly effective way of limiting their use.

Another area of reducing fear and violence in DJJ involves the development of strategies and procedures to reduce gang conflict in DJJ facilities and to promote the safe integration of gang members in living units, schools and other DJJ programs. I have noted earlier that DJJ invests substantially in identifying the gang affiliations of its youth, and some institutions such as HGS continue to segregate youth in living units and common areas by alleged gang affiliations. It also is clear that DJJ staff have not received adequate training on how best to manage their youthful residents who are entangled with gang activities.

DJJ promised to consult with a national expert in this area but the formation of an active working group to address gang issues has been given a lower priority than other Farrell reforms. I have met with the recently activated Headquarters gang task force and reviewed their ideas on potential gang experts. I suggested that DJJ look to a more multi-faceted approach that included treatment interventions, educational curriculum, and the wider use of positive peer culture approaches such as Normative Culture, to reduce gang

behavior in DJJ. It is not clear that DJJ staff have a good handle on what is driving the gang conflicts in its facilities. I have offered to work intensely with the DJJ gang reduction task group and to get them materials from around the Nation about effective evidence-based gang reduction approaches. I indicated that I would be willing to serve in the role as the National gang expert. A clear mission of the DJJ task force is to establish written policies and procedures to guide the DJJ effort to reduce the negative impact of gangs in its facilities. These written materials must be effectively delivered to all staff through well-designed training efforts. This work has just begun and I hope to encourage more steady movement forward in this arena in the near future. I have received some further materials from Larry Miranda and have met with DJJ staff who are working on developing a comprehensive gang program for DJJ. I expect to be working closely with Larry Miranda and other members of this work group.

One strategy named in the S&W Remedial Plan was the use of Behavioral Treatment Programs (BTP) to help violence in DJJ facilities. The BTPs were designed to replace SMP and TD units. The idea was a very short-term TREATMENT program that would assist DJJ youth in resolving their conflicts, permitting them to live in regular living units.

From the onset, I have had grave concerns that the BTPs would devolve into another SMP program with a different name. To avoid this danger, it is imperative that DJJ clearly define the entrance criteria and process for the BTPs. Further, it is essential that DJJ design an evidence-based treatment program for the BTPs. These critical tasks have not been accomplished. In general, DJJ staff have not been exposed to the existing literature on violent and aggressive young offenders. I have given a short list of this research to Michael Brady and other DJJ staff.

The entrance criteria for the new BTPs that I reviewed were fairly vague. I was shown an earlier draft of a BTP design but it was not evidence-based and was a very rudimentary "work in process". I have not been effectively engaged in the design of the BTPs. It is unclear to me how DJJ has determined location and capacities of the BTPs. Nor have I seen any details on staffing levels, service days, or other components of the BTP plans. The living units designated for BTP are not adequate to support high quality treatment programs. I would recommend that DJJ suspend any efforts to open BTPs until more competent details and better planning is accomplished. Current DJJ restricted housing units must also be closed as per the S&W Remedial Plan, but the BTPs offer no assurance that this will occur any time soon. Because the operation of the BTPs cross many of the areas in the Farrell consent decree, the DJJ should provide a detailed description of their plans for the BTPs to the OSM, and these plans should be approved by the Farrell Experts.

DJJ staff have promised to share with me the latest progress of the working groups on designing the BTPs and I will give them comments and suggestions when I received their work products.

#### **4.0 And 5.0 Identify Rehabilitation and Treatment Model: Lay the Foundation for Reform**

Absolutely central to the DJJ reforms is the development and implementation of a model treatment model or Integrated Behavior Treatment Model (IBTM). This model should fundamentally alter how DJJ operates, improve outcomes for youth, and provide the underlying framework for all policies and programs.

DJJ has successfully contracted with a Canadian for-profit company, Orbis Partners, to develop a risk needs assessment tool, offer case management training to staff, and to help introduce “evidence-based” treatment programs into DJJ. This contract does not appear to cover all of the areas involved in implementing the IBTM. DJJ has consulted with the Farrell Experts in the development of the IBTM, although the consultation with the S&W Expert has been limited and less than satisfactory in terms of full engagement and responsiveness to my concerns.

The IBTM is currently an undeveloped and very generic approach. It is my view that DJJ has not assigned the proper staff to develop the IBTP and the Division may lack the in-house expertise to conceptualize and articulate the IBTM. The contract with Orbis Partners, while providing needed services, does not appear sufficient to assist DJJ in developing and launching a comprehensive IBTM. The lack of progress in this area is concerning and seems to be frustrating many of the Farrell Experts. To date, several top DJJ managers have responded by my observations and those of other Farrell Experts with defensiveness and resistance. On its current path, I believe that DJJ will be out-of-compliance with the Farrell requirements for the foreseeable future.

There are many problems in the DJJ approach to the IBTM. Most basic is that there is only a very sketchy description of the IBTM. The S&W Remedial plan contemplated a detailed and thorough description of the program and model, similar to documents shared with us from Washington State. According to DJJ top management, the IBTM is no longer a specific program but an overall philosophy of operations. I do not know what this means!

DJJ has not reached out to national experts from the most progressive juvenile corrections systems such as MO, MA, or CO for specific help in formulating the IBTM. It is my opinion that Orbis Partners can only provide some guidance in this area – in part because the firm’s track record is mostly in probation or reentry and appears to have far more limited experience with institutionalized, serious and violent juvenile offenders. But, even if Orbis Partners had a wider skill set, the DJJ desperately needs to develop staff and management expertise in model treatment approaches.

A second concern is that DJJ promised to mount a pilot test of the IBTM at two facilities this year. This is not occurring and instead DJJ is “piloting different parts of the IBTP in different places”. This is a no substitute for a carefully implemented pilot that is accompanied by careful research and evaluation. The IBTM is a very complex undertaking and a pilot would help DJJ understand the critical ingredients to success and

the barriers to proper implementation. DJJ has repeatedly been unable to articulate an answer to a simple, but fundamental question: How will things be changing for the youth when the IBTM is fully operation?

At this stage, the development of the ITBM does not appear to be data-driven. Neither the CA YASI nor other DJJ data sources seem accessible to planners working on the components and central parts of the IBTM. Despite over 3000 hours of staff time devoted to administering the CA YASI, there are seemingly no data apart from individual youth reports that can be used to guide DJJ planning for the IBTP. Further, I see little evidence that DJJ possesses an actual implementation timeline for the IBTP. Issues of staffing, facility needs, budget requirements, and other core issues seem unresolved. DJJ managers seem intent on rolling out a new approach and training their staff in parts of it, but there seems a lack of strategic vision. Training is being offered to staff, but we don't know if it is the right training, or being delivered to the right number of staff in the proper positions. At its base the DJJ performance in the IBTP looks like the proverbial "Fire, Ready, Aim" approach.

DJJ should be required to produce a detailed written description of the IBTP that should be approved by the Farrell Experts. Once approved the IBTP should be reflected in a well developed implementation plan that contains timelines, milestones, budget requirements and capital needs. There should be an IBTP Logic Model similar to the one developed by the Expert Panel for CDCR Adult Rehabilitation Programs. DJJ should not be permitted to abandon its commitment to a carefully evaluated pilot test of the IBTP.

DJJ has contracted for substantial training of its staff on several of the components of the IBTP. The OSM is monitoring the delivery of this training. One big area in which critical training has been delayed is in the area of Normative Culture. While more training is a positive step forward, there is little evidence of a DJJ strategic approach to training as it relates to the full implementation of the IBTM. To my knowledge there is not a current written DJJ training plan. Further, the DJJ training should be connected with strategies to institutionalize the treatment reforms via ongoing management, supervisor coaching, and personnel reviews. The DJJ has supplied rosters of training sessions and some anecdotal evidence that the staff enjoy the training (most staff do!), but there is little objective evidence that the desired competencies underlying the training are actually being enhanced.

DJJ also reported that it has not completed the adjusted staffing positions to add the treatment team leaders, case managers, and other team members that are envisioned in the S&W team. DJJ reports that it has not yet approved and fully adopted the job descriptions related to the model treatment aspects of the S&W Remedial Plan.

DJJ committed to implementing a statewide service day for its core treatment unit. There has been a pilot of the program service day at Preston. DJJ is still analyzing the results of the pilot. Full implementation of a statewide service day is still planned in the future. No such program service days have been piloted for the BTPs since these program units have not been implemented yet.

Michael Brady has now invited Dr. Angela Wolf, a community psychologist who is very knowledgeable about juvenile justice nationwide, to work with a team of DJJ staff to improve progress in the definition and documentation of the LBTM. Mr. Brady has also reached out to staff from Washington State to provide information about that model. I am also collecting descriptions of model approaches from Missouri and other states to share with DJJ staff.

## **7.0 System Reform for Females**

The plan to contract out residential service for girls has still not been implemented. A first try at contracting produced no qualified bidders, in part because of flaws in the RFP and because the RFP was not sent out to groups with proven track records in operating top quality programs for young women. Although there was some input into the process by Professor Barbara Bloom, a recognized expert on gender-responsive programs, this was quite limited. She described this to me as “drive-by” consultation. For whatever reasons, DJJ has assigned staff to develop the contracting for female services that have minimal prior experience with girls programming or with contracting for residential services. There were many flaws in the contracting process that doomed this first effort. I made very specific recommendations to DJJ staff on how to rescue this effort. Once again, DJJ has adopted a very insular approach and not sufficiently reached out for appropriate state and national expertise. For reasons that elude me, the DJJ did not want the S&W Expert to read the revised Female RFP before it was released. Ultimately, I was given a copy with great reluctance and some staff confided that they believed that they would get in trouble if they shared the RFP with me.

A second RFP was released and 15 potential bidders showed up at a bidder’s conference. On the basis of that meeting, DJJ has decided to reissue the RFP. I have no idea when DJJ finally plans on awarding the contract. This process has gone on way too long. I would urge the Court to insist that DJJ meet its commitment in this area or take over the job. I also would urge that DJJ allow outside experts, including the Farrell Experts and the OSM to participate more fully in this process. The DJJ will also have to ensure that the legislative authority to contract out is approved by the legislature. Since the time periods for past budget allocations for the female contracting have lapsed, DJJ must determine that the legislative authorization and resources still exist.

### **8.1 Acceptance and Rejection Policy**

The DJJ has put in place a TDO to cover acceptance and rejection requirements as they relate to youths with persistent MH, medical, and developmental disabilities. The key issue is whether these youth can materially benefit from being in DJJ. DJJ has assigned Court Liaison staff to work with counties on these issues. The DJJ staff were to work with counties to develop alternatives for youth who should not be placed in DJJ. The lead staff person, Eleanor Silva has promised to send along examples of how this court liaison process has been utilized in several cases. There have been no turndowns of proposed DJJ admissions so far.

Besides the process described above, there have been profound legislative changes such as SB 81 that have limited who can be sent to DJJ. This has resulted in a further decline in the DJJ residential population. The PLO has published an excellent survey of how the counties have been implementing SB 81. It is anticipated that there will be further cleanup amendments to SB 81 in this year's legislative session.

SB 81 also established a Juvenile Justice Commission in which DJJ worked with state juvenile justice leaders to move toward a master plan for juvenile services in CA. This plan would help define the appropriate roles of state and counties in the managing of serious youthful offenders. We are still awaiting the release of this Commission report.

## **8.2 Orientation**

DJJ committed to revising its Orientation Process to advance its new and enhanced treatment mission, and to improve the S&W of its youth residents. I have reviewed a draft of the manual and found it to be unacceptable. It is too long and not "youth-friendly". It reads more like a rule book for staff. I have suggested that it would be helpful to include the design and drafting process. This is another example in which the S&W Expert is given a finished product by DJJ to which there has been no prior input.

I have asked for a redraft that includes participation from DJJ youth in the process of writing. I believe that the manual needs to assert general goals and principals that should govern the behavior of both staff and youth. More detailed descriptions of policies should be referenced in the manual and available to youth on the living units.

Despite the mandate of the S&W plan, the DJJ has not yet developed orientation materials for families. These materials should especially cover available resources for families and expectations on how families can participate in the rehabilitation process. The DJJ has not yet developed orientation materials at the larger county detention centers. Work still needs to be done on updating the Youthful Offender Rights Handbook and providing curriculum on orientation for its staff.

### **8.4a Disciplinary System**

DJJ has made good progress in improving the DDMS process with respect to consistency across facilities and the timeliness of the process. Disciplinary Coordinators have been added at all institutions and they have received training as new hires or refresher training. There is now a standard duty statement for the DDMS Coordinators. Clear timelines for hearings and dispositions have been established. The DJJ is reviewing compliance with these timelines and following up in those cases in which timelines have been missed. Overall compliance with time limits has been high. The WIN system has proved to be a good tool to accomplish this task. DJJ Headquarters staff are also conducting regular reviews of a sample of DDMS cases.

The new DDMS policy is a vast improvement over previous practices. It separates out the very minor issues from much more serious problems, clarifies the appeal process, and emphasizes alternative conflict resolution when possible. DJJ Headquarters staff review all institution requests for referral of cases to local prosecutors for filing new charges for youth misconduct. It appears that accommodations in the DDMS process for youth with disabilities are being implemented. DJJ is encouraging its staff to assist youth in earning back time adds picked up in the DDMS process. The case conference process now routinely looks at ways in which youth can earn back time.

Improvements in the DDMS policy were a long time in getting official approval at the top levels of DDMS. The Headquarters staff assigned to the revisions worked very cooperatively with facilities staff and conducted lots of interim training with staff in the field. Appropriate attention was placed on building both understanding and support for the new DDMS process.

My two lingering concerns about DDMS have to do with (1) the often vague and overlapping definitions of offenses in the DDMS system that often generate youth complaints about unfairness, and (2) the level of penalties tied to the DDMS process. Fundamentally, DJJ has not clearly defined the role of a DDMS system within its comprehensive treatment model. The DDMS still looks a lot like a prison system DDMS model with some changes. How a DDMS system works in a genuine treatment environment is still to be defined by DJJ. I would hope that the use of the DDMS as a method to achieve desired youth behavior would be reduced in favor of a more “reward and incentive” system. It is also clear that union pressures have often forced DJJ administrators to adopt DDMS policies and outcomes that are not consistent with model juvenile justice systems. I would urge DJJ to seek help from states such as CO, MO, MA, and WA in further refining the DJJ approach to DDMS.

#### **8.4 Youth Incentives and Time Adds**

DJJ has fully embraced the goal of expanding the use of positive incentives for youth in its facilities. The Incentive Program has been simplified from earlier versions and is easier for the youth to understand. DJJ has created a range of posters, handouts, and flyers to communicate the youth incentive program to residents. Standards for providing incentives for restorative justice projects have been adopted, although there is still a less than clear idea among DJJ about the kinds of restorative justice projects that could be utilized.

The DJJ was to establish an internal and external team to develop a broader array of graduated sanctions and positive incentives. I am not involved in this team, nor am I aware of the participation of any of the other Farrell experts. I do not know who serves on this team or what external experts are being used for this task. DJJ has begun a very preliminary look by its research staff at time adds. To date, the analyses presented to me are superficial and not very helpful. As with review in the UOF, the examination of time adds is mostly focused on whether DJJ is following existing policies rather than an in-depth look at how alternatives and graduated sanctions could be more widely employed.

Further, DJJ is just beginning to look at disparities in the use of Time Adds at various facilities.

DJJ has developed a range of time periods for behavior contracts to allow youth to earn back time after 6 months. The OSM is assessing how frequently these earned back provisions are being utilized by DJJ staff. The OSM is also monitoring whether youth are getting full time credits even if they are not responsible for lack of program participation (e.g., lack of prescribed programs or waiting lists).

I am recommending to the parties that the S&W Expert conduct a detailed and independent study of a random sample of time add cases at facilities where these are frequently given by case conference staff. I continue to be concerned that DJJ overuses time adds and that this practice is inconsistent with a model treatment approach. DJJ intends to look at the issue of time adds for non-DDMS reasons and to include me in that analysis. Following this examination, Headquarters should build in additional training on the mechanics of the Youth Incentive Program and innovative approaches developed by its institutional staff.

There has been strong focus at Headquarters to encourage greater use of the Incentive Program at the facilities. Some places are more engaged in this expansion than others. DJJ should find ways to acknowledge the successes at places such as OHC and the Southern Reception Center and to continue to work with facility managers at other places. In particular, the DJJ should monitor the proportions of youth in the various levels of the Phase System across facilities to ensure equity and a commitment to expand incentives. DJJ researchers should be looking at the distribution of youth in various Phases on a monthly basis and especially see how this impacts youth in MH and other special programs.

## **8.5 Grievance System**

DJJ has made substantial progress in the area. A new comprehensive policy has been adopted and training has been provided throughout DJJ. My preliminary judgment is that compliance with the new policy has been good. There are Grievance Coordinators at all facilities and a standard duty statement for them. Weekly and monthly reports are being generated and Headquarters is closely monitoring compliance with the new Grievance timelines. There are operational “lock boxes” to ensure less manipulation of the Grievance process by staff or other residents. The patient and highly effective work of Tammy McGuire and her staff has been key to success in this area.

Both Headquarters and facility personnel (at least at OHC and CHAD where I recently visited) are reviewing the monthly Grievance data to determine if there are patterns or problems that need corrective actions. There is also evidence that Headquarters is offering and providing help to facilities to develop corrective action plans for issues that emerge from the review of Grievance data. The Youth Offenders Rights Handbook has been updated to reflect the reforms in the Grievance process.

I do not know if the MH and Disability Experts have reviewed the new Grievance Policy and Practices for their areas. I will consult with them in the next few weeks. In particular, the Grievance Policy calls for assistance to be given to all youth with Disabilities.

### **8.7 Access to Courts and Law Libraries**

Success in this area has not been good. The law libraries are disorganized collections of hard copy books that are quickly out of date. Basic tools to facilitate legal research are either missing or hard to find. The Standards and Criteria specified that there were to be electronic versions of the materials. DJJ and CDCR are still sorting out what went wrong on this issue. The current materials are not used by many youth and they would be a challenge to use for even trained attorneys. The law librarians have received minimal training and the local institutional legal libraries policies differ. Some youth can do their own research, others must submit requests and have materials brought to them. There does not appear to be any systematic training for youth as to how to use a law library to help with their various civil law, criminal justice, immigration, family law, and other issues.

As of this writing, there are no formal written policies on access to courts and legal libraries that have been adopted by DJJ management. There also needs to be written policies on youth access to attorneys via phone and in person. All DJJ staff should receive training in these standards. Several legal advocates for DJJ youth have raised significant objections to current draft policies and practices. DJJ has stated that it is waiting to look at the documents from the youth advocate groups who put concerns into writing. If the current policy that DJJ uses does not address a legitimate gap or problem with maintaining access to courts, the DJJ has committed to look at addressing the issue. The Youth Rights manual is somewhat vague in both the requirement that DJJ facilitate access to courts and the remedial steps that youth can take outside of the Grievance System.

While DJJ does have a system in WIN to track youth requests for access to the law library, there is no system for DJJ to monitor compliance in the critical area of access to attorneys and the courts.

### **8.10 Operational and Facilities Master Plan**

The S&W Remedial Plan requires that DJJ produce a Juvenile Justice Master Plan for CA. The primary goal of this effort is to define the numbers and types of youth who are to be managed in DJJ facilities. This objective is a predicate for both program design and the needs for staffing and facilities. As noted earlier, this task has been largely subsumed under the requirement of SB 81 to establish a Juvenile Justice Commission to recommend to the legislature and the Governor the immediate agenda for juvenile justice in the state. We are awaiting the publication of that Juvenile Justice Commission Report. Next DJJ will need to respond to that Commission report and translate its proposals into specific plans for DJJ.

Notwithstanding the above, DJJ still must address fundamental physical plant problems in all of its facilities. Virtually all DJJ facilities are unsuitable as treatment-oriented juvenile corrections facilities. Some are crumbling now. DJJ promised to develop a prototype juvenile facility design but this process has not produced a fiscally viable option. DJJ reports that it is seeking ways to make the prototype more affordable. Further, there is the ongoing uncertainty as to which DJJ facilities will be closed in the next 24-36 months. At present DJJ has a patchwork approach to responding to its inadequate and in some cases, deplorable facilities. DJJ must offer a viable plan with budget estimates to fix its facilities. Besides the continuing unsafe and poor conditions of confinement in DJJ facilities, it is difficult to imagine that DJJ can implement a model treatment approach in its current facilities. I have just received a draft facilities plan for DJJ facilities released in June 2008 which I will be reviewing and giving feedback to DJJ. It is anticipated that this facilities plan will be revised and updated.

Until recently, DJJ did not have a clear policy that required systematic reporting of facility maintenance and physical plant problems to Headquarters. Nor was there a Headquarters system to make sure that the most needed repairs were being completed. The recent assignment of Mark Blaser as project coordinator for improving physical plant issues is a very positive step forward.

DJJ has stated that it is waiting to look at the documents from the youth advocate groups who put concerns into writing. If the current policy we have does not address a legitimate gap or problem with maintaining access to courts, they will look at addressing the issue.

Regarding the facilities master plan, and concerns with the facilities receiving feedback and support from HQ staff, that is an item DJJ promises look at in the near future. DJJ is leaning towards going to a standardized automated work order system, as a few facilities have gone ahead and implemented local practices in this area. There are also currently inspection sheets that each facility fills out on all areas (living units, education, admin, medical, warehouse, chapel, etc.) and sends up to HQ. DJJ has committed to follow up with facility staff as to how the identified deficiencies are addressed and resolved.

## **9.0 Special Management Units and Temporary Detention**

Restricting the use of restrictive housing units in DJJ has been an area of real progress. The numbers of youth in SMPs and TD units has declined dramatically and the length of stay in these units has gone down. The delivery of mandated services in the restricted units has been improved.

The monitoring work of Mark Blaser has been an important part of this progress. He has been producing monthly consolidated reports on the population of the restricted housing units and these reports are used by DJJ management to establish corrective action plans. TD populations have been dramatically reduced and short-term programs have been

instituted to return youth to appropriate housing units. Headquarters staff have been designated to assist facility staff to limit the use of facility lockdowns. Facility lockdowns are now limited by policy to less than five days and none have occurred in DJJ in the last year.

Staff have been trained in the new policies on lockdowns and restricted housing units. Youth in restricted housing spend more time out of their rooms and the use of shackles for movement in these units has been reduced or eliminated.

School hours in restricted housing still need to be increased, but the youth have more contact with counselors, mental health staff, and chaplains. The DJJ has missed its deadline to close all of the SMPs and TD units by the end of 2008. There are expectations that the new BTPs will help DJJ accomplish this goal. It remains to be seen how quickly the DJJ can implement the BTPs and if these programs will genuinely improve the conditions of confinement and treatment of the youth who end up in the restrictive housing units.