

SUPERIOR COURT OF CALIFORNIA  
CITY AND COUNTY OF ALAMEDA

MARGARET FARRELL, )  
 ) CASE NO. RG03079344  
 Plaintiff, )  
 )  
 vs. )  
 )  
 MATTHEW CATE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

ELEVENTH REPORT OF SPECIAL MASTER

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## I. INTRODUCTION

This report revisits the areas of organizational structure and management effectiveness, policy development and dissemination, contracting and accounting, information technology and personnel processes. It describes the status of the experts' work on the integrated behavior treatment model. It attaches a co-itors' report on the mental health issues monitored by the office of the special master " SM" . It also attaches a summary of priorities designated by the experts in each remedial area and an update on the compliance status of certain requirements for which the Court reset deadlines this year.

The mental health experts provided their draft formal report to the special master and parties in late August 2009. DJJ did not provide comments on the experts' draft report until November 17, 2009. The special master expects to provide the Court with the experts' final report in December 2009. The safety and welfare expert submitted a draft report for comment in late September. He has finalized his report after receiving comments from the OSM and the parties, at the end of October 2009. His report will be attached to the next report of the special master, with accompanying reporting by the special master.

## II. ORGANIZATIONAL STRUCTURE AND MANAGEMENT EFFECTIVENESS

The safety and welfare and mental health plans require DJJ to build the organizational capacity to manage the transformation required in this case.<sup>1</sup> DJJ was sorely lacking in organizational capacity in 2005 and 2006 when these key plans were

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<sup>1</sup> See Safety and Welfare Remedial Plan, Section 2, pp. 12-16; Mental Health Remedial Plan, pp. 75.

written.<sup>2</sup> The safety and welfare plan requires that DJJ develop an appropriate organizational chart; fill key management positions; detail a high-level manager to direct the project of remedial plan compliance; and dedicate a substantial number of staff to planning, implementing, and monitoring new initiatives and programs.<sup>3</sup> The mental health plan similarly requires increased and improved management capabilities and resources.<sup>4</sup>

### A. Central Office Organization and Capacity

#### 1. Organizational Chart and Structure

The safety and welfare plan articulates principles for organizational structure and requires organizational charts that align with those principles.<sup>5</sup> At the time the plan was written in 2006, after the 2005 merger into CDCR, DJJ did not have a central office organizational chart.<sup>6</sup> In April and October 2007, DJJ provided the special master and experts with an unofficial and incomplete central office chart. By February 2008, DJJ provided a relatively complete and adequate chart, which was signed and made official in May 2008. By doing so, DJJ came into compliance with the safety and welfare requirement that it create and maintain a central office organizational chart.

Since May 2008, DJJ has reorganized some central office staff, and its recent organizational charts reflect this.<sup>7</sup> Several concerns previously raised by experts have

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<sup>2</sup> See Seventh Report of the Special Master, pp. 4-5; Murray, et al., *Implementing Reform In California*, March 31, 2006, pp. 1, 19.

<sup>3</sup> See Safety and Welfare Remedial Plan, Section 2, pp. 12-16.

<sup>4</sup> See Mental Health Remedial Plan, p. 75.

<sup>5</sup> See Safety and Welfare Remedial Plan, pp. 12-14.

<sup>6</sup> See Seventh Report of the Special Master (April 2008), pp. 5-6. The information in the remainder of this paragraph is also based on this source. Facility organizational charts are discussed in OSM and expert reports that address the various relevant requirements.

<sup>7</sup> See, e.g., See DJJ Quarterly Report (July 31, 2009), “Organizational Charts” section.

been resolved.<sup>8</sup> DJJ is in compliance with the safety and welfare requirement that it maintain a central office organizational chart, though the experts and DJJ continue to discuss central office organization issues.<sup>9</sup>

## 2. Central Office Vacancies

There are 2 established positions for the central office available out of 9 of which are vacant.<sup>10</sup> This reflects a decrease both in central office authorized positions and in the number of central office staff employed since April 2008, when personnel tracking showed that 85 of 397.6 total authorized positions were vacant.<sup>11</sup> It also reflects a decrease since June 2009 when personnel tracking showed that there were 86 of 302 established positions vacant.<sup>12</sup> The special master draws no conclusions from the current proportion of vacancies because it is possible that a significant number of the established

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<sup>8</sup> Of issues previously raised by the experts, two relatively minor issues remain. First, instead of a single highest dental authority, the chart depicts three chief dentists. See Deft. Notice of Filing of Updated DJJ Organizational Charts, February 10, 2009, Exhibit A. This is not acceptable to the dental services expert. See e-mail of Dr. Don Sauter to Aundra Fletcher 1/2/2009 re proposed staff model and how to resolve this issue if implemented. E-mail of Dr. Don Sauter to Aundra Fletcher, July 25, 2009. Second, the chart still does not depict necessary administrative and clerical support for mental health management. See Seventh Report of the Special Master (April 2008), p. 7; Deft. Notice of Filing of Updated DJJ Organizational Charts, February 10, 2009, Exhibit A. The medical experts have resolved their concerns related to the reporting relationship of the medical director to the program director; these concerns were noted in the Seventh Report of the Special Master (April 2008), p. 6. Given the decrease in the number of medical experts supporting the proposal to modify the relationship, the special master will not address this issue. See e-mail of Madeleine LaMarre to Rachel Stern, et al., May 5, 2009.

<sup>9</sup> Recently, Dr. Schwartz again raised the issue of whether the sexual behavior treatment coordinator has authority sufficient to discharge her duties, and the education experts noted inaccuracies in a recent chart as it pertained to their area. See statements of Barbara Scott to the Special Master re the dental services experts' testimony at 2/2/2009 e-mail of Aundra Fletcher to Doug Ugarkovich, et al., September 10, 2009 attached to the title "Dashboard Responses by Education Experts).

<sup>10</sup> This information is based on the comments to a draft of this report provided to the special master in 2009. The attributes of these positions are set forth in the 2009 "Position Reconciliation Report." Not all of the current positions will remain established, as not all of them are funded for this fiscal year. *Id.*

<sup>11</sup> See Seventh Report of the Special Master (April 2008), p. 8, p. 8 n.28.

<sup>12</sup> Statements of DJJ personnel operations support personnel staff during site visit, June 22, 2009.

positions can be eliminated.<sup>13</sup> DJJ has a contract with Christopher Murray and Associates for an analysis of central office functions, staffing, and staffing needs.<sup>14</sup>

Most of the specific vacancy issues that the special master previously reported have been resolved. DJJ filled the superintendent of education position in September 2009.<sup>15</sup> DJJ has staffed the medical records management position adequately.<sup>16</sup> DJJ Chief Psychiatrist Ed Morales returned from military leave, which has made it possible for Dr. Arguello to serve as the full-time senior mental health administrator; Dr. Arguello oversees and directs implementation of the mental health plan.<sup>17</sup> There are no vacancies among the mental health training team positions, though two positions required by the mental health plan were eliminated rather than filled.<sup>18</sup> The special master has queried the experts, and none has identified critical issues of central office vacancies.<sup>19</sup>

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<sup>13</sup> For example, DJJ needs three or four capable managers reporting to the superintendent of education, responsible for curriculum, special education, vocational education, and student services, in the place of a greater number of education positions on the organization chart. State e-lets of To 'Ro r e to the special master, July 26, 2009. It needs substantially fewer central office positions related to safety and welfare than are currently authorized. E-mail of Barry Krisberg to special master, July 26, 2009. DJJ needs to reduce management dental staff from three chief dentists to one. *E.g.*, e-mail of Dr. Don Sauter to Aubra Fletcher, July 24, 2009.

<sup>14</sup> Statements of DJJ operations support personnel management staff, July 23, 2009. As of July, the estimated date of completion for the central office study was October 2009. Statements of Christopher Murray, July 29, 2009. The special master unsuccessfully had pressed DJJ to authorize the central office analysis on the same schedule as the analysis of facility staffing.

<sup>15</sup> Tenth Report of the Special Master (September 2009), p. 8.

<sup>16</sup> *See* Seventh Report of the Special Master (March 2008), p. 10; Ninth Report of the Special Master (June 2009), pp. 4-5 and Appendix C (Goldenson/LaMarre Report), pp. 14-15.

<sup>17</sup> *Cf.* Seventh Report of the Special Master (April 2008), p. 10 (Dr. Arguello served as chief psychiatrist as well). The special master has communicated with Drs. Morales and Arguello in their separate capacities since r Morales' return.

<sup>18</sup> Statements of Chief Psychiatrist Ed Morales to the special master, August 13, 2009. The mental health plan (pp. 75-76) requires at least 3 licensed clinicians, an instructional designer, and an office technician. The current authorized and filled positions are two clinicians and an instructional designer. Statements of Chief Psychiatrist Ed Morales to the special master, August 13, 2009. If DJJ contends that the reduction in its population and number of facilities justifies this reduction in positions, it should proceed under the consent decree to seek to modify the plan. The special master has referred this issue to the mental health experts. *See* e-mail of Donna Brorby to Terry Lee and Eric Trupin, August 17, 2009.

<sup>19</sup> *See* e-mail of special master to *Farrell* experts, July 26, 2009; e-mail of Barry Krisberg to the special master, 12 2009 state e-lets of To 'Ro r e during teleconference, July 26, 2009. The special master did not obtain updated information about the sufficiency of clerical support for health services.

### 3. Project Management

earl 2008's capacity to address a project of compliance with the remedial plans continued to be inadequate. Having missed many deadlines set by the safety and welfare and mental health plans, DJJ was unable to project when it would accomplish the tasks for which the deadlines had been missed.<sup>20</sup> Since that time, its project management capacity has markedly improved.

DJJ retained Delegata Corporation and Christopher Murray and Associates to identify the tasks required to comply with the remedial plans, to help project a schedule for the performance of those tasks, and to develop a system for tracking and reporting its progress toward compliance, among other things.<sup>21</sup> As projects were defined and responsibilities divided, DJJ worked primarily with Delegata Corporation on project management issues.<sup>22</sup> DJJ, in consultation with Delegata Corporation, continues to refine

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According to personnel records reviewed by the special master on July 23, 2009, several health services support staff positions are vacant and a limited term training position remains unfilled.

<sup>20</sup> See, e.g., Seventh Report of the Special Master (April 2008), p. 12.

<sup>21</sup> See *id.*, pp. 12-15; Order, October 27, 2008, pp. 11-12.

<sup>22</sup> Statements of Christopher Murray to special master, July 16 and 29, 2009. Christopher Murray and Associates' prior projects were the development of a comprehensive staffing analysis and the development of "essentials" to set staffing patterns for the future. *Id.*; see also Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), pp. 63, n.594. The staffing business rules were filed as a proposed modification of remedial plan staffing provisions on July 30, 2009. See Order re: Modification of Remedial Plan in Accord with Division of Juvenile Justice Staffing Model and Business Rules and Sealing of Staffing Model and Business Rules, July 31, 2009. Christopher Murray and Associates also consulted with DJJ on formatting and automating parts of its quarterly report, and on issues related to closures of facilities related to S.B. 81 population reductions. Statements of DJJ staff during meeting of parties, experts, and special master, August 2008; statements of Christopher Murray to the special master during teleconference, July 29, 2009.

and streamline its new project management system.<sup>23</sup> OSM is pleased to see an emphasis on simplification.<sup>24</sup>

Under its new project management structure, DJJ categorizes *Farrell* compliance requirements as “tasks” “major projects” and “chartered projects.”<sup>25</sup> DJJ is creating a master schedule of all tasks and minor projects, and the schedule will identify needed resources.<sup>26</sup> Projects of a certain complexity constitute a “project charter” which identifies project goals and needed resources.<sup>27</sup> The Administrative Project Review Board (APRB) chooses a team to draft the charter.<sup>28</sup> Once the charter writers present the draft charter to the APRB, it is presented to the directors of a project lead.<sup>29</sup> A project team forms and develops a project plan and a project schedule, with support from the project lead’s office.<sup>30</sup> The schedule must be approved by the APRB and

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<sup>23</sup> Statements of Michael Brady during central office site visit, July 23, 2009; statements of Sandra Chamberlin and Tami McKee-Sani during central office site visit, June 22, 2009; *see also* “Reform Management Structure” *Version 2* release date project charter 2009 “Project Management Office Manual” *Version 2* release 2 charter 2009

<sup>24</sup> Some experts believe that a lot of staff time and effort to the mechanics of the project management processes, including time spent in large-group meetings, is necessary. *See, e.g.*, statements of Barry Krisberg, January 15, 2009; statements of Barbara Schwartz, March 10, 2009.

<sup>25</sup> Statements of Juan Carlos Arguello during central office site visit, February 18, 2009; *see also* Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), Attachment 7, Project schedule listing, *e.g.*, chartered projects and minor projects, undated (PoP #362, March 12, 2009).

<sup>26</sup> Statements of Dolores Slaton during central office site visit, June 22, 2009; statements of Sandra Chamberlin during DJJ Court Compliance Task Force meeting, September 10, 2009 (explaining that a first draft of the schedule exists but that the projected completion date has been delayed).

<sup>27</sup> An example of a project charter is attached to the Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), Attachment 4, Draft Project Charter: Comprehensive Classification System, February 25, 2009. *See also* *see also* *see also* “Site Reform Management Structure” training materials *see also* 200 pp 2-13. DJJ describes the project charter in its Glossary of Terms for Project Management “The purpose of the Project Charter is to achieve an agreement between management and the Project Leader regarding communicating project expectations. It authorizes the existence of the project and provides the Project Leader authority to apply organizational resources to the project activities.” *Id.*, p. 12.

<sup>28</sup> Statements of Tami McKee-Sani during central office site visit, June 22, 2009. The charter writers are chosen from the “Architecture Team” and project representatives. *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* OSM has not seen an example of a project plan, but sample project schedules are attached to the defendant’s Response to the court’s October 2, 2009 order and October 2, 2009 Exhibits M, R, T, U, V, and Z.

's directors<sup>31</sup> Once approved, implementation of the schedule begins, and the project team is expected to meet regularly to track compliance.<sup>32</sup> The project management office prepares a detailed risk assessment that identifies barriers to project completion and strategies to address those barriers.<sup>33</sup> The head of the APRB reports that she reviews the status of project milestones each week.<sup>34</sup>

The project management processes are coordinated across disciplines, at least in part by convening multi-disciplinary groups to discuss major project planning.<sup>35</sup> Project planners devote increased attention to identifying and mitigating barriers and delays.<sup>36</sup> DJJ more thoroughly plans and tracks its steps toward compliance in light of the findings of the Special Master's last report on project management issues.<sup>37</sup> DJJ employed its newly developed planning processes to propose modified deadlines for certain remedial requirements in November 2008.<sup>38</sup> Many of the requirements with reset deadlines have seen significant progress.<sup>39</sup> DJJ has also completed a number of policies that were lagging.<sup>40</sup>

In late 2008 and early 2009, DJJ replaced its *Farrell* project manager and reorganized its central office reform and compliance teams under Chief of Court

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<sup>31</sup> Statements of Tami McKee-Sani during central office site visit, June 22, 2009.

<sup>32</sup> *Id.* As of June 2009, these meetings were not occurring regularly. *Id.*

<sup>33</sup> See Appendix A, DJJ, Reform Development Phase Issue Logs.

<sup>34</sup> See statements of Tami McKee-Sani during central office site visit, June 22, 2009.

<sup>35</sup> Statements of staff and observations of OSM monitors during central office site visits, November 4, 2008 and June 22, 2009. As noted below, communication and coordination between IT and program area staff as a project area as a result of the project management processes.

<sup>36</sup> See, e.g., Appendix A, DJJ, Reform Development Phase Issue Logs; see also "Site Reform Management Structure" training materials, December 2008.

<sup>37</sup> See Seventh Report of the Special Master (April 2008), p. 12.

<sup>38</sup> See Staff Response to the Court's October 2, 2008 Order, October 2, 2008, p. 12.

<sup>39</sup> See generally Appendix B (Status of Items with Modified Deadlines); Ninth Report of the Special Master (June 2009), Appendix B (Status of Items with Modified Deadlines).

<sup>40</sup> See policies section, below.

Compliance Michael Brady.<sup>41</sup> Mr. Brady reports directly to Chief Deputy Secretary Warner. The court compliance unit consists of about 40 members, including remedial area team leaders and supervisors, as well as representatives from information technology, policy, project management, and others.<sup>42</sup> The unit meets weekly, and leadership from all DJJ facilities join via videoconference.<sup>43</sup> OSM monitors and some of the experts regularly participate in the meetings.<sup>44</sup> The operational structure of the court compliance unit differs somewhat from the arrangement envisioned in the safety and welfare plan, but effectively meets the plan's requirements.<sup>45</sup>

The new leadership, organization, and increased staff resources directed at planning and tracking steps towards compliance are very positive steps. Central office staff, the special master, and multiple court-appointed experts have noted that the court compliance unit's problem-solving approach is a testament to Mr. Brady's position. These changes have resulted in improved identification of and response to obstacles to compliance.<sup>46</sup>

#### 4. DJJ Progress Reporting

The consent decree requires that the quarterly reports "report on progress made, compliance with deadlines and actions taken in implementing this decree."<sup>47</sup> The quarterly reports include a "snapshot" of the most recent audit ratings in respect to "indicators" of compliance test results of Farrell-

<sup>41</sup> See, e.g., statements of Bernard Warner during staff training, December 4, 2008.

<sup>42</sup> See DJJ Quarterly Report, January-March 2009 "Operational Matters" section "Part 2" Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 3.

<sup>43</sup> See Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), p. 3.

<sup>44</sup> *Id.*

<sup>45</sup> See *id.*, pp. 2-3, 11; Seventh Report of the Special Master (March 2008), pp. 15-16.

<sup>46</sup> The special master has brought a number of issues to Mr. Brady and his team, which they have succeeded in addressing quickly and appropriately. Most of the experts have mentioned to the special master that they have had similar experiences. See, e.g., Krisberg informal report on central office audit, April 2009. Several DJJ staff have expressed the same observation to the special master. Mr. Brady reports directly to the Chief Deputy Director. DJJ Quarterly Report, January-March 2009 "Operational Matters" section

<sup>47</sup> See Consent Decree at ¶¶ 32 and 25.

related policies under development, and certain outcome trends.<sup>48</sup> The quarterly report also depicts cumulative expert compliance ratings, by percentage of substantial compliance, partial compliance, and non-compliance ratings.<sup>49</sup> The special master's office spot-check reports' depiction of expert ratings as evidence for a significant error.<sup>50</sup> Generally, DJJ has increased the percentage of compliance ratings and decreased the percentage of noncompliance ratings, which demonstrates progress toward meeting enumerated individual requirements of the remedial plans. The cumulative ratings data do not constitute a definitive measure of how close DJJ is to achieving full compliance with its remedial plans, however, because of vast differences in the scope and importance of individual remedial plan requirements.<sup>51</sup> That is, substantial compliance with 80% of the enumerated compliance items of a single *Farrell* plan does not necessarily indicate that 80% of the work is done.<sup>52</sup>

remedial projects the special master asks experts to submit "proofs of practice" or "PoPs." These PoPs document the parties' actions and progress toward compliance with the remedial plans. DJJ now provides a great deal of requested information to all experts and monitors in connection with site visits. Through the combination of the quarterly reports,

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<sup>48</sup> SM Plattiff's counsel also asks experts to provide feedback to OSM regarding the report's format and content. *See, e.g.*, e-mails of Aubra Fletcher to parties, July 8, 2009, September 4, 2009, September 10, 2009; statements of Sara Norman during teleconference, September 8, 2009. OSM views the dashboard as a work in progress and finds the document increasingly useful as DJJ makes improvements.

<sup>49</sup> *See* DJJ Quarterly Report, June 30, 2009.

<sup>50</sup> The special master has spoken with OSM about the parties' court compliance with the reports on several occasions, in person and by telephone, and has been impressed by his effort and care in producing the cumulative summaries of expert findings. She also spoke to Chris Murray in 2008 when he worked with DJJ to partially automate the report.

<sup>51</sup> Individual items rated in safety and welfare, for example, range from making grievance forms directly accessible to youth (8.5.1) to developing a treatment model (5.2) and completing conversion of a facility to the treatment model (6.1c). *See generally* Safety and Welfare Remedial Plan Standards and Criteria.

<sup>52</sup> Also, because some plans have many more, and therefore more discrete, requirements designated for monitoring than other plans, and because some plans require greater changes than other plans, compliance with 80% of the enumerated items of one plan would not be equivalent to compliance with 80% of the enumerated requirements of another plan.

PoPs, and documents provided at site visits, DJJ is meeting the consent decree requirement for quarterly reporting.<sup>53</sup>

Additional examples of the Special Master's methods for tracking and demonstrating progress include:

- Project schedules for "critical" projects<sup>54</sup> and information technology projects;<sup>55</sup>
- "Solution Status" reports for certain projects<sup>56</sup>
- Compliance assessment reports;<sup>57</sup> and
- Corrective action plans and corresponding compliance reports.<sup>58</sup>

These documents assist DJJ in organizing to meet remedial plan requirements,<sup>59</sup> and they assist OSM in monitoring compliance.

#### B. Policy Development and Dissemination

Since the Special Master's last report on the Special Master's policy processes, DJJ has finalized and distributed a number of policies to its facilities. These include the disciplinary decision-making system (DDMS); use of force; program credits; suicide prevention, assessment, and response; forensic evaluations; and psychopharmacological treatment

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<sup>53</sup> In the past DJJ included a summary of significant developments in each subject area in its quarterly reports. The Special Master's office will explore this practice to determine if it is in the best interests of the parties to reinstate this practice, as a part of meeting the quarterly reporting requirement to report on progress made, compliance with deadlines, and actions taken to comply with the consent decree and remedial plans.

<sup>54</sup> Sample project schedules are attached to Defendant's Response to the Court's Order 2-2008-01-001-001, November 21, 2008, Exhibits J, M, Q, R, T, U, V, and Z.

<sup>55</sup> See, e.g., Appendix C, Project Data Sheet: DDMS Mental Health Treatment Plan, June 16, 2009.

<sup>56</sup> See, e.g., Appendix D, Solution Status: Law Library (Electronic), November 2008.

<sup>57</sup> See, e.g., DJJ Farrell Compliance Unit, Executive Summary: SB 518, AB 1300 and Safety and Welfare Remedial Plan 8.3 Compliance Assessments, August 8, 2008 (PoP #221, August 21, 2008).

<sup>58</sup> See, e.g., DJJ, Education Audit of Lyle Egan High School: Corrective Action Plan, January 12, 2009 through January 14, 2009 (finalized in April 2009); statements of Michael Brady during Case Management Conference, July 9, 2009.

<sup>59</sup> See DJJ, Response to Draft 11<sup>th</sup> Special Master's Report provided November 17, 2009.

policies.<sup>60</sup> The completion and implementation of these policies represent important steps forward.<sup>61</sup>

The policy development process is as follows. Staff working in the relevant program area(s) send a draft policy to the policy unit.<sup>62</sup> A policy analyst then reviews all related policies, researches relevant legal authorities, meets with the policy drafter, and formats the policy document. The analyst forwards a revised draft to the directors, chief deputy secretary, and counsel for review and comment. The executive policy review team has five days to review the policy. Counsel has fifteen days to complete its review. Once the policy analyst receives all comments, he or she convenes a case conference with all relevant directors, attorneys, and staff. Agreement is generally reached on the various comments at these case conferences, though occasionally policies undergo multiple rounds of review and comment. Once all comments are addressed, the chief deputy secretary signs the policy.

A signed policy is often not immediately implemented, though DJJ reports recent improvements in this regard. Program area staff prepare a labor negotiation tool as part of the policy drafting process.<sup>63</sup> After a policy is signed, the labor liaison office reviews and approves the negotiation tool and sends it to the Director's Office of Labor Relations. This office sends the tool to the appropriate staff office.

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<sup>60</sup> See Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), pp. 4-7.

<sup>61</sup> The experts expect evolution of the DDMS and use of force policies, for example, with the implementation of the IBTM. *E.g.*, statements of Eric Trupin and Arris Erri "etal ealt s it" to parties on 20 2009 statements of Arris Erri telep o eco fere ce it central office staff concerning DDMS policy, December 16, 2008; Terry Lee and Eric Trupin, Farrell Metal ealt Experts' 2009 Site Visit Summary [draft], provided August 19, 2009, pp. 6-7.

<sup>62</sup> The policy may begin with the project charter or minor project process described above. Program staff are to send the draft policy simultaneously to the training unit to develop training curriculum for staff. Unless otherwise noted, the information contained in this and the following paragraph is based on statements of policy unit manager Flores Slato to the SM's central office site visit on June 22, 2009.

<sup>63</sup> DJJ, Response to Draft 11<sup>th</sup> Special Master's Report provided October 2009

of the policy's implementation.<sup>64</sup> Until recently, DJJ often delayed policy implementation pending labor negotiations. If the negotiations resulted in substantive changes to the policy's internal review process would sometimes begin anew.<sup>65</sup> Following the special master's successive orders, the Office of Labor Relations reached an agreement to allow *Farrell* policy implementation prior to the completion of labor negotiations.<sup>66</sup>

Throughout the policy development process, the policy unit now maintains a policy "dashboard" designed to depict the policy's development schedule and status.<sup>67</sup> The dashboard tracks the status of new policies up to but not including the implementation phase.<sup>68</sup> Program area staff and internal compliance monitors are charged with tracking policy implementation.<sup>69</sup>

The special master's recent report cites the lack of accurate prioritized list of needed policies as a barrier to efficient policy development and implementation.<sup>70</sup> In November 2008, as a part of its new project management process, DJJ compiled a coded list of all *Farrell* requirements.<sup>71</sup> It has also created a list of prioritized projects that

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<sup>64</sup> Statements of Michael Brady to Aubra Fletcher, February 20, 2009.

<sup>65</sup> Also, two policies were piloted, rewritten, and re-reviewed following their initial signing (suicide prevention, assessment and response policy and the program service day policy).

<sup>66</sup> DJJ, Response to Draft 11<sup>th</sup> Special Master's Report pro i e o e er 2009

<sup>67</sup> See DJJ, *Farrell* Policy Dashboard: As of 6/23/09 (filed with the Court on July 9, 2009). DJJ did not file an updated version of this document with its most recent dashboard, based on needed changes identified by SM a Plai tiff's co sel See Deft. Notice of Filing Updated Key Indicators and Other Items to Assist the Court in Mo itori 's o plia ce it Re e ial Pla s Septe er 9 2009

<sup>68</sup> See DJJ, Policy Dashboard: Executive Summary [draft], provided September 3, 2009. Currently, of post-adoption events, the policy unit only tracks whether facilities adopt required local procedures. Statements of Dolores Slaton during central office site visit, June 22, 2009. The facilities reportedly are not adopting these procedures. *Id.*

<sup>69</sup> Respo se to raft t Special Master's Report pro i e o e er 2009

<sup>70</sup> See Seventh Report of the Special Master (April 2008), p. 20.

<sup>71</sup> See Sei lit " itial al sis a Sorti of Re ire e ts" o e er 200

includes needed policies.<sup>72</sup> Though not all needed policies have been listed and prioritized, the current planning processes are sufficient to identify needed policies on an ongoing basis.<sup>73</sup>

### III. BUSINESS SYSTEMS ISSUES

In late 2006, the Director of California's state-run youth and adult corrections systems established a "matrix" interface with the R for business services including budgeting, accounting, contracting, information technology, and personnel management.<sup>74</sup> In 2007, the special master released a report on the office's inefficiencies including medical vacancies and contracting for necessary medical services, due to business systems issues.<sup>75</sup> By late 2006 and early 2007, it was apparent that the matrix was not working for DJJ, especially in the areas of contracting and personnel management.<sup>76</sup> CDCR finally took responsibility for addressing the issues in mid-2007, and the special master reported improvements by early 2008.<sup>77</sup> CDCR managers were improving CDCR business services functions generally, and the then-new DJJ operational support unit was

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<sup>72</sup> See Ninth Report of the Special Master (June 2009), Appendix D (Schwartz and Fletcher Report), Attachment 7 (Project schedule listing, e.g., chartered projects and minor projects, undated (PoP #362, March 12, 2009)).

<sup>73</sup> See statements of Dolores Slaton during central office site visit, June 22, 2009. DJJ produced a policies master table of contents in October 2008. Ninth Report of the Special Master (June 2009), Appendix B (Status of Items with Modified Deadlines), pp. 4-5. The office's policy manual table of contents was meant to gather already-identified policies into one manual; the purpose of the table of contents was not to describe what policies needed to be updated. See statements of Dolores Slaton during central office site visit, June 22, 2009.

The seventh report also indicated that after becoming policy manager in January 2008, Dolores Slaton circulated a list of 90 *Farrell*-related policies to the directors soliciting their priorities for policy development related to their areas of responsibility. See Seventh Report of the Special Master (April 2008), p. 21. Ms. Slaton reports this year that this effort was abandoned because it was deemed inefficient. See statements of Dolores Slaton during central office site visit, June 22, 2009.

<sup>74</sup> See Fifth Report of the Special Master (October 2007), pp. 11-12.

<sup>75</sup> See Third Report of the Special Master (November 2006), pp. 14-15.

<sup>76</sup> See Fourth Report of the Special Master (June 2007), pp. 4-6, 20-21, Appendix C; Fifth Report of the Special Master (October 2007), pp. 11-15.

<sup>77</sup> See Seventh Report of the Special Master (March 2008), pp. 26-32.

developing an effective interface between DJJ and CDCR business services.<sup>78</sup> These efforts have largely proven successful, and it appears that business systems issues no longer present significant impediments to remedial plan compliance. They are a a ea le a Ra are a a i t e Yet 's ce tral office s o l e more diligent to ensure that it identifies and responds issues encountered by DJJ facilities, as discussed below.

### A. Contracts

fter Y 's 200 er er it Ra t ro i -2007, DJJ had great difficulty entering into essential contracts, and this compromised its attempts to comply with the *Farrell* remedial plans.<sup>79</sup> The merger made DJJ dependent on a CDCR office to process large contracts requests; this office was overwhelmed and not functioning well even for the adult system.<sup>80</sup> DJJ and the CDCR contracts office did not have a functional relationship.<sup>81</sup> Contract requests were not effectively tracked, and some were lost for indeterminate periods of time.<sup>82</sup>

R fi all foc se o 's si ess iss es i i -200 a create 's operational support unit, staffing it with an experienced CDCR contracts manager, among

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<sup>78</sup> *See id.*

<sup>79</sup> *See* Fourth Report of the Special Master (June 2007), pp. 4-6, 20-21, Appendix C; Fifth Report of the Special Master (October 2007), pp. 11-15; Seventh Report of the Special Master (March 2008), pp. 26-27.

<sup>80</sup> *Id.*; *see also* Order Re State Contracts and Contract Payments Relating To Service Providers For CDCR Inmate Patients, March 30, 2006, *Plata v. Schwarzenegger*, Civil Action No. C01-1351 THE, in the United States District Court for the Northern District of California.

<sup>81</sup> *See* Fourth Report of the Special Master (June 2007), pp. 4-6, 20-21, Appendix C; Fifth Report of the Special Master (October 2007), pp. 11-15; Seventh Report of the Special Master (March 2008), pp. 26-27. The special master attended meetings of DJJ and CDCR contracts staff on June 13 and July 11, 2007, and former OSM monitor Cathleen Beltz attended such a meeting on August 15, 2007, during which CDCR and DJJ discussed systems for working better together. *See* Fourth Report of the Special Master (June 2007), Appendix C. This also is oc e te i o a ror a at lee elt 's otes of t ose eeti s and in e-mail from Katie Riley to Cathleen Beltz, August 14, 2007.

<sup>82</sup> *See* Fourth Report of the Special Master (June 2007), p. 4 n.8; Seventh Report of the Special Master (March 2008), pp. 26-27. Contracts staff interviewed by monitor Zack Schwartz during an October 2008 Stockton site visit described their past difficulties with CDCR.

other things.<sup>83</sup> At the same time, it improved the function of its own contracts office. DJJ and CDCR managers developed better systems for tracking requests and exchanging information. They trained and instructed DJJ staff responsible for contracts requests. By early 2008, the contracting system seemed sufficiently functional for DJJ to enter into contracts as necessary for *Farrell* compliance. Delays with respect to one court-ordered contract and continuing workload issues for the CDCR contracts office caused the special master to review this issue again this year.

o siste t it t e special aster's fi i s i earl 200 R's si ess systems are functional and allow DJJ to enter into necessary contracts.<sup>84</sup> Key CDCR and DJJ contracts staff who correctly observed that the contracting system was not working for DJJ (or CDCR) in and before mid-2007 now observe that the system has improved.<sup>85</sup> An important and sustained change is that contracts requests are no longer lost.<sup>86</sup> The basic bureaucratic requirements have not altered: bids are generally required for contracts for more than five thousand dollars (\$5,000), Department of General Services (DGS) approval is required for contracts over seventy-five thousand dollars (\$75,000), and DJJ facilities require CDCR approval for contracts above fifty thousand dollars

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<sup>83</sup> See Fifth Report of the Special Master (October 2007), pp. 12; Seventh Report of the Special Master (March 2008), pp. 26-29. The remainder of this paragraph is based on these sources.

<sup>84</sup> The special master interviewed several CDCR contracts staff on June 22, 2009, including Joseph Watkins, Contracts Manager, Juvenile Services, and Suzanne Livingston, Contracts Analyst. She interviewed CDCR contracts analyst Eric Zimmerman by telephone on July 29, 2009. On June 24, 2009, she interviewed the two relatively new DJJ operational support staff responsible for DJJ central office contract requests, Glen Padayachee, Business Services and Contracts Manager, and Nancy Cha, Contract Analyst, as well as Teri Dixon, Health Care Services Analyst. The CDCR and DJJ contracts staff were very consistent in their statements. The special master has had a few substantial contacts with Mr. Watkins, Mr. Zimmerman, and Ms. Dixon over the time she has been reporting on contracts issues, and finds them particularly credible. In addition, monitor Zack Schwartz interviewed a total of six contracts staff during site visits to the Stockton complex (October 21-22, 2008), Stark (January 26-27, 2009), and SYCRCC (March 17- 2009 T e special aster's fi i s a co cl sio s a o t 's a l i t to contract is based on these interviews, with particular reliance on the interviews of Watkins, Dixon, and Zimmerman.

<sup>85</sup> See *supra* note 84.

<sup>86</sup> *Id.*

(\$50,000).<sup>87</sup> State law requirements and other agency considerations are too numerous to describe here to describe the state's *Farrell* compliance efforts.<sup>88</sup> CDCR staff expect it to take six months to process a contract request that involves competitive bidding requirements, from the time it is received by the CDCR business services contracts office, and they plan accordingly.<sup>89</sup> Staff can generally anticipate contracting needs by more than six months.<sup>90</sup>

The central office has a record of managing more contracts requests in the past year than it made and managed two and three years ago.<sup>91</sup> In part, this is because DJJ

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<sup>87</sup> Statements of Joseph Watkins during central office site visit, July 29, 2009. As of November 1, 2009, DJJ facilities are required to operate under the same rules as DJJ central office, with contracts over five thousand dollars require to be processed through the state's contract services unit. See DJJ, Response to Draft 11<sup>th</sup> Special Master's Report prepared October 2009.

<sup>88</sup> For example, the Office of Chief Information Officer (OCIO) blocked DJJ from contracting for the development of software to integrate the CA-YASI risks needs assessment data with WIN and other systems for two years in a row. Statements of Michael Brady during central office site visit, June 22, 2009. OCIO ruled that DJJ should use the risk needs assessment vendor and software that CDCR uses for the adult prison system. *Id.* is not competent to select the risk needs assessment tool.

Also, DGS continues to require DJJ to follow competitive bidding rules for medical contracts, when it would make more sense for DJJ facilities to contract with local providers who are too small to make formal bids for the services. The state's serious effort in the past year to compete for a health services contract was not successful. Statements of Teri Dixon, Health Care Services Analyst, June 24, 2009, explain in the special master's fifth report (p. 14), DGS re-ordered the state's approach to competitive bidding for health services contracts about five years ago after finding that CDCR had abused the waiver. According to some facility medical administrators and medical expert Madeleine LaMarre, bidding requirements limit potential contract providers to those who are willing and able to negotiate the bidding process, which eliminates small providers located near facilities that might be most readily available and provide more continuity of care.

<sup>89</sup> Statements of Joseph Watkins and Suzanne Livingston during central office site visit, June 22, 2009; statements of Teri Dixon during central office site visit, June 24, 2009; see also Seventh Report of the Special Master (March 2008), p. 29. Common contracts over five thousand dollars (\$5,000) involve requests for proposals, invitations for bids, or non-competitive bids ("RFPs," "IFBs," and "NIFBs" respectively). With RFPs, CDCR DJJ specifies its requirements, and the bidders make proposals for meeting the requirements. These are more complex and take more time than the contracts that are based on IVPs, which specify precisely what is to be supplied, and the bidders propose a contract price. For NCB contracts, DJJ must convince its control agency, DGS, that it meets a requirement for a waiver of competitive bidding. Service and expense contracts for \$5,000 or less do not require competitive bids. Statements of Joseph Watkins, October 2008 and June 22, 2009.

<sup>90</sup> Statements of Joseph Watkins and Suzanne Livingston during central office site visit, June 22, 2009; statements of Teri Dixon during central office site visit, June 24, 2009.

<sup>91</sup> Statements of Joseph Watkins and Suzanne Livingston during central office site visit, June 22, 2009; statements of Teri Dixon, Glen Padayachee, and Nancy Cha during central office site visit, June 24, 2009;

"DJJ Court Master Report Request (Detail) FY 2008/09 ONLY, AS OF 6/22/2009." The following sentence is also based on these sources.

enters into multiple year contracts instead of one-year contracts where appropriate. It is also because the governor has ordered state agencies to limit contracts to those directly related to health and safety.<sup>92</sup> CDCR tracks all DJJ pending and completed contracts requests.<sup>93</sup> DJJ's operations support staff mediate the state's relationship with the CDCR contracts office for central office contracts requests and track the budget and expenditures for central office contracts. Before November 1, 2009, they did not monitor or assist state facilities' contracts.<sup>94</sup>

CDCR is proceeding with the automation project it had begun by the time of the special master's March 2008 report on contracts issues.<sup>95</sup> The new system is partially implemented but not fully functional. It does not yet produce necessary reports or build contract documents automatically, and consequently CDCR contracts staff must double-enter contracts information in the old system and the new system.<sup>96</sup> Nonetheless, staff responsible for contracts report less frustration and stress than they reported in mid-2007

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<sup>92</sup> Statements of Glen Padayachee and Nancy Cha during central office site visit, June 24, 2009. Mr. Padayachee replaced David Hale, to whose expertise and role in addressing contracts issues the special master referred in her fifth (p. 12) and seventh (p. 29) reports. Mr. Padayachee and Ms. Cha are the sources for the remainder of this paragraph.

<sup>93</sup> The special master has previously reported the number and proportion of contract requests pending for more than 120 days, 23 of 68 (34 percent) in October 2007, and 36 of 82 (44 percent) in February 2008. See Fifth Report of the Special Master, p. 13; Seventh Report of the Special Master (April 2008), p. 28. The numbers are down this year, to six of 39 (15%). See "DJJ Court Master Report Request (Detail) FY 2009 - Year Ending 22 2009" Contract 5600000406, CTIS # DJJ.08094-0; statements of Joseph Watkins during central office site visit, June 22, 2009. Though a CDCR contracts manager once described a great deal of pressure on staff to complete contracts that had been pending in the contracts office for 120 days or more (Fifth Report of the Special Master, p. 13), the special master does not now consider 120 days an important benchmark. It appears that the smaller, simpler contract requests are completed in fewer than 120 days, and contracts requests requiring bids or justification for not taking bids commonly take more than 120 days to complete. Also, the special master and CDCR contracts office staff observed that a few "received contracts" dates in the June 22, 2009 tracking data were reset, making it appear that particular requests were processed more quickly than before.

<sup>94</sup> DJJ reports that the state's operations support staff evaluate contractor facilities contract requests as of November 1, 2009. DJJ, Response to Draft 11<sup>th</sup> Special Master's Report produced October 2009

<sup>95</sup> Statements of Joseph Watkins during central office site visit, June 22, 2009.

<sup>96</sup> *Id.* according to Mr. Watkins the R project is MS P's first for a uniform state agency and thus involves a great deal of new, custom programming work.

and before, and they believe that the contracting process will improve once the new automated system is fully developed and implemented.<sup>97</sup>

### B. Personnel and Hiring

When the special master released a detailed report on the systems for personnel management in early 2007, DJJ had a high level of vacancies, and the same difficulty in the R “atrix” that interfered with contract processing also interfered with hiring.<sup>98</sup> DJJ was also unable at that time to produce an accurate list of authorized, established, filled, and vacant positions.<sup>99</sup>

By October 2007, it appeared that the interface between DJJ and CDCR was working for purposes of the personnel function; DJJ had skilled and experienced personnel staff in its operational support unit to coordinate with CDCR Human Resources.<sup>100</sup> An operational support manager reported that DJJ had an accurate database for tracking and managing the process of filling vacancies system-wide.<sup>101</sup> Vacancy rates were significantly lower than they had been in June 2007.<sup>102</sup>

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<sup>97</sup> See, e.g., statements of Joseph Watkins during central office site visit, June 22, 2009; statements of Teri Dixon during central office site visit, June 24, 2009.

<sup>98</sup> See Fourth Report of the Special Master (June 2007), pp. 9-10; Fifth Report of the Special Master (October 2007), pp. 7-8.

<sup>99</sup> See Fourth Report of the Special Master (June 2007), p. 10. The position that is referred to as a “atrix” must first be “established” in the R “atrix” system. See also the issuance of a “0” for the R’s Budget Management Branch (BMB) unit. Statements of Denise Sims, Shannon Demarais, and Tamara Martinez-Long during central office site visit, July 23, 2009. This is a CDCR process to which CYA was not subjected before the merger. *Id.* The operational support unit facilitates the processing of “0s.” *Id.* DJJ facilities are able to hire without assigning all staff to established positions, which is one reason DJJ has repeatedly needed to reconcile positions. *Id.* Reconciliation compares staff on the actual payroll against authorized and established positions. *Id.*

<sup>100</sup> See Fifth Report of the Special Master (October 2007), p. 8. The interface is working smoothly at this time, both with the CDCR Budget Management Branch and CDCR Human Resources. Statements of operational support personnel management staff during central office site visit, July 23, 2009.

<sup>101</sup> See Fifth Report of the Special Master (October 2007), pp. 8-9, 9 n.31, 10.

<sup>102</sup> *Id.*, p. 9 n.33.

As of March 2008, the court in *Acacia* did not respect the court's personnel function.<sup>103</sup> DJJ still was not tracking the process of filling vacancies, which meant that it was not checking for bureaucratic delays to address. This was because S.B. 81-related population reductions shifted the court's focus to facilitating closures, reassignments and layoffs rather than filling vacant positions.<sup>104</sup> The chief of operational support at that time reported that the court's administrative personnel were not following the court's administrative system that would facilitate the tracking of vacancies and hiring process delays.

As of June 2009, the court's operational support staff had again engaged in a laborious process to reconcile positions, in order to provide accurate staffing information to Christopher Murray and Associates for its staffing study.<sup>105</sup> The need for reconciliation indicated that the court's personnel administrative tracking system continued to fail at tracking positions and vacancies. DJJ reports improved processes as of November.<sup>106</sup> This representation having been made several times before, the proof will be in the maintenance of an accurate database over time. A hopeful development is the recent acquisition of a dedicated position responsible for the reconciliation process.<sup>107</sup>

Operational support staff still do not track the hiring process for persistent vacancies and bureaucratic delays.<sup>108</sup> There appear to be prolonged vacancies in some

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<sup>103</sup> See Seventh Report of the Special Master (April 2008), pp. 33-35. These pages provide the factual basis for the remainder of this paragraph.

<sup>104</sup> The court's personnel administrative issues still re-occur, especially in relation to reallocation of positions and managing reassignments and layoffs for staff who cannot be reassigned. Statements of operational support personnel management during central office site visit, July 23, 2009 and during teleconference, July 26, 2009.

<sup>105</sup> Statements of operational support personnel management staff during site visit, July 23, 2009. This is the source for the following sentence, as well.

<sup>106</sup> See DJJ, Response to Draft 11<sup>th</sup> Special Master's Report prepared October 2009.

<sup>107</sup> *Id.*

<sup>108</sup> See statements of operational support personnel management staff during site visit, July 23, 2009.

facility positions.<sup>109</sup> There is evidence that previously reported difficulties with Live Scan persist,<sup>110</sup> due at least in part to legally mandated wait-times.<sup>111</sup> California's current crisis has presented new problems in 2008 and 2009. DJJ, like other state agencies, is subject to a hiring freeze that makes it difficult to fill vacant positions on a "limited term" basis.<sup>112</sup> The processes for securing exemptions from the hiring freeze and the limited term requirement apparently move slowly, impeding the hiring of necessary personnel.<sup>113</sup>

The special master recognizes that the California budget crisis is an extraordinary circumstance and that some limited term positions may be needed in a system that has

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<sup>109</sup> Based on statements of staff and documents provided to the OSM monitors, the following vacancies were unfilled at Stark as of January 27, 2009: 75 teacher/teaching assistants (out of 181 positions), 14 support staff/office technicians (out of 42 positions), 13 food services positions (30) (two living unit kitchens had been closed), 8 maintenance/plant operations positions (of 37), 7 (of 9) supervising case work specialists, 19 (of 27) case work specialists, 3 treatment team supervisors, 3 senior youth correctional counselors, 3 (of 7) senior psychologists, 3 psychiatrists, 3 psychiatric technicians, and 7 psychologists. Staff at SYCRCC provided vacancy data in March 2009; its vacancies were much fewer, but some had been unfilled for over a year, and a training officer position had been vacant for almost two years. In November 2009, the education experts reported delays in hiring to the special master. Statements of the education experts to Donna Brorby, November 18, 2009.

<sup>110</sup> In March 2009, difficulties with the LiveScan process were delaying attempts to fill a disabilities coordinator vacancy. Statements of staff during DJJ Court Compliance Task Force meeting, March 12, 2009. A personnel specialist at Stark also described ongoing delays in the LiveScan process in January 2009.

<sup>111</sup> State law requires that when LiveScan fingerprints are taken, a "reluctant" testee must wait 30 days to request a resubmission of fingerprints. DJJ, Response to Draft 11<sup>th</sup> Special Master's Report, provided November 17, 2009. Another possible source of hiring delays may be DJJ facilities' loss of delegated testing authority in the 2005 merger with CDCR; there is a possibility that the state's testing needs are adequately served by CDCR. See statements of personnel specialist during Stark site visit, January 26-27, 2009. Delegated testing authority would allow DJJ to schedule and administer many employment exams itself. Currently, personnel specialists at DJJ facilities must assign job candidates to testing slots on CDCR's testing schedule. CDCR does not designate sufficient slots to DJJ candidates and does not invite relevant DJJ staff to meetings regarding testing needs. If true, the result is delayed testing for DJJ job candidates, which reportedly causes facilities to lose prospective hires to the adult facilities. See *id.*

<sup>112</sup> Statements of operational support personnel management staff during meeting with the special master, July 23, 2009. With a limited term position, the incumbent will have no civil service rights with respect to the position at the end of the term unless the position is converted to a regular position. *Id.* There was a period during which DJJ was restricted to limited term hiring and the adult system was not, and this placed DJJ at a competitive disadvantage. Since that time, Secretary Cate has imposed the limited term restriction throughout CDCR. See DJJ, Response to Draft 11<sup>th</sup> Special Master's Report provided October 2009 (attachment); e-mail of Ugarkovich to the special master, September 2009.

<sup>113</sup> See, e.g., statements of Norma Mori-Fong during SYCRCC site visit, March 17-18, 2009 (stating that the exemption approval process can take up to two months); statements of Miguel Cervantez during Stark site visit, January 26-27, 2009 (same); see also e-mail of Doug Ugarkovich to Donna Brorby, September 17, 2009 (forwarding e-mail in which an information technology manager cited the freeze exemption process and limited term exemption process for hiring delays).

been closing facilities and reducing positions.<sup>114</sup> But, DJJ nevertheless needs to track vacancies and the process of filling them, and ensure that they are filled expeditiously.

### C. Information Technology (IT)

In her seventh report, the special master found that the CDCR-Enterprise for Information Systems Support's primary software applications appeared to be well-managed and effective.<sup>115</sup> All positions were filled, and it was anticipated that three programming positions and a part-time clerical support position would be added for fiscal year 2008-2009.<sup>116</sup> Since that time, the DJJ EIS group added four programmer positions and a manager position, though as of September 2009 it has four programmer vacancies.<sup>117</sup> The Department of Finance has identified a need for an additional 1.5 professional positions.<sup>118</sup>

At the time of her seventh report, the special master was concerned that DJJ had not identified and prioritized its IT support needs.<sup>119</sup> DJJ has since produced an exhaustive, prioritized list of pending IT projects<sup>120</sup> and a report on IT infrastructure needs and priorities.<sup>121</sup> The IT Priority Board that formed in August 2007 continues to

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<sup>114</sup> The Murray and Associates staffing analysis conducted in 2008-2009 process the "essential" for DJJ staffing. *See, e.g.*, Order re: Modification of Remedial Plan in Accord with Division of Juvenile Justice Staffing Model and Business Rules and Sealing of Staffing Model and Business Rules, July 31, 2009. As discussed above, Murray and Associates are studying central office staffing now.

<sup>115</sup> *See* Seventh Report of the Special Master, pp. 35, 37.

<sup>116</sup> *See id.*, p. 37. The unit was comprised of nine staff programmers, four senior programmers, two managers, a senior information systems analyst (specialist) and a system software specialist II. *Id.*

<sup>117</sup> E-mail of Pankaj Varshney to Rachel Stern, August 19, 2009. Current authorized positions include 3 managers/ supervisors, 5 senior programmer/information systems analysts, 1 system software specialist II, 10 staff programmer/information system analysts, and 3 associate programmer/information system analysts. *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> *See* Seventh Report of the Special Master (April 2008), p. 38.

<sup>120</sup> *See* Appendix E, DJJ IT Priority Board, List of Pending IT Project Requests, undated (provided June 22, 2009).

<sup>121</sup> Statements of Pankaj Varshney and Bob Eden during central office site visit, June 22, 2009. Chief information systems analyst's infrastructure needs are in projects to local entities especially at SYCRCC and Ventura. *Id.*

meet regularly with CDCR-EIS regarding IT needs.<sup>122</sup> For many, if not all, IT projects, the project data sheets that identify goals, constraints, functional requirements, status, and issues of concern.<sup>123</sup> The technical assistance staff's limited availability of staff and funding.<sup>124</sup> And, the state's efforts to improve and maintain IT resources will be to incorporate plans for the transition from Exchange to the State Strategic Offender Management System (SMS) schedule to occur at the beginning of 2012.<sup>125</sup>

The WIN Exchange continues to operate at all sites, and each facility is assigned three technical assistance staff members.<sup>126</sup> WIN programmers continue to enhance WIN in tandem with the development of new DJJ policies.<sup>127</sup> The WIN programming team reports that the level of communication and coordination between IT and program area staff as improved as a result of the state project area development processes.<sup>128</sup> The WIN programming team still consists of senior programmer Bob Eden, six full-time

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<sup>122</sup> See, e.g., *id.*; see also Seventh Report of the Special Master (April 2008), p. 38.

<sup>123</sup> A sample is attached as Appendix C, Project Data Sheet: DDMS Mental Health Treatment Plan, June 16, 2009.

<sup>124</sup> See statements of Pankaj Varshney and Bob Eden during central office site visit, June 22, 2009.

<sup>125</sup> Statements of Bob Eden and Pankaj Varshney during central office site visit, June 22, 2009; see also Press Release, California Department of Corrections and Rehabilitation, CDCR Strategic Offender Management System Project will Automate and Streamline Information Sharing, April 22, 2009, available at [http://www.cdcr.ca.gov/News/2009\\_Press\\_Releases/April\\_22.html](http://www.cdcr.ca.gov/News/2009_Press_Releases/April_22.html).

<sup>126</sup> Statements of Bob Eden during central office site visits, June 22, 2009. Various facility staff across the state continue to oversee the State SM OSM's safety and welfare auditing between October 2008 and March 2009.

<sup>127</sup> For example, recent policies such as the Disciplinary Decision-Making System (DDMS) and Suicide, Prevention, Assessment, and Response, will be accompanied by extensive changes and improvements to WIN functions.

<sup>128</sup> Statements of Bob Eden and Ken Sandoval during central office site visit, June 22, 2009. An IT representative participates on the Administrative Project Review Board that oversees the project charter process. Statements of Ken Sandoval during central office site visit, June 22, 2009. Additionally, the senior WIN programmer and a CDCR IT liaison participate in the weekly Court Compliance Task Force meetings. Statements of Bob Eden and Pankaj Varshney during central office site visit, June 22, 2009. OSM staff also participate in these meetings via teleconference and have observed the information sharing, problem solving, and other forms of collaboration between IT and program staff in various remedial areas.

WIN programmers, and one part-time retired annuitant programmer.<sup>129</sup> Two temporary pro rars' co tracts expire o st 0 2009 t Mr E e opes to ac ire a additional part-time retired annuitant next year.<sup>130</sup>

The safety and welfare expert has highlighted three priorities for the further development of the WIN system: 1) develop a system to monitor youth participation and progress in various treatment options, 2) develop a routine system to audit the accuracy and completeness of the data in WIN, and 3) develop the capacity to integrate risk/needs assessment data in WIN.<sup>131</sup> The third priority area reaches far beyond WIN programming. One aspect of the problem is that because risk/needs assessment screening data is not integrated into the WIN system,<sup>132</sup> staff must enter much of the same youth data twice: once into WIN and once into the risk/needs assessment data system.<sup>133</sup> Other aspects of the risk/needs assessment data issue are more complicated.

As previously reported, DJJ contracted with Orbis Partners, Inc. (Orbis) in June 200 for t e e lo p e t of a ris ee s assess e ti str e t for 's o t population.<sup>134</sup> Orbis revised its Youth Assessment and Screening Inventory (YASI) to include additional items and named the revised version the California YASI (CA-YASI).<sup>135</sup> New staff were hired, trained, and have administered the CA-YASI to all DJJ

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<sup>129</sup> Statements of Bob Eden during central office site visit, June 22, 2009.

<sup>130</sup> o f s are a ailable for t e exte sio of t e pro rars' co tract State e ts of o E e ri central office site visit, June 22, 2009.

<sup>131</sup> See memorandum of Barry Krisberg to Donna Brorby, April 10, 2009, p. 3.

<sup>132</sup> See, e.g., statements of Michael Brady during central office site visit, June 22, 2009; see also memorandum of Barry Krisberg to Donna Brorby, April 10, 2009, p. 3.

<sup>133</sup> Statements of Pankaj Varshney and Bob Eden during central office site visit, June 22, 2009.

<sup>134</sup> See Seventh Report of the Special Master (April 2008), Appendix E (DJJ, Standard Agreement, Number DJJ.06019, Orbis Partners, Inc., June 14, 2007).

<sup>135</sup> See, e.g. "Yo t sssess e ta Scree i e tor alifor ia" for 200 PoP 2 2 Septe er 5, 2008).

youth.<sup>136</sup> However, DJJ is dependent on its contractual relationship with Orbis to obtain individual and aggregate CA-YASI-generated youth data.<sup>137</sup> Another problem is a lack of integration of CA-YASI data with the WIN system. DJJ has sought funding for an application to integrate various screening and assessment tools with WIN and other systems.<sup>138</sup> This application is called the Juvenile Risk/Needs Assessment Management System (JRAMS) and would be built on the CA-YASI. CDCR submitted requests to the California Office of the Chief Information Officer (OCIO). The OCIO denied the request two years in a row because it deemed the proposed application fiscally redundant of an existing application within CDCR. DJJ plans to renew its request for funding, this time in order to integrate CA-YASI with the SOMS system scheduled to replace WIN in 2012.<sup>139</sup>

The existing JRAMS application is an assessment tool called “COMPAS” (Correctional Offender Management and Profiling Alternative Sanctions), an automated database and analysis system centered on risk/needs assessment for adult prisoners.<sup>140</sup> The COMPAS instrument was developed by a vendor called Northpointe. This vendor also offers a juvenile risk/needs assessment instrument, which prompted the OCIO to reject DJJ’s JRAMS proposal.<sup>141</sup> Apparently, neither COMPAS tool has been validated

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<sup>136</sup> See, e.g., statements of Tammy McGuire during Case Management Conference, July 9, 2009.

<sup>137</sup> Statements of Michael Brady and Pankaj Varshney during central office site visit, June 22, 2009; DJJ, Response to Draft 11<sup>th</sup> Special Master’s Report prepared October 2009.

<sup>138</sup> Unless otherwise noted, the information contained in this and the following paragraph is based on the statements of Michael Brady during central office site visit, June 22, 2009.

<sup>139</sup> See, e.g., DJJ, Response to Draft 11<sup>th</sup> Special Master’s Report, provided November 17, 2009; e-mail of Rachel Stern to Aubra Fletcher, et al., November 19, 2009.

<sup>140</sup> See David Farabee and Sheldon Zhang, “COMPAS Validation Study: First Annual Report” (October 31, 2007), p. 3, available at [http://www.cdcr.ca.gov/Adult\\_Research\\_Branch/Research\\_Documents/COMPAS\\_Validation\\_Dec\\_2007.pdf](http://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/COMPAS_Validation_Dec_2007.pdf); statements of Michael Brady during central office site visit, June 22, 2009.

<sup>141</sup> See Appendix F, Project Data Sheet: JRAMS, June 18, 2009.

for several of the files attached to its electronic correspondence.<sup>142</sup> At this time, the future role and method of risk/needs assessment is dependent on the outcome of the IBTM project.<sup>143</sup>

#### IV. INTEGRATED BEHAVIOR TREATMENT MODEL

Under the stipulated order entered on July 2, 2009, the safety and welfare, mental health, and sexual behavior treatment experts are responsible for drafting the integrated behavior treatment model “IBTM” description, implementation plan, and manual, in regular consultation with the parties and the special master.<sup>144</sup> They have delegated the drafting to Drs. Henry Schmidt and Angela Wolf, as permitted by the July 2, 2009 order.<sup>145</sup> The experts filed an IBTM work plan on July 29, 2009 and bi-weekly progress reports since that time.<sup>146</sup> The experts provided an interim draft on November 9, 2009.<sup>147</sup> The July 2 order requires the experts to complete a detailed, written IBTM description within 90 days of providing the work plan, which falls on October 28, 2009.<sup>148</sup> However, the special master and the parties have agreed to extend the deadline until November 30, 2009 at the experts’ request.<sup>149</sup> The parties then will have thirty days to meet and confer with the experts and file objections, if any, to the experts’ description.<sup>150</sup>

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<sup>142</sup> E-mail of Bernard Warner to special master, November 11, 2009.

<sup>143</sup> See, e.g., statements of the mental health and safety and welfare experts during meeting with the parties and special master, August 20, 2009. Regardless, DJJ/EIS plans to propose JRAMS to the OCIO again in the near future. See, e.g., statements of Pankaj Varshney during DJJ Court Compliance Task Force meeting, October 5, 2009.

<sup>144</sup> See Order Concerning Integrated Behavioral Treatment Model, July 2, 2009.

<sup>145</sup> Statements of the safety and welfare and mental health experts during meetings and teleconferences with the parties and special master, August 20, September 25, October 14, and October 26, 2009.

<sup>146</sup> See e-mail of Eric Trupin to Michaela et al. 1/29/2009 attached “IBTM work plan.” The work plan and the progress reports through mid-October 2009 are attached as Appendix G.

<sup>147</sup> See e-mail of Eric Trupin to Mike Brady, et al., November 9, 2009.

<sup>148</sup> See Order Concerning Integrated Behavioral Treatment Model, July 2, 2009 at ¶ 2.

<sup>149</sup> See *id.* (permitting extension with approval of the special master and the parties). The parties, experts, and special master agreed to the November 30, 2009 deadline in teleconferences held on October 14 and 26, 2009.

<sup>150</sup> See Order Concerning Integrated Behavioral Treatment Model, July 2, 2009, at ¶ 4.

Drs. Schmidt and Wolf have spoken with many DJJ staff, visited some DJJ facilities, and requested and received substantial documentary information.<sup>151</sup> They report that DJJ managers and staff at every level have consistently supported their efforts.<sup>152</sup> DJJ repeatedly has offered to make staff available to Drs. Wolf and Schmidt, as an IBTM team under their lead.<sup>153</sup> The experts and parties discussed this arrangement in August 2009, but the experts concluded that a team would significantly slow the drafting process.<sup>154</sup> The experts and Drs. Wolf and Schmidt have stated their plan to form a DJJ IBTM implementation work group after finalizing the IBTM description; that they also intend to engage a broader group of DJJ staff in “to all” eeti s s c as the two they held on September 30 and October 14, 2009.<sup>155</sup> The experts, Drs. Schmidt and Wolf, the parties, and the special master agree that successful implementation of the IBTM will require an enthusiastic stakeholder group that believes in and has a sense of ownership of the IBTM to implement it successfully.<sup>156</sup>

## V. MENTAL HEALTH SERVICES

The Mental Health Re-evaluation Plan’s Standards and Criteria assist the office of certain requirements to the special master. The office of the special master conducted

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<sup>151</sup> Statements of Drs. Schmidt and Wolf during conferences, August 20, 2009 and September 25, 2009; *see also* Appendix G (biweekly progress reports).

<sup>152</sup> *Id.*

<sup>153</sup> Statements of Bernie Warner and Michael Brady during conferences, August 20, 2009 and September 25, 2009; e-mail of Michael Brady to Terry Lee, et al., October 12, 2009. The Washington State JRA integrated treatment model program description was produced over a period of two years by an interdisciplinary JRA ITM committee led by Dr. Henry Schmidt. *See* Juvenile Rehabilitation Administration, Integrated Behavior Treatment Program Report (2002), pp. 4, 6-11, *available at* <http://www.dshs.wa.gov/jra/treatment/index.shtml#ITM>.

<sup>154</sup> *See* memorandum of Donna Brorby to participants in August 20, 2009 “Mental Health Summit” September 8, 2009, p. 2.

<sup>155</sup> Statements of Henry Schmidt, Angela Wolf, Barry Krisberg, and Eric Trupin during conferences, August 20 and September 25, 2009; *see also* Appendix G (October 9, 2009 and October 23, 2009 bi-weekly updates).

<sup>156</sup> *See* statements of Henry Schmidt, Angela Wolf, Barry Krisberg, and Eric Trupin during conferences, August 20, 2009 and September 25, 2009.

a round of site visits to monitor these items between October 2008 and May 2009. A report of their findings has been provided to the mental health experts and is attached as Appendix H.

## VI. FARRELL EXPERTS' PRIORITIES

In August 2009, the *Farrell* experts identified priority areas for fiscal year 2009-2010 and provided this information to the parties.<sup>157</sup> Also in August, DJJ agreed to develop a timeline for compliance with the priority requirements.<sup>158</sup> The parties, experts, and the office of the special master (OSM) scheduled a September 29, 2009 meeting to discuss the timeline. DJJ has postponed this meeting as of Plaintiff's counsel or the experts with a proposed timeline.<sup>159</sup>

## VII. STATUS UPDATE ON RESET DEADLINES

February 20, 2009 and March 2, 2009 reports of Plaintiff's proposed modifications of certain *Farrell* deadlines.<sup>160</sup> In June 2009, OSM reported on the status of items with reset deadlines that had passed as of December 31, 2008.<sup>161</sup> Appendix B to this report summarizes the status of requirements with deadlines reset for dates between January 1 and June 30, 2009.

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<sup>157</sup> See Appendix I (Experts' Priorities for Fiscal Year 2009-2010).

<sup>158</sup> Statements of Michael Brady during meeting of the experts, OSM, and the parties, August 21, 2009.

<sup>159</sup> DJJ has provided a draft timeline to OSM. See e-mail of Dorene Nylund to Aubra Fletcher, et al., September 2, 2009 "Propose Critical Pat Priority Projects" dated Plaintiff's October 2009. As of November 11, 2009, this timeline was still a working draft, and DJJ had not shared it with the experts or Plaintiff's counsel. E-mail of Michael Brady to Aubra Fletcher and Donna Brorby, November 11, 2009.

<sup>160</sup> Order, February 20, 2009, at 2-3; Order, March 27, 2009, at 2.

<sup>161</sup> See Ninth Report of the Special Master (June 2009), Appendix B (Status of Items with Modified Deadlines).

VIII. CONCLUSION

The special master respectfully submits this report.

Dated: November 20, 2009

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Donna Brorby  
Special Master