

Appendix A

Experts' Priorities for Fiscal Year 2008-2009

Between December 2008 and February 2009, the *Farrell* experts identified priority areas for fiscal year 2008-2009 and provided this information to DJJ leadership.¹ The priorities are listed by subject area below.

A. Education Priorities

1. Fill vacant leadership positions as noted on the DJJ organizational chart.
2. Provide access to a 240-minute school day for all eligible students.
3. Increase vocational enrollment.
4. Provide a full and meaningful school day for restricted units.
5. Adjust to downsizing; evaluate and recompute all educational staff allocations.
6. Establish a reliable interface between the WIN system and special education data-collection systems.
7. Assure that IEP progress benchmarks and transition plans are completed and reviewed as required under IDEA.
8. Fill the vacant Superintendent of Education position as quickly as possible to provide the much needed leadership necessary to manage the educational program statewide.
9. Fill vacant central office education positions noted on the organizational chart to provide direction, support and monitoring of the education program.

In providing this list of priorities, the education experts reiterated the importance of the remedial requirements identified by them for inclusion in the “key indicators” section of the dashboard.

B. Health Care Services Priorities

1. Develop and implement standardized nursing protocols and related training program.
2. Develop and implement standardized health record manual that contains policies and procedures and related health record and ancillary forms. Provide training to the field.

¹ See, e.g., e-mail of Zack Schwartz to Michael Brady, February 16, 2009; memorandum of Tom O'Rourke and Robert Gordon to Monica Anderson, June 26, 2008; statements of Logan Hopper to Zack Schwartz during teleconference, February 2009.

3. Develop and implement the standards and compliance program, consistent with the Health Care Remedial Plan.
4. Conduct a study to compare the results of internal peer review with the experts' peer review results. Address any discrepancies.
5. Provide ongoing, interactive training to primary care clinicians regarding management of chronic diseases.
6. Adjust staffing to appropriate levels, in consultation with the medical experts and based on Chris Murray's staffing analysis.
7. Develop a complete set of health care policies that address all NCCHC Juvenile Health Care standards. Review and revise initial policies.
8. Develop and implement a structured and standardized orientation manual for facility health care staff.
9. Resolve the discrepancies, in consultation with the medical experts, between the Health Care Services Table of Organization and the Health Care Remedial Plan.

C. Mental Health Priorities

1. Improve management and treatment of self-harming youth.
 - (a) Train staff on empirically-based treatment(s) on an expedited basis.
 - (b) Implement the Suicide Prevention, Assessment, and Response policy system-wide (and continue evaluation and improvement of the policy as necessary).
2. Building on staff training on an empirically-based treatment(s) for self-harming youth, develop and train staff on empirically-based mental health treatments for other youth. The next priorities should be decreasing youth aggressive and disruptive behavior. Treatments that increase youth capacity to regulate emotions will address both self-harming and externalizing behaviors. Over time, develop and train staff on all the empirically-based treatment programs and methodologies that are part of the IBTM.
3. The implementation of treatment programs should be used as opportunities to better integrate clinical/treatment/program staff and facility staff to achieve fidelity to treatment model, protect clinical autonomy and create an environment supporting treatment and pro-social behavior.

4. Improve psychopharmacologic practice, including the areas of empirically supported prescribing practice, informed consent and psychiatric peer review/quality management.
 - (a) Implement the new psychopharmacology policy (and evaluated it and improve it as necessary).
 - (b) Appropriate peer review of prescription practices.
5. Implement policies, practices and treatments that increase family engagement and involvement in treatment.
6. Ensure access to licensed bed care for youth who need it, and an adequate quality of care.
7. Improve the quality and accuracy of mental health management data on self-injurious behavior.
8. If Ventura closes, ensure that the mental health treatment of females in DJJ custody is not compromised in their new setting.
9. In consultation with the mental health experts, adjust mental health staffing patterns as appropriate, based on population, what is being learned about mental health treatment needs and the Murray and Associates staffing study.
10. Reduce use of force and DDMS (disciplinary) sanctions in response to behavior related to mental illness. Implement use of force and DDMS policies that achieve the results required by the remedial plans.
11. Acquire or develop and mental health monitoring system in order to analyze efficacy of treatment interventions and the treatment needs of its population.
12. Analyze the efficacy of intake screening and assessment instruments.

D. Safety and Welfare Priorities

1. Develop performance indicators for high risk dormitories with the safety and welfare expert and, if necessary, implement alternative risk management strategies for youth in dormitories who are high risk.
2. Phase in behavior treatment programs (BTPs) and eliminate all special management programs (SMPs).

3. Develop plan and schedule for gender-responsive services; contract for services, convert existing facility or build new facility if unable to contract.
4. Fully implement disciplinary system that complies with the Safety and Welfare Remedial Plan (Standards and Criteria item 8.4a, which includes 12 sub-items related to discipline, including four sub-items regarding facility disciplinary coordinators, timelines for hearings, assistance to youth with disabilities, appeals for level 1 infractions, standards for prosecution referrals, earn-back of DDMS time adds, restoration of time at case conferences).
5. Fully implement a Ward Incentive Plan that complies with the Safety and Welfare Remedial Plan (Standards and Criteria item 8.4b includes promoting participation in incentive plan, expanded and standardized points for restorative justice, graduated and expanded sanctions and positive incentives, study of time adds, and plan to reduce common reasons for time adds).
6. Physical Plant Improvements and Master Planning (Standards and Criteria item 8.9 includes quarterly reports on facility conditions by superintendents to Director of Facilities, reports to Chief Deputy Secretary, local monitoring, documentation of maintenance requests. Standards and Criteria item 8.10 includes facilities master plan, operational master plan, plan for prototypical facility and designation of project coordinator for master plans).
7. Produce a detailed written description of the Integrated Behavior Treatment Model (IBTM) that is approved by the safety and welfare and mental health experts.

E. Sexual Behavior Treatment Program (SBTP) Priorities

1. Create organizational chart depicting current reporting relationships in the SBTP statewide.
2. Fill the SBTP coordinator position with a person of experience and leadership capability. The coordinator needs to have the authority to require compliance with his/her directions.
3. Develop the residential and curriculum. Once the main curriculum is developed, the outpatient curriculum will be derived from it.
4. Complete a mental health policy on confidentiality and informed consent that addresses the SBTP.

5. Adjust and implement hours spent in resource groups for youth on residential SBTP units. Specifically, split up the three hours per week requirement into two 90-minute sessions per week. Groups should meet on a schedule, at the same time every week.
6. Develop and offer an array of ten-week resource groups.
7. Adapt groups to accommodate individuals with specific needs such as monolingual Spanish speakers, youth with learning disabilities, and youth with other special issues.
8. Uniform charting of youth treatment and progress.
9. Implementation of evidence-based assessment, J-SOAP (in addition to the non-evidence-based assessment tools mandated by the state, J-SORRAT and Static-99).
10. Ensure that facility staff assigned to SBTP units are assigned based on skills and preference; staff who prefer not to work with SBTP youth should not be assigned to these units.

F. Youth with Disabilities Program Priorities²

1. By July 2006, the Department shall develop and maintain system that documents the mental & physical impairments of wards with disabilities and any reasonable accommodations. The Superintendent shall ensure that the following data is documented for all wards with a disability: (1) name, age, YA number; (2) location by facility, living unit, or parole office; (3) specific impairment; (4) impairments that substantially limit a major life activity; (5) impairments that substantially limit a major life activity and require accommodations; (6) specific accommodations required; (7) need for a Staff Assistant; (8) level of care designation; and (9) classification code.
2. Establish policies to assure that placement of wards with disabilities into restrictive programs is not based either directly or indirectly on a ward's physical or mental disability, or on manifestations of that disability.
3. In consultation with the disabilities expert, the CYA will conduct a study regarding the need for a residential program for wards with certain developmental disabilities. The study will commence within 6 months from the date that the Disabilities Remedial Plan is filed with the court. The CYA shall develop a screening tool to assess the current ward population in order to identify any developmentally disabled wards who may not have

² Priorities in this area are largely reflected by the items included in the key indicators section of the *Farrell* dashboard. Those audit items are included verbatim here.

been previously identified. The CYA shall complete this assessment by Dec., 2006. As part of the clinic screening and assessment process, all wards shall be screened at the reception centers, and as indicated, throughout their stay in the Department, to determine whether they have a developmental disability which may make them eligible under criteria set forth in the ADA and/or may make them eligible to receive services from a Regional Center.

4. Within 12 months of the court approval of the plan, all staff will receive training, prepared with the assistance of an outside disability advocacy organization or consultant, & in consultation with the Disability Expert in sensitivity, awareness, harassment. This training will be provided to all staff on an annual basis.
5. When indicators of an impairment exist, the Intake and Court Services Unit staff shall complete the disability section on the Referral Document and forward to the designated Reception Center and Clinic.
6. Efforts to identify wards with disabilities within youth correctional facilities shall be continuous, and shall include self-referrals, staff-referrals, facility ADA screening & assessment, & special case conferences. A ward may make a self-referral requesting an accommodation for a documented or perceived impairment through an assigned PA, Casework Specialist, or by completing the Referral for Sick Call (RSC) form.
7. A ward may make a self-referral for an accommodation for a documented or perceived impairment through an Education Advisor by completing the Self-Referral to the School Consultation Team (SCT) form. Assigned Casework Specialists shall use a Referral to School Consultation Team (SCT) form to refer a ward to an educational professional to verify the existence of a learning impairment that may limit a major life activity.
8. The principal shall ensure that wards with disabilities enrolled in educational programs have equal access to educational programs, services, and activities.
9. For each special program or activity, evaluate eligibility criteria to assure that wards with disabilities are not excluded when they can perform the essential functions of the activity.
10. Fill vacant facility-level WDP Coordinator positions.³

³ Statements of Logan Hopper to Special Master during teleconference, March 3, 2009.

Appendix B
Status of Items with Modified Deadlines
By Zack Schwartz and Aubra Fletcher, *Farrell* Monitors
May 2009

On February 20, 2009 and March 27, , the Court adopted 's proposed modifications of certain *Farrell* deadlines.¹ Below are status updates related to those items with reset deadlines that expired in 2008, based on expert and Office of the Special Master (OSM) findings as of May 2009.²

A. Education: Classroom Observations (Standards and Criteria item 4.21)

The remedial plan requires that “ at least quarterly classroom observations will be conducted by school administrators and for the School Improvement Review process. The observations will be based on a rubric for Classroom Observation that will be revised to align with the California Standards for the Teaching Profession (CSTP).”³ The revised deadline for this item is October 27, 2008.⁴

The education experts audited all DJJ facilities between October 2008 and May 2009.⁵ Following each audit, the experts provided the parties and OSM with an informal report. Based on these reports, five of 's si facilities are substantially compliant with the classroom observation requirement.⁶ The fourth facility, Stark, received a partial compliance rating. The experts noted:

¹ Order, February 20, 2009, at 2-3; Order, March 27, 2009, at 2.

² Some modified deadlines expired in late February or late March 2009. OSM will provide updates on those items as the monitors gather more information about their status.

³ Education Remedial Plan, p. 35; *see also* Education Remedial Plan Standards and Criteria, p. 11.

⁴ Order, February 20, 2009, at 2.

⁵ The experts audited Chaderjian on October 20-23, 2008, O.H. Close on October 23-24, 2008, Stark on January 12-14, 2009 and May 18, 2009, Preston on February 9-11, 2009, Ventura on May 12-13, 2009, and SYCRCC on May 14-15. A comprehensive report of their findings and recommendations is forthcoming.

⁶ *See* Robert Gordon and Tom O'Rourke, informal report on Chaderjian site visit, October 2008, p. ; Robert Gordon and Tom O'Rourke, informal report on O. H. Close site visit, October 2008, p. “The Rubric for quarterly teacher observations was provided. Observations were being conducted as scheduled. It is noted that some of the observations were not dated or contained incomplete dates.” ; Robert Gordon and Tom O'Rourke, informal report on Preston site visit, February 2009, p. “The quarterly observation schedule for the first quarter 2008 was

The rubric for quarterly teacher observations was provided [at Stark] as well as copies of Quarterly Teacher Observations. Observations are being conducted using this rubric. There is still much work to be done with teachers to monitor records management, lesson planning, grading, formative and summative assessments, classroom instruction, absence recording, as well as other areas to improve the delivery of the curriculum.⁷

B. Mental Health: Organization Charts (Standards and Criteria Items 3.1, 3.2)

The standards and criteria required DJJ to produce an organizational chart for central office consistent with the mental health remedial plan by September 1, 2006.⁸ DJJ was also required to produce organizational charts for each facility, consistent with the remedial plan, by October 1, 2006.⁹ The Court reset these deadlines to October 1, 2008.¹⁰

On February 10, 2009, DJJ filed central office and facility organizational charts with the Court.¹¹ The mental health experts have not yet assessed the accuracy of the facility-specific charts or their consistency with the remedial plan.¹² The experts found DJJ partially compliant with the requirement that it produce an accurate organizational chart for central office mental health staff.¹³ The central office chart depicts the reporting relationships of the two chief psychologists and chief psychiatrist.¹⁴ Although signed by the Chief Deputy Secretary on

provided. All teachers were observed. It was noted, however, that the principal has delegated this responsibility to his assistants. It is recommended that the principal assume some of this responsibility in order to become an integral part of the observation process.” ; Robert Gordon and Tom O’Rourke, informal report on Stark site visit, May 2009, p. 1. “This site is commended for their thoroughness in conducting these teacher observations.” ; Robert

Gordon and Tom O’Rourke, informal report on Stark CRCC site visit, May 2009, p. 1. same .

⁷ Robert Gordon and Tom O’Rourke, informal report on Stark site visit, January 2009, p. 1.

⁸ Mental Health Remedial Plan Standards and Criteria, item 3.1; *see also* Mental Health Remedial Plan, pp. 6-8, 12.

⁹ Mental Health Remedial Plan Standards and Criteria, item 3.2; *see also* Mental Health Remedial Plan, p. 12.

¹⁰ Order, February 20, 2009, at 2.

¹¹ Def’t. Notice of Filing of Updated DJJ Organizational Charts, February 10, 2009.

¹² The experts have noted, however, the prevalence of “unclear lines of authority on mental health residential treatment units. Mental health professionals frequently report that custody staff rides roughshod over mental health recommendations for management of youth on mental health residential treatment units.” Eric Trupin and Terry Lee, informal report on central office site visit, February 2009, pp. 1-2.

¹³ *Id.*, p. 1. The safety and welfare plan also requires a central office organizational chart, and the safety and welfare expert has rated DJJ as partially compliant. Barry Krisberg, informal report on central office site visit (grid), January 2009, p. 3.

¹⁴ *See* Def’t. Notice of Filing of Updated DJJ Organizational Charts, February 10, 2009.

January 23, 2009, the chart does not reflect the fall 2008 creation of the Court Compliance Unit headed by Michael Brady.¹⁵ This reorganization affected the reporting relationships and duties of mental health personnel at central office.¹⁶

The mental health experts are particularly concerned by organizational structure issues that prevent the court's mental health leadership from implementing their clinical judgments.¹⁷ The experts have highlighted the role of non-clinical administrators in the court's failure to provide effective treatment for suicidal behavior.¹⁸ Other cited examples of "inappropriate non-clinical influences on clinical processes" include "protracted administrative review of mental health policies" and "administrative overrides of mental health professional recommendations to step down youth from mental health residential treatment units to less restrictive settings."¹⁹

C. Mental Health: Psychopharmacology Policy (Standards and Criteria Item 8.1b)

The Mental Health Remedial Plan requires DJJ to develop and implement a psychopharmacology policy consistent with relevant remedial plan provisions.²⁰ The revised deadline for this item is December 31, 2008.²¹

DJJ is positioned to implement its new psychopharmacology policy. The Chief Deputy Secretary signed the final version of the policy on January 20, 2009.²² The period for review by

¹⁵ Eric Trupin and Terry Lee, informal report on central office site visit, February 2009, p. 1. A draft organizational chart for central office, which includes the Court Compliance Unit, is included with this report as an attachment to the monitors' comprehensive safety and welfare report.

¹⁶ *Ibid.*

¹⁷ *See, e.g.* Eric Trupin and Terry Lee, informal report on central office site visit, February 2009, pp. 1-2 (discussed more fully below, recommending that "change the current development process to a coordinated and multidisciplinary approach with strong Monitor involvement").

¹⁸ *Id.*, p. 1.

¹⁹ *Ibid.*

²⁰ *See* Mental Health Remedial Plan, pp. 63-64. Some of those provisions overlap with provisions of the Health Services Remedial Plan. *Ibid.*

²¹ Order, February 20, 2009, at 2.

²² Psychopharmacological Treatment Policy Order, April 1, 2009. For additional details, see the monitors' "Safety and Welfare Remedial Plan Audit Items Report of Findings," appended to this special master's report.

the bargaining units ended on March 24, 2009.²³ DJJ has developed consent forms for psychotropic medication in consultation with various *Farrell* experts.²⁴ DJJ also developed a statewide, multidisciplinary training curriculum.²⁵ At the facilities, training for on-site instructors had been provided to 45 medical and mental health staff and 23 mental health clinicians as of February 2009.²⁶ These instructors will train other facility staff in the new policy and procedures.²⁷

D. Safety and Welfare: Policies Master Table of Contents (Standards and Criteria Item 2.1.4a)

DJJ is required to complete a master table of contents for its policy manual.²⁸ The Court reset this deadline from January 15, 2007 to October 31, 2008.²⁹

DJJ completed a master table of contents for its policy manual on October 22, 2008.³⁰ The safety and welfare expert has approved the table and rated it as substantially compliant.³¹ Because the table of contents includes policies from every remedial area, the safety and welfare expert recommended that other experts review the document.³² DJJ provided copies of the table of contents to all experts on October 22, 2008.³³

²³ Eric Trupin and Terry Lee, informal report on central office site visit, February 2009, p. 52. DJJ sent a final version of the policy to the mental health experts and OSM on April 7, 2009. *See* DJJ Proof of Practice #381, April 7, 2009. Dr. Lee reviewed drafts in mid-2008 and generally approved the policy by September 5, 2008. E-mails of Terry Lee to Doug Ugarkovich, July 25 and September 5, 2008.

²⁴ Eric Trupin and Terry Lee, informal report on central office site visit, February 2009, p. 52; *but see* Logan Hopper, draft comprehensive report, May , discussing disability expert's difficulties collaborating with staff in the development of this policy).

²⁵ Eric Trupin and Terry Lee, informal report on central office site visit, submitted February 2009, p. 52. DJJ provided drafts of the training curriculum to the mental health experts and OSM on November 18, 2008. *See* DJJ Proof of Practice #293, November 18, 2008.

²⁶ Eric Trupin and Terry Lee, informal report on central office, February 2009, p. 52.

²⁷ *Ibid.*

²⁸ Safety and Welfare Remedial Plan Standards and Criteria, item 2.1.4a.

²⁹ Order, February 20, 2009, at 2.

³⁰ *See* Master Table of Contents, provided as DJJ Proof of Practice #274, October 22, 2008.

³¹ Barry Krisberg, informal report on central office site visit (grid), January 2009, p. 2.

³² *Ibid.*

³³ *See* Master Table of Contents, provided as DJJ Proof of Practice #274, October 22, 2008.

The table of contents consists of over 100 pages and lists the Department's policies by subject area.³⁴ The table indicates which policies DJJ plans to consolidate, remove, revise, or develop. Over 1000 policies are marked to be reviewed or developed. Some are key to the *Farrell* reform, and others are peripheral.

The table of contents may necessarily evolve as DJJ develops its priorities and capabilities, and it may ultimately prove less important than other planning documents DJJ produces. The special master's office intends to revisit the Department's policy development and project management processes in future reports.

E. Safety and Welfare: Grievance System (Standards and Criteria Item 8.5 (selected sub-items))

The Court reset the deadline for most grievance system requirements from March 31, 2007 to November 1, 2008.³⁵ DJJ issued temporary departmental orders (TDOs) in October 2007 and implemented them in August 2008.³⁶ They will expire if they are not finalized by October 1, 2009.³⁷ One TDO is devoted to regular grievances, and the other outlines staff misconduct complaint procedures.³⁸

In general, the Department is in compliance with the safety and welfare plan's requirements concerning grievances.³⁹ All facilities have installed lock boxes for grievances in their living units and made grievance forms available without assistance.⁴⁰ The new grievance policy limits the grievance clerks' duties to ensuring an adequate supply of forms on the living unit and

³⁴ All statements in this paragraph are based on Master Table of Contents, provided as DJJ Proof of Practice #274, October 22, 2008.

³⁵ Order, February 20, 2009, at 2.

³⁶ See Sixth Report of the Special Master (January 2008), Appendix B (Beltz Report), p. 15; memorandum of Sandra Youngen to superintendents, August 1, 2008.

³⁷ TDO # 07-92 (Youth Grievance), October 1, 2007; TDO # 07-93 (Staff Misconduct Complaint), October 1, 2007.

³⁸ TDO # 07-92 (Youth Grievance), October 1, 2007; TDO # 07-93 (Staff Misconduct Complaint), October 1, 2007.

³⁹ See Barry Krisberg, revised informal report on central office site visit (summary), April 10, 2009, pp. 14-15 noting "substantial progress" in this area. The safety and welfare expert did not assess staff training on the grievance policy or assistance to youth with disabilities during his recent audit. See Safety and Welfare Remedial Plan Standards and Criteria, items 8.5.11a, 8.5.11b, 8.5.13.

⁴⁰ Safety and Welfare Remedial Plan Standards and Criteria, items 8.5.1, 8.5.2; monitor observations and statements of interviewed youth during site visits at all facilities, 2008 to 2009.

educating and assisting youth in the process as necessary.⁴¹ DJJ has adopted a standardized duty statement for facility grievance coordinators that includes the duties specified in the remedial plan.⁴² As of the monitors' site visits between October 2008 and March 2009, all facility grievance coordinators were preparing monthly reports using an automated system.⁴³ Central office personnel review timeframes and the quality of responses on a regular basis, collect and evaluate grievance data, and assist facility staff in developing corrective action plans.⁴⁴ The safety and welfare expert has recently approved the design of a new monthly report form for use by facility grievance coordinators.⁴⁵ Statewide use of this form was scheduled to begin on April 1, 2009.⁴⁶

Not all facilities have demonstrated compliance with the requirement that youth receive notices of receipt of submitted grievances or allegations of misconduct.⁴⁷ OSM will continue to monitor implementation of this requirement in future site visits.

Standards and criteria item 8.5.6 requires DJJ to develop a process to address abuse of the grievance system by youth. The safety and welfare expert found DJJ in partial compliance with

⁴¹ Safety and Welfare Remedial Plan Standards and Criteria, item 8.5.3; monitor observations and statements of interviewed youth during site visits at all facilities, 2008 to 2009.

⁴² Safety and Welfare Remedial Plan Standards and Criteria, item 8.5.9. The safety and welfare expert found DJJ in substantial compliance with this item. Barry Krisberg, informal report on central office site visit (grid), January 2009, p. 26. The safety and welfare plan requires ward grievance coordinators to be responsible for "monitoring timeframes, reviewing and ensuring adequate responses, training staff, holding monthly meetings, training grievance clerks, preparing reports, reviewing data for trends, developing intervention strategies, and conducting inquiries into complaints alleging staff misconduct." Safety and Welfare Remedial Plan, p. 26. The ward grievance coordinator duty statement includes these elements. See DJJ Proof of Practice # 85, March 31, 2007.

⁴³ Safety and Welfare Remedial Plan Standards and Criteria, item 8.5.4; statements of staff during facility site visits, October 2008 to March 2009. Safety and Welfare Remedial Plan Standards and Criteria, item 8.5.7a. The safety and welfare expert found DJJ in substantial compliance with this item. Barry Krisberg, informal report on central office site visit (grid), January 2009, p. 26.

⁴⁴ Safety and Welfare Remedial Plan Standards and Criteria, items 8.5.8a-c. The safety and welfare expert found DJJ in substantial compliance with these three items. Barry Krisberg, informal report on central office site visit (grid), January 2009, pp. 26-28.

⁴⁵ Safety and Welfare Remedial Plan Standards and Criteria, item 8.5.5; Barry Krisberg, informal report on central office site visit (grid), January 2009.

⁴⁶ Statements of Tammy McGuire during SYCRCC site visit, March 2009.

⁴⁷ See Safety and Welfare Remedial Plan Standards and Criteria, item 8.5.7b. For additional details, see the monitors' "Safety and Welfare Remedial Plan Audit Items Report of Findings," June 2009, included in this special master's report.

this requirement.⁴⁸ He commented that the process be reviewed by the mental health and disability experts, and indicated that “some changes may still be needed to protect youth rights, not staff convenience.”⁴⁹ The safety and welfare expert and disabilities expert are concerned that the process does not provide sufficient protections for youth with disabilities and mental health needs; such youth may file multiple grievances for reasons other than intentional abuse of the grievance process.⁵⁰

F. Safety and Welfare: Time-Add Tracking (Standards and Criteria Items 8.4.8b and 8.6.4 (selected sub-items))

Standards and criteria item 8.6.4d requires DJJ to develop a system to report net time added and restored.⁵¹ In order for DJJ to achieve substantial compliance, the safety and welfare expert must approve the system as accurate.⁵² The court reset the deadline for this item from June 30, 2007 to December 7, 2008.⁵³

DJJ has modified its OBITS database to track changes to parole board dates.⁵⁴ The tracking system distinguishes among disciplinary time adds, program (non-disciplinary) time adds, time restorations,⁵⁵ and “program cuts.”⁵⁶ For each category, DJJ calculates the number of time adds or cuts, the number of youth that received time adds or cuts, and the number of months added or cut.⁵⁷ DJJ has produced these figures for July 2008 through September 2008 and is

⁴⁸ Barry Krisberg, informal report on central office site visit (grid), January 2009, p. 26.

⁴⁹ *Ibid.*

⁵⁰ Statements of Barry Krisberg during central office site visit, January 14, 2009; e-mail of Logan Hopper to Barry Krisberg and Aubra Fletcher, January 21, 2009.

⁵¹ Safety and Welfare Remedial Plan Standards and Criteria, item 8.6.4d. DJJ must audit data reliability, based on appropriate statistical measures. *Ibid.*

⁵² *Ibid.*

⁵³ Order, March 27, 2009, at 2.

⁵⁴ See Attachment 1, “Time Add Tracking System,” provided as DJJ Proof of Practice #303, December 5, 2008; “Time Add Tracking System Project Blueprint,” provided as DJJ Proof of Practice #338, January 28, 2008.

⁵⁵ I.e., disciplinary time adds that are reduced by half once a youth has avoided Level 3 disciplinary infractions for a period defined by policy. See Safety and Welfare Remedial Plan, p. 73.

⁵⁶ I.e., time cuts based on a youth’s incentive level and behavior; these are unrelated to disciplinary time adds. See Safety and Welfare Remedial Plan, pp. 73-74.

⁵⁷ See Attachment 1, “Time Add Tracking System,” provided as Proof of Practice #303, December 5, 2008.

tracking this data monthly.⁵⁸ The safety and welfare expert has stated that the current system does not include a wide enough range of data.⁵⁹ DJJ has responded that its system complies with the plan language requiring it to track net time added and restored.⁶⁰ DJJ and the expert appear to disagree regarding this item's relationship to requirements that DJJ analyze time adds and formulate a plan to reduce their frequency (discussed in the following paragraph). At this time, Dr. Krisberg assigns a "beginning compliance" rating to this item.⁶¹

Item 8.6.4b requires Research to conduct a "formal review of the use of and reasons for program (non-disciplinary) time adds."⁶² Within a "reasonable time" thereafter, DJJ must formulate a plan to reduce common reasons for program time adds.⁶³ Similarly, item 8.6.4e requires DJJ to analyze time adds issued and the reasons for them, and item 8.6.4f requires DJJ to develop a plan "to reduce the frequency and duration of time adds based on inadequate access to programs."⁶⁴ The Court reset the deadline for these three items to December 7, 2008.⁶⁵

DJJ completed a study of program time adds in December 2008 and asserts that it has complied with these three requirements.⁶⁶ Based on his review of the study, the safety and welfare expert assigned a "beginning compliance" rating to item 8.6.4b and "noncompliance" ratings to items 8.6.4e and 8.6.4f.⁶⁷ The safety and welfare expert described the time add study as "very superficial."⁶⁸ The study is five pages in length, with one page devoted to analysis.⁶⁹ It appears that only one staff member was assigned to complete it, without assistance from DJJ's

⁵⁸ *Id.*, p. 3.

⁵⁹ Barry Krisberg, informal report on central office site visit (grid), January 2009, p. 31.

⁶⁰ DJJ comments on Barry Krisberg's central office audit, April 24, 2009, p. 6.

⁶¹ Barry Krisberg, informal report on central office site visit (grid), January 2009, p. 31.

⁶² Safety and Welfare Remedial Plan Standards and Criteria, item 8.4.8b.

⁶³ *Ibid.*

⁶⁴ *Id.* at item 8.6.4e-f.

⁶⁵ Order, March 27, 2009, at 2.

⁶⁶ See Attachment 1, "Time Add Tracking System," provided as proof of practice, December 7, 2008; DJJ comments on Krisberg draft report, April 24, 2009, pp. 6-7.

⁶⁷ Barry Krisberg, informal report on central office site visit (grid), January 2009, pp. 25, 31.

⁶⁸ Barry Krisberg, revised informal report on central office site visit (summary), April 10, 2009, p. 13.

⁶⁹ See Attachment 1, "Time Add Tracking System," provided as proof of practice, December 7, 2008.

research unit.⁷⁰ The staff member reviewed 164 files, representing all non-disciplinary time adds for six months of 2008.⁷¹ The study does not indicate how the staff member analyzed the 164 files.⁷² The study concludes that “the majority of time additions were given as a result of behavioral issues and/or a lack of progress in treatment” and “no time additions were given to youth not having access to programs in facilities.”⁷³ The study does not indicate what data support these conclusions.⁷⁴

The safety and welfare expert described _____’s study as focused on gauging staff compliance with policy rather than looking “at how alternatives and graduated sanctions could be more widely employed,” indicating his interest in both disciplinary and program time adds.⁷⁵ The safety and welfare plan itself requires attention to both types of time adds:

The Chief Deputy Secretary will establish a team of internal and external experts to develop a broader array of graduated sanctions and to propose additional positive incentives. This team will explore the possibility of further reducing projected board date extensions as a disciplinary measure in the long term.⁷⁶

The safety and welfare expert has offered to conduct an independent analysis of the subject for DJJ.⁷⁷ DJJ intends to include him in an upcoming analysis of program time adds.⁷⁸ OSM notes that adding disciplinary time adds to the scope of this study would further DJJ’s compliance with the mandate quoted above.

⁷⁰ Statements of staff to Barry Krisberg during safety and welfare central office audit, January 13, 2009.

⁷¹ *Ibid.*

⁷² See Attachment _____, “Time Add Tracking System,” provided as _____ proof of practice _____, December _____, _____, p. 3.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ Barry Krisberg, revised informal report on central office site visit (summary), April 10, 2009, p. 13.

⁷⁶ Safety and Welfare Remedial Plan, p. 71.

⁷⁷ Barry Krisberg, revised informal report on central office site visit (summary), April 10, 2009, p. 14.

⁷⁸ *Ibid.*