

SUPERIOR COURT OF CALIFORNIA
CITY AND COUNTY OF ALAMEDA

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

TWENTY-FOURTH REPORT OF SPECIAL MASTER

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APPENDICES

- Appendix A: Goldenson and LaMarre, *Farrell v. Cate, Sixth Report of Consent Decree by the Medical Experts Based on Site Visits Conducted October 2012* (October 2012).
- Appendix B: Krisberg, *Farrell v. Cate, Safety and Welfare Remedial Plan, Final Comprehensive Report by Dr. Barry Krisberg* (November 29, 2012).

I. INTRODUCTION

The Special Master submits for filing the Twenty-Fourth Report of the Special Master. This report reviews the *Farrell* Medical Experts' report and the Safety and Welfare Expert's comprehensive report for their 2012 rounds of audits and summarizes and analyzes the status of the California Department of Corrections and Rehabilitation, Division of Juvenile Justice's (DJJ) compliance with the *Farrell* remedial plans. The final report of the Medical Experts' (site visits, October 2012) and the fifth comprehensive report of the Safety and Welfare Expert (site visits, June 2012 to August 2012) are attached to this report as Appendices A and B respectively. Consistent with an agreement by the parties, the Special Master's report limits the summarization of the experts' reports and instead identifies the major areas of improvement as well as areas of concern.

The report begins with an update on the implementation of the Integrated Behavioral Treatment Model (IBTM) followed by the analysis of progress in the final report of the Medical Experts and in the Safety and Welfare Remedial Plan. Issues relating to when and how force is used and developments at the Ventura Youth Correctional Facility (VYCF) are discussed next. The report concludes with the Medical Experts' finding of substantial compliance in medical services and a recommendation of conclusion of monitoring of the Health Care Remedial Plan.

II. INTEGRATED BEHAVIORAL TREATMENT MODEL

A. Current Progress

Defendant has now fully complied with all of the elements of the May, 27,2010 court-ordered IBTM Implementation Plan. Defendant has exceeded the initial project goals by expanding implementation beyond the initial two pilot units to all units at O. H. Close Youth Correctional Facility (OHCYCF). This is a notable accomplishment. In

short, rather than completing the implementation plan goals for two units at OHCYCF, Defendant has met all objectives for the entire facility. The IBTM team also continues to undertake many assignments that are not part of the implementation plan.

As discussed in the Twenty-Third Special Master's Report, the IBTM team has engaged the IBTM Project Consultants from the University of Cincinnati Corrections Institute (UCCI), and the Mental Health and Safety and Welfare Experts in the planning for expansion of Phase I¹ of the IBTM implementation in the remaining two facilities and the development of Phase II of the IBTM.² The IBTM Implementation Guide³ outlines the types of project teams and change strategies as well as critical tasks that must be accomplished to implement Phase I of the IBTM at the remaining facilities. The Implementation Guide is designed to assist with a change implementation process, not to fully describe all aspects of the IBTM.⁴

The IBTM Implementation Team worked with the UCCI consultants during this round to finalize many of the IBTM components such as:⁵

- Finalized revisions to the Aggression Interruption Training (AIT) curriculum per UCCI trainer.
- Finalized AIT Procedures Guide.
- Reviewed and revised Advanced Practice and Introduction to Treatment curriculum, aligning language with AIT to ensure consistency.
- Revised Skill of the Week lesson plan and calendar for 2012-2013.
- Provided updated Advanced Practice facilitator manuals to staff.

¹ OSM 23, pp.9-10.

² The Special Master has discussed the concept that the court-ordered IBTM Implementation plan only addressed the implementation of cognitive-based behavioral treatment (CBT) groups. The second phase of the IBTM must address how to ensure that there is a behavior management system that supports the concepts taught in the CBT groups. *See* OSM 20, pp.5-10, OSM 21, pp. 12-14, OSM 22, p. 10 and OSM 23 pp. 10-11.

³ *See* IBTM Implementation Guide.

⁴ UCCI Consultants and the Mental Health Expert have advised that a program guide be developed after the behavior management elements of the IBTM have been developed and tested. This helps to allow time for testing and experimentation by staff that creates greater ownership of the program. There is a robust resource guide for the CBT groups that are provided to all units to ensure fidelity to the CBT groups.

⁵ *See* DJJ Quarterly Report Oct 2012 for a complete review of accomplishments.

- Revised IBTM Staff Resource Guide to include additional resources and trained staff on the use of Resource guide.
- Improved electronic communication between unit, education, mental health and other facility stakeholders among all facilities.
- Updated OHCYCF shared drive for electronic access of treatment material.
- Data collection and reporting for core and secondary treatment interventions, including AIT, CounterPoint, Girls Moving On, Advanced Practice, Introduction to Treatment, and BTP curricula components.
- Developed a process to ensure that each living unit staff member received the following IBTM forms:
 - Group Cancellation Form/Protocol (which was updated based on pilot).
 - Group Facilitator Coaching/Support Forms.
 - Skill of the Week 5-day script.

In addition, the IBTM team continued their efforts to ensure that specialized units such as the Behavioral Treatment Unit (BTP) and the Sexual Behavior Treatment Program (SBTP) Units are fully in line with the IBTM principles.⁶ Activities included:

- Developed five BTP curriculum modules.
- Trained staff on BTP curriculum and provided BTP unit with implementation materials.
- Developed oversight and reporting tools for the BTP and SBTP.
- Began monthly data collection for BTP and SBTP, as well as core units.

Among other important tasks, the team worked to ensure fidelity to the Cognitive-Based Behavioral Treatment (CBT) curricula and program elements while continuing to provide valuable coaching in the living units with staff. Activities included:

- Group Observation and Coaching provided by Program Specialists and Facility Managers and Supervisors.⁷
- Group Observation/Coaching database developed.
- Skill of the Week training provided to OHCYCF staff.
- Skill of the Week Youth Assistants trained and coached.
- Advanced Practice training provided to OHCYCF staff.
- OHCYCF Administration observation calendar developed.
- Provided ongoing support and fidelity monitoring for OHCYCF staff and managers.

⁶ It should be noted that the elements developed for the BTP are being implemented at all facilities.

⁷ For examples of group observations and behavioral management coaching, *See* SOTW11.8.12(1) Redacted and gen.coach obs.11.6.12(3) Redacted. These examples make it clear that coaches are being honest in their assessments and providing valuable feedback.

- The current number of DJJ staff trained to deliver primary interventions has increased to:⁸
 - AIT: 182
 - CounterPoint: 123
 - Substance Abuse: 15

The team has also undertaken the following activities to implement the IBTM at N.A. Chaderjian Youth Correctional Facility (NACYCF):

- Provided staff with materials needed for facilitation of AIT and CounterPoint groups.
- Trained available staff on first two components of the BTP curriculum.
- Provided living unit with all materials needed for facilitation of BTP groups.
- Updated NACYCF shared drive to include AIT, CounterPoint and BTP material.

The amount and level of work that has been completed by the staff of OHCYCF cannot be stressed enough. The staff serves the youngest youth at DJJ and that makes some tasks easier while others more difficult. For example, it is easier to get younger youth to attend school because it is developmentally appropriate behavior for them. Other issues like learning non-aggressive ways of interacting are more difficult because of the level of hormonal changes and the developmental stage of brain development. OHCYCF staff is working with a volatile population of youth who, like all teenagers, can experience extreme behavioral changes in a matter of minutes. Intermediate measures such as school attendance,⁹ CBT completion,¹⁰ increases in level,¹¹ reduction in serious disciplinary infractions and use of force¹² are all examples of early markers that the

⁸ AIT CP SA Facilitators and Trainers.

⁹ According to "Monthly WIN attendance factor %," OHCYCF's youth absence rate declined by approximately 40% between May 2011 when IBTM was implemented at the two high core units and September 2012 when IBTM was implemented at all living units. The comparison was made based on average monthly WIN attendance factor between the April, May, and June 2011 quarter (19.2%) and the July, August, and September 2012 quarter (11.5%).

¹⁰ OSM 23, p.4.

¹¹ Anecdotal data about levels can be found in Early Indicators of IBTM Update 8.1.12. Data sent regarding changes since the implementation of the pilot can be found in Level Changes OHCYCF.

¹² See Section IV. Subsection D of this report, Review of CompStat Data on Use of Force and Level 3 DDMS.

efforts of the OHCYCF staff to implement the IBTM are resulting in improvements for youth and a safer and more rewarding environment for staff. School absence rate declines of 40% and the doubling of A level youth while decreasing C level at the same time are truly remarkable results in such a short time. The Special Master and Plaintiff made separate observation visits to OHCYCF this round and both found the progress to be easily recognized and highly commendable.¹³

In the Twenty-First Report of the Special Master, several key areas for improvement in the IBTM were noted.¹⁴ The areas that needed to be addressed include:

- Development of a clearly articulated mission and principles for the IBTM.
- Ensure adequate staffing for the IBTM Team.
- Clarifying the roles of living unit staff as well as Psychologists and educators.
- Structuring youth time to reinforce behavior targets.
- Implementing the approved substance abuse curriculum.
- Defining the population to be served in mental health units as well as the service delivery model.
- Implementing the Reinforcement System.

Defendant has made significant progress in several areas listed above and some progress has been made in all areas. Three of the areas listed above will be focused on in this report.

Implementing the approved substance abuse curriculum

The most notable progress has been in the adoption of an evidence-based substance abuse curriculum and the training of trainers to teach the curriculum. Defendant adopted *Cognitive Behavioral Interventions for Substance Abuse: Youth Version* and a group of staff have been trained in the curriculum.¹⁵ To date, Defendant has completed the development of written admission/exclusionary criteria, published the

¹³ The Special Master's site visit was on October 18, 2012 and the Plaintiff's was on November 13, 2012.

¹⁴ OSM 21, pp.4-11.

¹⁵ UCCI master trainers trained staff on Sept 18-20, 2012.

youth workbooks and other material for the groups. Youth identified with moderate to high substance abuse needs will receive the program. The California Youth Assessment Screening Instrument (CA-YASI) scores will be used initially to determine youth need and the Substance Abuse Subtle Screening Inventory (SASSI) scores will be used in the future. A pilot is being run in each facility. The first group was held at NACYCF on November 27th. The other facilities are scheduled to begin groups in November and December.

The education staff is working to modify the substance abuse curriculum so that it can be offered in school and youth can receive education credits for the course. The education team is reviewing the curriculum to modify it so that students with special education needs and students learning English can readily understand it. The education staff is working with the UCCI Consultants to ensure the modifications do not compromise fidelity to the program model. This work may in turn help the UCCI Consultants and Defendant to develop a program that is more accessible for all youth with learning disabilities. The projected start date for the school course is spring of 2013.¹⁶

UCCI consultants will continue to work with Defendant to develop the outpatient model and the school course. As with the other CBT programs, the UCCI Consultants recommend that pilot projects be implemented and evaluated prior to broader implementation.

Clarifying the roles of living unit staff as well as Psychologists and educators

Work has also been done on several levels to address the lack of role clarity of unit staff, Psychologists and educators. Defendant has worked with labor to explain the

¹⁶ Email from McKee-Sani, SA School Curriculum.

IBTM expansion and what the implementation of the IBTM means in terms of modifications to the roles and responsibilities of DJJ staff.¹⁷ The IBTM team also revised key position statements, vetted them with the Mental Health Expert, UCCI Consultants, as well as the Special Master, and has provided them to labor for review. The revised descriptions incorporate concepts of evidence-based practice and revised task descriptions to align with the principles of the IBTM.¹⁸

The mental health staff have engaged in discussions with the Mental Health Expert regarding the role Psychologists should play in Mental Health Units and Core Units. Teachers have been provided an IBTM overview and trained in Skill of the Week.¹⁹ Some Teachers are beginning to use the Reinforcement System (RS) and communicating information to living unit staff so youth can receive positive checks for classroom behavior.²⁰

Implementing the Reinforcement System

Training on the RS took place in August and both site observations and documentation have been reviewed which provide evidence that indicates staff are attempting to use the system.²¹ As expected, there is a wide variation in the understanding of the concept and the implementation of the system. The implementation concept included time for experimentation by staff with a loosely defined system. IBTM team members have been coaching staff at OHCYCF how to use the RS system to reinforce skills taught in CBT groups.

¹⁷ See IBTM Update Email.

¹⁸ See CWS Duty St 11.2.12 Draft, PA I Duty St Draft 11.2.12(1) and YCC Duty St 11.2.12.

¹⁹ OSM 23, p.6.

²⁰ See Gen.coach obsv.11.5.12(1)(2) Redacted.

²¹ OSM 23, pp.5-9.

The Mental Health Expert has worked with the staff of the BTP units in VYCF specifically on this issue. This case study provides evidence of healthy experimentation, a lack of adequate understanding, confusion regarding implementation, and a willingness to explore the system by the unit staff. All of these are healthy and normal responses to the initiation of a change process. Both coaching efforts indicate a healthy willingness to understand the RS system by staff and confusion regarding the use and implementation. The Special Master concurs with the UCCI recommendation that Defendant should begin close monitoring of the RS system to include feedback from staff and develop plans to provide needed training and clarification of how the system should work.²² The Mental Health Expert has opined that this may require simplifying the system. These efforts should be completed before the system is codified in the electronic database.

B. Next Steps

Once the substance abuse program is fully implemented at OHCF, that facility will have a full complement of programs needed for its population.²³ The development of behavior management strategies that reinforce the CBT group work and ensures fidelity in the group processes are the next steps in the IBTM process for the pilot sites.²⁴

The upcoming contract cycle with UCCI, like the last, will include development of an implementation plan for next steps. The plan should identify the steps needed to

²² See DJJ Quarterly Report Oct 2012, p.4.

²³ This is not to say there will never be other programs needed. It is however essential that Defendant does not fall prey to the "program of the month" phenomenon that quickly compromises program fidelity. The failure to achieve outcomes for most agencies is linked directly to the failure to implement any programs with fidelity. It takes years to fully and accurately implement CBT programs. It is better to develop expertise in a small group of proven programs than to scatter efforts across many interesting but unproven ideas. For example, DJJ is an agency that struggles with many youth with strong gang affiliations. They have hired a consultant to study the issue and to recommend possible solutions. The Safety and Welfare Expert is working with Defendant to discern if any additional program efforts should be made with regard to gang issues or if the focus should be on the current IBTM programs before attempting to make this decision. This also assumes the BTP modules will be all be fully implemented.

²⁴ Efforts in both these areas have begun but a more structured and rigorous approach will be needed. For example, the RS will need to be evaluated, modified as needed and refined.

fully implement a behavioral management system that reinforces the teachings of the CBT groups. Elements of the plan should include refinement of the RS, development of a true level system²⁵ and modifications to the disciplinary system so it supports the other elements of the behavior management system. There should also be a focus on quality assurance measures for the CBT groups and the behavioral management system.

Unlike the last contract cycle, Defendant has proven to be capable of fully implementing a plan and thus should demonstrate the ability to do this for phase II without a court order. The Special Master, the Mental Health Expert and the UCCI Consultants have all indicated a willingness to assist in the development of a Phase II implementation plan.

The Mental Health Expert and Defendant have worked for months to develop audit tools for the IBTM and the Mental Health Programs. Plaintiff has reviewed and critiqued the tools. Training for the tools will be held in December. Beginning with OHCYCF, the first audit should be conducted in January 2013. The Mental Health Expert has worked to develop instruments that guide Defendant through all the elements of an effective IBTM and a mental health program. Under the guidance of the Mental Health Expert, Defendant is beginning to work on identifying the entrance criteria to mental health units, the nature and type of services to be delivered, and required staffing and role identification for the mental health units. The training and use of the audit tools should provide a structure for both monitoring and quality assurance activities for both the IBTM and the Mental Health Program. Defendant and the Mental Health Expert should attempt to complete the three facility and headquarters audits by the end of the first quarter of 2013.

²⁵ The current incentive system is the closest program to a level system but is flawed in many ways.

Finally, to assist staff to fully understand the broad array of training as well as required program and role changes, an effort should be undertaken to codify and articulate the principles and mission of the IBTM in as simple and straight forward a manner as possible. Senior leaders need to help staff understand why this effort is important beyond complying with the Court's orders. In other words, how is youth behavior different from adult behavior and therefore requires a unique approach? Why should staff invest in addressing criminogenic behaviors in youth? What is the reason to strive for an integrated approach to changing youth behavior? What needs to be integrated and why?

III. MEDICAL

Medical Expert Madie LaMarre, MN, FNP-PC, completed her sixth round of audits on behalf of the *Farrell* Medical Experts from October 15-18, 2012 by conducting site visits to the Northern California Youth Correctional Complex (NACYCF and OHCYCF) and VYCF. As a result of their findings during their fifth round of audits, Medical Expert Dr. Joe Goldenson indicated he no longer believed it necessary that he audits medical records to review clinical care. Medical Expert LaMarre also indicated that a formal audit was not deemed necessary during this round of audits. Instead she made spot reviews of records of youth with potentially serious medical problems to determine whether any systemic issues could be identified. She then compared her results against Defendant's most recent Office of Audits and Court Compliance (OACC) audits at each facility to assess the quality of OACC audits.

Ms. LaMarre did not conduct a site visit to DJJ Health Care Services at the Central Office, but requested information to evaluate compliance with the Health Care Organization, Leadership, Budget and Staffing audit tool. She compared these findings

against the OACC's October 2012 audit of Health Care Services. The Medical Experts' Comprehensive Report for the sixth round of audits is attached as Appendix A.

In their last comprehensive report, the Medical Experts concluded that the key remaining challenges for Defendant are to ensure that systems are in place to make certain that health care services continue to be delivered in the most cost-effective manner and to continue development of a quality improvement program. In this report, the Medical Experts commend Defendant for making a significant progress in lowering health care cost per youth while sustaining access and quality of health care services in substantial compliance with the Medical Care Remedial Plan. Nevertheless, the experts found that the current average cost of more than \$27,000 annually per youth is still too high and recommend Defendant continue to explore and pursue additional measures to improve efficiency and to reduce costs.

Defendant opines that the costs of \$27,000 annually per youth are for the 2011-2012 fiscal year. Of these costs, 35% or \$9,450 per youth are actual medical costs. The remaining costs are mental health and dental care costs. For the current fiscal year, total costs have dropped to \$24,990 per youth or \$8,715 medical costs per youth.²⁶

Another concern highlighted in their last comprehensive report was Defendant's chronic inability to develop and implement standardized nursing procedures to provide clinical guidance to nurses in patient evaluation. The experts have found that Defendant has made a significant progress in developing and implementing standardized nursing procedures and related training and that the quality of these nursing procedures and training materials to be excellent and could serve as a model for other correctional

²⁶ Defendant estimates that the end of the Sierra Vista inpatient mental health contract, which is approximately \$1,500,000 per year, will reduce the total medical costs to \$23,121 for a total medical cost of \$8,100 per youth. This estimate is based on an average daily population of 843 youth.

systems. Other noteworthy findings and conclusions in the Medical Experts' report include:

A. Health Care Services (Central Office)

Under the category of Health Care Organization, Budget, Leadership, and Staffing, Defendant's Health Care Services scored 92% (12 of 13 Questions) in the audit tool items. This score is consistent with the OACC audit rating and represents a significant improvement from the previous score of 77%. The appointments of Statewide Medical Director and the Statewide Director of Nurses both of whom have proven to be capable administrators and provide strong leadership and stability to the organization's medical professionals particularly impress the experts.

For one of the questions (Question 12) about developing and implementing a structured auditing process, the Medical Expert found that her ratings are generally consistent with the OACC's ratings. However, she identified a concern with respect to the sampling methodology employed by the OACC auditor during the audit at the NACYCF. The issue is technical in nature and the expert has discussed her concern with the OACC auditor and the Statewide Medical Director, who agreed to modify the sampling methodology in future audits.

B. Ventura Youth Correctional Facility

The Medical Expert's review of health records found that youth at VYCF have timely access to nurse sick call, provider referrals, and emergency response. Management of youth with chronic diseases was excellent. Medications are administered to youth in a timely manner. However, in one situation involving a youth being discharged from a local hospital following an emergency neurosurgery, the expert found the action of the on-call physician, who failed to check on the youth over the weekend, was not

satisfactory. Ms. LaMarre has discussed her concerns in this regard with the Statewide Medical Director and VYCF's Medical Director and procedures have been adopted to ensure timely response from the on-call physicians.

C. Northern California Youth Correctional Complex (NCYCC)

The Medical Experts' review of the NCYCC found no systemic issues regarding access to or quality of health care services provided to youth. Record review showed youth had timely access to nursing sick call and provider referrals when clinically indicated. Youth received medications in a timely manner and noncompliance issues were addressed. Providers routinely saw youth with chronic diseases to evaluate disease control and adjusted the treatment plan as clinically indicated. The expert found NCYCC Quality Improvement Meeting minutes to be excellent. They were comprehensive, data driven and included mental health, dental and infection control subcommittees.

With respect to chronic disease management, the expert found that health records showed that medical providers did not consistently document an adequate interval history specific to the patient's disease(s) and did not address all chronic diseases at each visit. In addition, patients were not consistently monitored in accordance with their level of disease control. The expert noted that most findings were related to a lack of adequate documentation, rather than deficiencies in quality of care and that she has discussed her concerns with the Statewide Medical Director and the facility's Medical Director.

D. Return Monitoring to Defendant

Defendant has demonstrated and maintained substantial compliance with the requirements of the Health Care Remedial Plan and developed a quality assurance plan to continue regular monitoring of its medical care program. As with their previous audit rounds, the issues identified by the Medical Experts in this round of audits are

administrative and technical in nature and thus have greater impact on efficiency and economy of care delivery rather than on adequacy and quality of care.

Moreover, in consultation with the Medical Experts, Defendant continues to strive to explore and implement efficiency measures to reduce costs while maintaining and improving the quality of medical care and services to youth. The need to closely monitor and contain costs of medical care is particularly important as Defendant's youth population has been declining and the trend is expected to continue in the foreseeable future.

IV. SAFETY AND WELFARE

The Safety and Welfare Expert, Dr. Barry Krisberg, conducted a full round of site audits between June 2012 and August 2012. Data referred to as "the fifth round" indicates this time period unless otherwise specified. Dr. Krisberg provided a draft of his comprehensive report to the parties and the Office of Special Master (OSM) for feedback on November 7, 2012. The final comprehensive report for the fifth round of site visits is attached as Appendix B.²⁷

Progress in the area of safety and welfare can be difficult to measure. There are objective and subjective measures of issues like safety. The Safety and Welfare Remedial Standards and Criteria ("standards and criteria") that were developed by DJJ and Plaintiff's counsel and approved by all parties, provide one measure of progress. During the past rounds of audits, the Safety and Welfare Expert used these standards and criteria to audit the DJJ facilities and the Central Office.

²⁷ Appendix B, Dr. Barry Krisberg, "Farrell v. Cate, Safety and Welfare Remedial Plan Comprehensive Report" (November 18, 2011).

Consistent with an audit protocol developed prior to the fourth audit round, the California Department of Corrections and Rehabilitation's OACC conducted a pre-audit of each of the facilities and Central Office approximately 60 days prior to the expert's site visit. The OACC report assigned a rating for each audit item identified in the standards and criteria with explanation and rationale to support its ratings. The Safety and Welfare Expert and OSM reviewed and analyzed the OACC reports and spot-checked the data to assess the validity of the assigned ratings. The Safety and Welfare Expert also used other quantitative data to assess Defendant's progress. These data include "Facility Safety Data" that are compiled in Defendant's CompStat system and the Performance-based Standards (PbS), a nationwide database that collects data on numerous outcome measures in two collection cycles each year. In addition, Dr. Krisberg made qualitative assessments of the progress of Defendant's remedial efforts through personal observations during his site visits, interviews of youth and staff, and review of quantitative data.

A. Findings Overview

The Special Master agrees with Dr. Krisberg's key findings and observations. In summary, Dr. Krisberg found:

- All three remaining DJJ facilities and Central Office have continued to make progress toward compliance with the remedial plan requirements as delineated in the standards and criteria. Both the OHCYCF and the Central Office have achieved the overall percentage of items in substantial compliance of 85% or greater in two successive rounds of audits. NACYCF had an overall percentage of 84% and 87% of items in substantial compliance during the fourth and fifth rounds, respectively. Percentage-wise, VYCF had the greatest improvement where the percentage of items in substantial compliance increased by 17%, from 67% to 84%.
- The quality of OACC audits continues to be exemplary. Of the total of 352 items audited at the three facilities and the Central Office, the Safety and Welfare Expert and the OSM made 33 (9.4%) rating changes. Approximately 52% (17 of

- 33) of the rating changes were upgrades that occurred as a result of additional documentation and change in facility practices after the initial OACC's audit. Another five items (15% of 33) were reclassified from Substantial Compliance to Not Rated because these were items that are supposed to be audited by the Mental Health Experts. The remaining 11 items (33% of 33), or approximately 3% of the total items audited, were changes that resulted from Dr. Krisberg's qualitative judgments and decisions, which were discussed with the OACC auditors.
- Based on the facilities' overall compliance ratings and his high degree of confidence with the quality of OACC audits, Dr. Krisberg recommends:
 - Transfer to Defendant the auditing of OHCYCF for most of the Safety and Welfare Remedial Plan audit items with periodic consultation from the Safety and Welfare Expert.
 - Transfer to Defendant the auditing of NACYCF for most of the Safety and Welfare Remedial Plan audit items with the exception of the IBTM, reducing use of force, implementation of an evidence-based gang strategy, and refinement of the Program Service Day.
 - Despite improvements in the overall percentage of items found to be in substantial compliance, VYCF remains a work in progress that requires full monitoring by the Safety and Welfare Expert. In his fourth round comprehensive report, Dr. Krisberg noted "serious challenges still confront VYCF that require strong leadership at the facility and closer oversight and intervention by the Central Office." This issue remains unchanged.
 - The Central Office has achieved overall ratings of 85% or higher of items in substantial compliance in two successive audit rounds, the Safety and Welfare Expert is ready to transfer auditing responsibility of Central Office to Defendant with the exception of IBTM, reducing use of force, and implementation of an evidence-based gang strategy.²⁸
 - Out-of-room time has increased significantly at all facilities. The percentage of total weekly average Program Service Day hours increased by 60% at OHCYCF, 67% at NACYCF, and 83% at VYCF from 2010-11 to 2011-12. An increase in out-of-room time means youth spent less time in isolation in their rooms. However, Dr. Krisberg observed a significant portion of out-of-room time consisted of youth in dayrooms watching television or working out in exercise yards with very limited interaction with any staff member.
 - Successful implementation of IBTM is the key to reducing violence and fear at the facilities. Dr. Krisberg found that while Defendant has made progress toward

²⁸ After the release of his comprehensive report, Dr. Krisberg reached this decision during a telephone conference with Deputy Special Master John Chen on December 26, 2012.

achieving substantial compliance as measured by Standards and Criteria of the Safety and Welfare Remedial Plan, facility safety data and PbS outcome measures show there have not been significant declines in violence and fear at the facilities. A review of certain key outcomes or performance indicators found that a fairly significant progress has been made at OHCYCF but only marginal improvement in fear and violence reduction at NACYCF and at VYCF. OHCYCF is much more advanced than the other facilities in IBTM implementation.

- The implementation of the IBTM appears to be proceeding well at OHCYCF, as youth and staff interviewed by Dr. Krisberg commented positively about the program. The Safety and Welfare Expert is reasonably confident that the IBTM will succeed at NACYCF given the strong leadership as well as youth perception that the staff are willing to work with them in providing needed treatment and services. At VYCF, the Safety and Welfare Expert opined that DJJ's Central Office definitely needs to assume a proactive role in providing guidance, direction, and support in order to overcome the apprehensive and negativity expressed by youth and staff.

B. Continuing Decline in Youth Population

In his comprehensive report, the Safety and Welfare Expert expressed concerns about the continuing decline in Defendant's youth population and its impact on staffing and on the availability of resources to support reform efforts. As of September 4, 2012, Defendant's total youth population was 909 in comparison to 1,091 on December 26, 2011 and 1,276 on December 28, 2010.²⁹ If this declining trend continues, Defendant undoubtedly will be compelled to explore additional avenues to bring costs in line proportionate to the decline in youth population. After advice from and consultation with the *Farrell* experts, Defendant adopted numerous efficiency measures that included several facility closures and a significant reduction in staff at the Central Office that significantly reduced the average cost per youth. As the youth population further declines, the average cost per youth will rise unless additional measures are taken to affect proportional cost savings. After various rounds of cost-cutting measures, Defendant likely will encounter even greater challenges and difficulties in identifying viable means to reduce costs while

²⁹ Comprehensive report of the Safety and Welfare Expert, fifth audit round, P. 3.

advancing the reform effort under the current staffing patterns and structures and living unit arrangements. The Special Master encourages all stakeholders to meet and discuss to explore all options to proceed with the reform effort in a reasonable and cost-effective manner. The Special Master and the *Farrell* experts are available to offer advice and guidance to assist Defendant in this endeavor.

C. Review of Grievance System

Under the lead of the Safety and Welfare Expert, an audit team conducted a review of Defendant's grievance system and processes. Although Defendant has achieved substantial compliance as measured by Standards and Criteria of the Safety and Welfare Remedial Plan, there has not been any assessment of whether the youth grievance process is effective and useful. During a site visit to VYCF by the Safety and Welfare Expert and the Deputy Special Master, 14 of 17 youth interviewed complained about the grievance system. In addition, the Disability Expert has expressed concerns that youths with disabilities are not receiving staff assistance or reasonable accommodations during the grievance process. The Deputy Special Master and the OACC staff participated in the review as team members.

The audit team's report is included as an attachment to the Safety and Welfare's comprehensive report. In summary, the review found Defendant's current grievance policy and procedures can be effective if properly carried out. This is evidenced by the testimonies of youth at OHCYCF where youth in general are satisfied with the process. The youth and staff have been able to resolve issues informally and maintain the number of grievances and staff misconduct complaints filed to a nominal level.

At NACYCF, although the facility's grievance system is being administered by the same individual as OHCYCF's system, youth expressed a high degree of

dissatisfaction with the grievance process. The audit team believes that the difference is caused by the OHCYCF staff, perhaps because of IBTM, being more adept at interacting and communicating with youth when issues and problems surfaced and, as a result, youth have more confidence in the system and are more receptive to working with staff to resolve issues informally.

VYCF has similar issues of communication and interaction between youth and staff in the grievance process. In addition, although a significant portion of interviewed youth stated that they lack confidence in the system, the number of grievances and staff misconduct complaints filed by the VYCF youth is disproportionately high in comparison to the number of complaints at OHCYCF and NACYCF. Over the 13-month review period, 282 of 338 (84%) grievances and 71 of 119 (60) staff misconduct complaints were filed by youth at VYCF. The audit team believes there may be more systemic issues that warrant further attention from management.

The audit team made a series of recommendations for consideration by Defendant management. Some of the recommendations are system-wide while others are facility-specific. The Safety and Welfare Expert and the Mastership will continue to monitor Defendant's progress in implementing the audit team recommendations.

In addition, at the suggestion of the Special Master, VYCF is in the process of installing, by November 30, 2012,³⁰ additional grievance boxes at the entrance of the schoolyard and in the new visiting hall to provide more access and allow youth to file grievances outside of their living units for confidentiality reasons. Defendant should monitor usage of these grievance boxes and consider installing them at similar locations in OHCYCF and NACYCF.

³⁰ Email of November 29, 2012 from Superintendent Victor Almager to Deputy Special Master John Chen.

D. Review of CompStat Data on Use of Force and Level 3 Disciplinary Decision-Making System (DDMS)

A review of CompStat data for the first nine months of 2012 suggests that there has not been a significant decline in the use-of-force rates except at OHCYCF, which showed a 72% drop, from .33 in January 2012 to .09 in June 2012. After the significant decline, OHCYCF's rates started to climb in July 2012 to .24 in September 2012. However, although the use-of-force rate in general remained fairly constant during the year, CompStat data shows a consistent pattern of a sharp decline in Level 3 DDMS rates at all facilities. At OHCYCF, the Level 3 DDMS rate declined by approximately 72%, from 2.57 to .72, between January and September 2012 while the rates at NACYCF dropped 19%, from 2.08 to 1.68. At VYCF, the rates declined approximately 32%, from 2.26 to 1.55 between January and August 2012 but spiked to 4.16 (268%) in September 2012. VYCF's September 2012 data appears to be an anomaly, but management should identify the reason for significant fluctuations in Level 3 DDMS issues and, if necessary, take appropriate action.

While there are other factors besides use of force that could impact the number of Level 3 DDMS issues, the Special Master believes that the significant decline in DDMS Level 3 rate in proportion to the use-of-force rates provides another encouraging sign that the facilities' staff are less prone to rely solely on punishment to address youth behavior issues.

Also highly encouraging are the results of two living units that were specifically targeted by Defendant leadership for more in-depth monitoring because they usually have had the highest number of force incidents at their respective facilities. These results are discussed under Section V -- Use of Force of this report.

Facility Use of Force and Level 3 DDMS Rates (Per 100 Youth Days)³¹

	Use of Force Rate (100 Youth Days)			Level 3 DDMS Rate (100 Youth Days)		
	OHCYCF	NACYCF	VYCF	OHCYCF	NACYCF	VYCF
January	.33	.28	.49	2.57	2.08	2.26
February	.18	.28	.38	1.41	2.91	2.22
March	.18	.38	.46	1.45	2.29	3.36
April	.22	.27	.56	1.67	2.80	2.18
May	.23	.25	.55	1.63	2.40	2.50
June	.09	.24	.70	1.64	2.38	1.89
July	.18	.25	.33	1.59	1.57	2.34
August	.15	.26	.48	1.55	2.07	1.55
September	.24	.32	.59	.72	1.68	4.16

E. Review of Key Indicators of the Safety and Welfare Remedial Plan

Since two of three of the Defendant’s facilities and the Central Office have achieved 85% or above of items in substantial compliance as measured by standards and criteria, the Special Master believes that it is appropriate to begin identifying and assessing the remaining tasks Defendant needs to focus on and undertake to fully accomplish the purpose and intent of the Safety and Welfare Remedial Plan. The logical point of focus should be the “key indicators” identified in the “Dashboard” that the parties and the Court have jointly agreed to be priority action items. For the Safety and Welfare Remedial Plan, the Dashboard identified six priority action items and each item is discussed below:

Priority #1 – Complete the design, implementation plan, and manual for the IBTM.

The Special Master has long recognized that IBTM is the key to reform and has closely monitored Defendant's implementation progress since program inception.

³¹ Compiled by OSM based on CompStat data.

Starting with her Twentieth Report, the Special Master has devoted a section in each of her quarterly report on the IBTM, including some very candid observations and comments. It is the opinion of the Special Master that Defendant has been making a concerted effort and is achieving satisfactory progress, especially in light of the myriad of challenges, uncertainties, and internal and external impairments (Section I of this report).

The Safety and Welfare Expert agrees with the Special Master that the Mental Health Expert should assume the lead role in assisting with the implementation of IBTM and in designing an audit instrument to proceed with assessment of the program. The Special Master believes this arrangement will facilitate and expedite Defendant's progress in IBTM implementation.

The Safety and Welfare Expert indicates that he will continue to evaluate and monitor the overall progress of the program through identifying and reviewing outcome measures and provide advice and suggestions as deemed necessary and appropriate. Likewise, the Special Master, who has experience and background with implementation and monitoring of programs of similar nature, will continue to closely monitor Defendant's progress and report to the Court in her quarterly reports.

Priority #2 ó Design and implement a successful comprehensive gang control strategy.

At the recommendation of the Safety and Welfare Expert, Defendant contracted with the University of California, Irvine, for a study on gang and violence in DJJ facilities. Dr. Cheryl Maxon, a well-respected expert on this issue, led the study group, which released a report entitled *õGang and Violence in California's Youth Correctional Facilities: A Research Foundation for Developing Effective Gang Policiesö* with a series of recommendations in three key areas ó treatment, classification and assessment, and

violence reduction. Shortly thereafter, Defendant convened a Gang/Race Integration and Violence Reduction workgroup comprised of staff members of various disciplines including education, mental health, treatment, and correctional safety to study and respond to the report recommendations. The Safety and Welfare Expert participated in the workgroup by providing guidance and direction.

The workgroup members strongly believe that Defendant's approach to gang and race violence must be fully consistent with IBTM and that its underlying principles and related assessments and its evidence-based interventions provide the primary means to address gang and violence in DJJ facilities. Based on this premise, the workgroup developed consensus around a set of assumptions and an overall approach for considering Dr. Maxon's study group recommendations. The workgroup developed the following statement to reflect the workgroup's assumptions and approach:

öGang and violence related behavior represents a serious threat to the safety and security of staff and youth at DJJ facilities. It impedes the successful rehabilitation of youth while at DJJ and threatens their safety as well as the safety of communities upon their return to society. In order to stem these threats and reduce this significant barrier to change, DJJ seeks to assist youth with decreasing their criminogenic risks associated with gangs and violence, e.g., aggression/violence, social influences, and social/cognitive skills, and increase their protective factors related to their successful reentry into the community, e.g., community linkages, family, and education/employment. In addition, DJJ seeks to identify and resolve conflict between individuals and groups that would otherwise escalate into violence through nonviolent means.ö

Consistent with the above framework, the workgroup developed a series of proposed approaches to address Dr. Maxon's study report recommendations in each key area. Dr. Krisberg has reviewed the workgroup's proposal and found it to be extremely thoughtful and fully agrees that the approach must be consistent with the principles of

IBTM. Defendant should develop a plan to accomplish the approaches identified by the workgroup.

Priority #3 ó Implement appropriate gender responsive program.

The Special Master agrees with the Safety and Welfare Expert that Defendant needs to make a more concerted effort to identify and meet the programming needs of the female youth. In the upcoming month, the Special Master will seek advice and input from Dr. Krisberg and work with Defendant to identify and explore alternatives to ensure appropriate programs for the female youth in VYCF are being provided.

Priority #4 ó Reduce the rates of violence and Use of Force in all DJJ facilities.

The Special Master has been closely monitoring Defendant's efforts and progress on this issue. At Defendant's request, the OSM participated in a self-commissioned study group on this issue, which released a report in April 2011 with 28 observations and 99 recommendations. The Safety and Welfare Expert and the Disability Expert also participated in the study group as advisory members. Since her Eighteenth Report in July 2011, the Special Master has made candid observations in her quarterly reports about Defendant's effort and progress on this important issue.

As noted in the following section (Section V) of this report on use of force, Defendant continues to make progress toward implementation of an effective use-of-force model to reduce violence in the facilities. The Special Master is particularly encouraged by indications that quality assurance is starting to take place at the facilities and at the Central Office through more meaningful review of cases, establishment of a monthly reporting processes, and various self-assessment measures. While further refinement is needed, the model will become more effective as it continues to evolve and

gain more acceptances among youth and staff. Implementation of IBTM will further enhance the process.

In his fifth round comprehensive report, the Safety and Welfare Expert opined that the use of force is still too high at the facilities. This may well be the case as the new model is still being developed and refined. Defendant, in its response, rightfully asked the question of what would be the appropriate target goals for force reduction. The Special Master will work with the Safety and Welfare Expert and Defendant to identify reasonable targets.

Priority #5 Establish a realistic plan for the closure of current DJJ facilities and their replacement.

Although Defendant made a good faith effort on this issue, it was not successful due to factors and circumstances beyond its control. In 2006, Defendant contracted with an outside construction management firm to develop a master plan with prototype facility design that if adopted and implemented, would fully meet the requirements of this action item. However, by the time the plan was completed in 2008 at significant expenses, circumstances had changed drastically that essentially rendered the master plan obsolete. Changes include significant decline in youth population as a result of new state laws, facility closures, and the State Medical Receiver's announced plan to utilize VYCF site as one of the medical facilities.³² Since 2008, Defendant's youth population continued to decline, which necessitated more facility closures. With continuing uncertainties in the youth population and the state budget dilemma, it is unrealistic to expect any new facility to be constructed to replace the existing ones.

³² Based on telephone conversation between Mark Blaser and Deputy Special Master John Chen on November 29, 2012.

Based on her past experience in overseeing and operating facilities, the Special Master believes that with a modest investment, options are available for Defendant to convert the existing facilities' living units into more therapeutic and treatment-oriented settings. The Special Master suggests the Safety and Welfare Expert work with the parties and the Mastership to explore reasonable alternatives to accomplish the purpose and intent of this action item.

Priority #6 ó Successfully pilot and refine the BTP model.

The Special Master has closely monitored the BTP model with particular emphasis on VYCF's BTP units since the release of her Eighteenth Report in July 2011. The Special Master believes Defendant is making a satisfactory progress in this area.

All facilities have recognized that youth placement into BTPs are supposed to be short term in nature and have designed or modified their programs and treatment services based on that premise. According to reports produced by Defendant regarding the length of stay at BTP, except for certain deeply entrenched youth who have been placed into BTP one year or beyond, most youth newly placed into BTP are discharged within six month or less. At OHCYCF, most youth are discharged from the BTP within 60 days and the average length stay was 31.5 days with no youth in BTP for more than 66 days during September 2012.

While VYCF continues to encounter difficulties in dealing with a segment of the BTP youth population with prolonged placement in the unit, some at youth's volition or insistence, the conditions at the living units have improved. Examples of improvement include a significant increase in out-of-room time, more education services, additional programming and treatment opportunities, and less restriction during youth movements. Moreover, the Mental Health Expert is working with the staff in VYCF BTP units in

designing and implementing an incentive program and an reinforcement system. The Special Master will continue to closely monitor this issue

V. USE OF FORCE

Defendant continues to make progress toward implementation of an effective use-of-force model to reduce violence in the facilities. As discussed in the Twenty-Third Report of the Special Master, the newly adopted Crisis Prevention and Management Policy became fully operational in August 2012 following training on the new policy that has been provided to all DJJ staff. Defendant also provided training of the revised force review model to all staff potentially involved with the force review process. Coaching sessions of the revised force review model were conducted in late August and September 2012. The Central Office staff attended and participated in the facility force review committee meetings to observe the case review process and to offer suggestions for process improvement. In addition, starting September 2012, each facility is required to submit a monthly Force Committee Review (FRC) Report to the Central Office that summarizes the cases reviewed by the FRC, lessons learned, trends, patterns and application of best practices.. Defendant continues to make progress in regularly updating and utilizing the youth Crisis Intervention Plan and in ensuring compliance with Director Minor's July 15, 2011 memo requiring a weekly meeting of multi-disciplinary staff for each living unit.

The following are the Special Master's observations on the progress and challenges in the key areas related to the use-of-force issue:

A. Force Review Committee

The Special Master and the Deputy Special Master respectively attended the FRC coaching sessions at VYCF on September 11, 2012 and OHYYCF on September 27,

2012 and found the sessions to be beneficial and informative. The Special Master prepared a memo summarizing the OSM's observations of the two FRC proceedings and shared it with Director Minor on October 22, 2012. In addition, the Deputy Special Master attended and observed the NACYCF FRC meeting on November 7, 2012 and the Departmental Force Review Committee (DFRC) meeting on November 16, 2012.

While improvements have been noted at each facility, the Special Master found progress to be greatest at OHCYCF and least at VYCF. Each staff member of the OHCYCF's committee came to the meeting with notes about his/her observations on each case and some conducted independent research that went beyond the requirements of the force review process. The discussions were highly interactive, and some FRC members clearly are very familiar with youth in the facility as discussion often involved information not contained in the force incident packages such as the youth's personal and family history, gang involvement, and recent encounters that could have triggered the incident. Every youth involved in the incident was interviewed and the interview notes were reviewed and discussed during the FRC meeting regarding what may have led to the incident and actions that could be taken to prevent a future occurrence.

Most staff members at the NACYCF's FRC apparently have reviewed the cases in advance but did not prepare notes for the meeting and, in general, appeared to be less prepared and knowledgeable about the cases compared with the staff members at OHCYCF. The discussions were also less interactive. At VYCF, apparently few FRC members were aware that they were supposed to review the cases in advance of the meeting and only the Senior Psychologist had notes about the cases during the meeting. The Special Master believes that the facilities, particularly VYCF and NACYCF, could

benefit from continuous coaching session mentoring from the headquarters staff. The Special Master will continue to monitor the FRC meetings.

The Deputy Special Master attended the November 2012 DFRC meeting and found improvement in the process. The Deputy Director of DJJ now chairs DFRC meetings as the Major previously overseeing the force review process has been reassigned to the Stockton Complex. Unlike the previous DFRCs, all DFRC members read the force incident packages in advance and take turns leading the discussion on different cases. Some DFRC members commented positively on the ability to review the incident packages in advance and thus be able to perform additional research, such as the background of a particular youth, when necessary. As a result, the discussions were more interactive and more focused on preventive measures.

B. Force Review Committee Monthly Reports

The Special Master obtained and reviewed the facilities' FRC monthly reports for October 2012. Each FRC monthly report contains the following three sections:

- A brief synopsis of each use-of-force incident selected for review by the FRC.
- A section on lessons learned and best practices identified by the FRC.
- Any trends or patterns identified by the FRC.

The Special Master found the FRC monthly reports to be useful and a positive indicator that Defendant is continuing to develop a quality assurance process to monitor use of force at the facilities. While the monthly report process just started and could be further refined, it represents an important first step as it requires the facilities' management to systematically summarize force incidents for review and analyses of trends and patterns. In reviewing the monthly reports, the Special Master made the following observations for consideration by Defendant's management:

- It may be beneficial to include in the monthly reports a review of trends and patterns over a longer period. The monthly reports currently reflect only the trends and patterns of force incidents that occurred during the reporting period. For certain key performance indicators or elements, it may be useful to review and analyze trend and patterns over a longer period, possibly six months or longer, to identify both positive and negative patterns and to take action when deemed necessary and appropriate.
- There should be more consistency in the data and information presented in the reports. Although the monthly reports contain the same sections, the Special Master found that there is a significant variation among the facilities in the nature and extent of information presented, particularly for the section on trends and patterns. For example, the OHCYCF's report contains analyses based on a fairly extensive summary of data of force incidents such as youth age group, living unit, location, and percentage of youth with mental health and Wards with Disabilities Program (WDP) designation. The NACYCF's report merely presented a listing of incidents that occurred during the month with little summary data and analysis. As the process continues to evolve, Defendant's Central Office should consider working with the facility management to develop a common methodology to promote consistency among the facilities in what data to gather and how to analyze and present the data.
- Defendant should consider expanding the role of DFRC to include review of facilities' monthly reports and perform additional analyses of trend and patterns beyond the review of individual cases. After Defendant develops and implements a more consistent methodology for reporting the use-of-force trend and patterns, it would be beneficial for a more independent and broader review of data presented by the facilities, and the DFRC appears to be the logical forum for this expanded review function.

C. Weekly Multi-Disciplinary Staff Meetings

Defendant conducted self-assessments of the facilities' compliance with Director Minor's July 15, 2011 memo requiring weekly meetings of multi-disciplinary staff for each living unit. The assessments involved review of meeting minutes to ensure that the meetings were in fact being held and that the discussions were meaningful and relevant to the objectives. The assessments, conducted by the Use-of-Force Project Manager, suggest that that the meetings have occurred regularly at OHCYCF and at NACYCF. During the three-month period of May, June and July 2012, the meeting minutes reflected that 90 of 91 required meetings (99%) were held at OHCYCF and 142 of 146 required

meetings (97%) were held at NACYCF. However, at VYCF, only 46 of 143 required meetings (36%) were held during the three-month period of June, July and August 2012. Clearly, VYCF's management needs to make a more concerted effort to ensure adherence with Director Minor's directive.

In her assessment reports of the three facilities, the Use-of-Force Project Manager also provided comments and offered suggestions based on her review of the meeting minutes. The Special Master has reviewed the assessment reports for the three facilities and found them to be objective, constructive, and helpful in enhancing the effectiveness of the weekly meetings. This is another indication that Defendant's quality assurance system is taking place and working.

D. Crisis Intervention Plan

Defendant initiated a self-assessments process that required each facility's Program Administrator to randomly select a sample of at least 20% of youth Crisis Intervention Plans (CIP) in living units within his/her jurisdiction to ensure that the plans are current. The Superintendents submit monthly reports to confirm that the reviews have taken place at each facility and that the youths' CIPs are up to date. The Special Master obtained and reviewed OHCYCF and NACYCF's monthly reports for August, September and October 2012 and VYCF's monthly reports for July, August and September 2012 showing the results of the Program Administrator's review. All reports indicated that all youth Crisis Intervention Plans at each facility have been updated in a timely manner and that any deficiencies identified by the Program Administrators have been corrected. Starting in December 2012,³³ Defendant plans to conduct review of a

³³ Based on telephone conversation on November 27, 2012 between Use-of-Force Project Manager Yvette Marc-Aurele and Deputy Special Master John Chen.

random sample of the CIPs to assess quality and to ensure that the plans are tailored to the specific needs of each youth.

In addition, while attending the FRC meetings at the OHCYCF and the NACYCF and conducting review of force incident packages, the Deputy Special Master observed numerous situations where staff either reviewed the CIPs or referred to the need to review such plans prior to application of force. The effectiveness of the CIP process should continue to improve as the CIPs become more individualized and meaningful and as the staff gains more familiarity and knowledge with the process.

E. Other Observations

While attending the November 2012 DFRC meeting, the Deputy Special Master identified two other issues that merit further consideration by Defendant's management.

The issues are discussed below:

- Possible discrepancy in VYCF's use-of-force data reported to CompStat. During the November 2012 DFRC meeting, it was learned that an Associate Governmental Program Analyst (AGPA) at the Central Office was directed to review WIN records on a monthly basis to compile a total of the number use-of-force incidents that occurred at each facility during the month. While the purpose of this task is unclear and appears to be unnecessary and duplicative as each facility's Use-of-Force Coordinator is supposed to compile this information for submission to CompStat, the Deputy Special Master compared the information compiled by the Central Office AGPA through WIN and CompStat data. The comparison showed that while the totals are comparable to data at the OHCYCF and the NACYCF, a significant disparity exists within the VYCF's data. Over a six-month period from January through June 2012, the difference was an average of six cases per month, or 36 cases over the six-month period. From July through December 2011, the average monthly discrepancy was 16 cases per month or 96 cases over the six-month period. The discrepancy of approximately 130 cases over a twelve-month period is too significant to have been caused by timing differences. To ensure the accuracy and reliability of its data, Defendant needs to quantify the cause of the variation and propose a remedy for the problem.

Use-of-Force Incidents Reported for July through December 2011

Monthly Average	OHCYCF	NACYCF	VYCF
Compiled from WIN ³⁴	21	37	79
CompStat Data ³⁵	21	34	63
Difference	0	3	16

Use-of-Force Incidents Reported for January through June 2012

Monthly Average	OHCYCF	NACYCF	VYCF
Compiled from WIN ³⁶	15	29	61
CompStat Data ³⁷	14	28	55
Difference	1	1	6

- Insufficient oversight of use-of-force cases that do not meet the threshold for FRC review. The Force Prevention and Management Policy prescribes the following criteria for incidents that are mandated to be reviewed by the FRC:
 - Self-injurious behaviors or suicide attempt.
 - Serious injuries sustained by a youth or staff member.
 - Single youth incident.
 - Use of Oleoresin Capsicum on a youth with Mental Health designation or identified disability.
 - Allegations of excessive or unnecessary force.
 - Any incident deemed necessary for review by the Superintendent or his/her designee such as multiple (three or more) applications of Oleoresin Capsicum on a youth in a single youth incident.

- Each facility's Use-of-Force Coordinator reviews all incident packages and selects those that meet the prescribed criteria for FRC review. To date, apparently no provision has been made for review or oversight of the cases determined by the Use-of-Force Coordinators as not meeting the review threshold. The Major who previously oversaw the force review process indicated that there had been discussions involving having the Use-of-Force Project Manager conduct periodical site visits to the facilities and randomly select a sample of these cases for review. However, the Use-of-Force Project Manager stated that she is unaware of any such plan. To ensure the integrity of the review process, there

³⁴ From a document entitled "DJJ Use of Force Incidents % change +/- January 2011 through June 2012" provided to OSM through an email from Use-of-Force Project Manager Yvette Marc-Aurele.

³⁵ Monthly average calculated by OSM based on CompStat data.

³⁶ From a document entitled "DJJ Use of Force Incidents % change +/- January 2011 through June 2012" provided to OSM through an email from Use-of-Force Project Manager Yvette Marc-Aurele.

³⁷ Monthly average calculated by OSM based on CompStat data.

needs to be a process in place to select a representative sample of the cases not deemed to have met the review threshold to ensure that the determination was appropriate and to perform an actual review of the incident packages similar to the cases selected for review.

F. Review of Trend at Two Targeted Living Units

In her Twenty-third quarterly report, the Special Master wrote about use-of-force data on two living units, Sacramento Hall at the NACYCF and Casa de Los Caballeros (CLC) at the VYCF, that were specifically targeted by Defendant leadership for more in-depth monitoring because they usually have had the highest number of force incidents at their respective facilities. The staff at the two living units were informed that they would be closely monitored regarding their force incidents and DDMSs filed. Management paid particular attention to staffing by promptly filling vacant positions in the unit and created a positive incentive system for the youth in the unit. A review of data at these two living units shows drastic declines (well above 60%) in both the numbers of incidents that require security response and the actual number of force incidents within an eight-month period. This is yet another positive indicator that it is possible to affect a significant reduction in force incidents through management attention and involvement and provide an environment more conducive to reform. Defendant should consider exploring means to adopt and expand the practices at these living units to other units.

Incidents Requiring Security Response Without Force Use

Sacramento Hall

	Security Response Without Force Use	Force Incidents ³⁸	Chemical Force	Physical Force
March	28	13	7	7
April	26	6	4	2
May	20	4	1	4
June	30	8	5	3
July	24	5	4	1
August	14	2	2	0
September	12	8	2	7
October	9	4	3	1

Casa de Los Caballeros

	Security Response Without Force Use	Force Incidents ³⁹	Chemical Force	Physical Force
March	11	8	5	5
April	12	11	7	6
May	6	8	2	6
June	6	3	2	1
July	20	6	4	4
August	2	5	2	4
September	5	3	1	2
October	3	3	1	3

VI. VENTURA YOUTH CORRECTIONAL FACILITY

A. Current Progress

The Special Master began writing specifically about the BTP units at VYCF in her Eighteenth Report that was submitted July 1, 2011. In the 18 intervening months, efforts to improve the BTP units have, until this report, been best described as “one step forward and two steps back.” There appears to be a shift as there continues to be progress in developing a BTP at VYCF that actually provides a program that focuses on

³⁸ Some incidents involve both chemical and physical use of force.

³⁹ *Ibid.*

reducing aggressive behavior in youth so the youth can return as quickly as possible to a core living unit. Measures of this progress include the numbers and movement of youth in and out of the BTP, increases in the number and quality of treatment interventions, the development and use of structured activities that reinforce desired youth behavior and efforts by staff to understand, use and create effective interventions that assist youth in skill development. The senior management of DJJ has been an active presence at VYCF providing needed guidance and support to facility management and staff. The Mental Health Expert has continued his active involvement in coaching the unitsø staff.

Youth Population and Movement

Based on review of data of youth involved in program change protocol (PCP) and limited program incidents and placement of youth into BCP from January through November 2012, Defendant believes that youth at VYCF are placed into BTPs based on their overall treatment needs. The data suggest very few youth are placed into BTP due to PCP incidents. The following is a breakdown of this data:

VYCF PCP Incidents vs. BTP Placements from January ó November 2012

Total PCP Incidents	Total Number of Youth Involved	Total Placed into BTP due to PCP Incidents	Percentage
6	92	2	2%

One measure of progress is the number of youth in the BTP units and the length of stay (LOS) on the unit. The VYCF facility has been challenged by having a group of youth who have been in the units for long periods of time. Transitioning to a program that is designed for short LOS has been challenging because of the inherent conflict of managing two very different populations ó some youth with very long LOS and those new youth who have shorter LOS. While the engagement strategies are the same for

both populations, it is much more difficult for both staff and youth to engage in change strategies with each other when they have long histories of distrust and fear. Overcoming resistance to change is typically harder with the youth who have had longer stays in the BTP units. Staff also struggle with the belief that some of the longer-stay youth can and will change. In addition, some of the longer-stay youth who have release dates coming in the near future may be better served by focusing less on transition to a core unit, a key goal of the BTP, and more on preparation for transition to the community. The VYCF BTP staff have and will continue to make concerted efforts to address the needs of two very different groups of youth until all of the longer-stay youth are either transitioned to the community or to a core living unit.

The BTP population has decreased from 45 youth in January 2012 to 25 youth in August 2012, as reported in the Twenty-Third Report of the Special Master. Since then, the number has fluctuated between 21 and 25 and, as of November 30, 2012, there was a total of 21 youth housed in two BTP units with eight youth in Monte Vista (MV) and 13 youth in El Mirasol (EM). Based on the VYCF management's projection, the total is expected to decline due to an anticipated number of youth to be discharged and transitioned to core units. The drop in population will allow for a combining of the units in the near future.⁴⁰

Movement out of the units slowed this round in response to concerns raised by the Special Master and the Safety and Welfare Expert regarding what appeared to be a failure of youth to transition because they may not have been properly prepared.⁴¹ From August

⁴⁰ Both for programmatic reasons and due to construction, the units have not been combined.

⁴¹ See OSM 23. Pp. 29-32 for a detailed discussion of this issue.

15 through November 15, there were seven youth transitioned off BTP. Five youth transferred to an outside DJJ jurisdiction and two transferred to NCYCC.⁴²

The average LOS of youth on the BTP units continues to decline from 338 days in August 2012 to 286 in September 2012. The trend reversed October 2012 when the average increased to 336. Given the VYCF's current BTP youth population, this comparison is not very meaningful as it could easily be skewed. As previously noted, VYCF's BTP units are comprised of certain youth with lengthy stays and new youth with short stays. Thus, successful transition of a youth with short LOS, which is the goal of BTP, would cause the average to increase.⁴³

The Special Master believes it is more useful to review the trend of LOS of youth discharged, transferred, or transitioned to core units. For the seven youth transitioned to core units, the average LOS was 46 days with 89 days being the highest and 15 days lowest. This would suggest that VYCF staff certainly have been making efforts to promptly transition youth out of the BTP.

For the youth discharged or transferred to NACYCF, their LOS tends to be much longer as one youth has been in BTP since February 2011. Moreover, it is not possible to obtain a complete picture as some LOS may be understated when the youth was temporarily reassigned or out to court. Of the seven youth discharged or transferred, VYCF staff consider five to be extremely long-term BTP residents. Evidently, discharge or transfer are the only viable means for certain BTP youth at VYCF.

Increases in the Number and Quality of Treatment Interventions

⁴² BTP 4th Qtr Report (1), p. 2.

⁴³ The average LOS is calculated based on the LOS of youth who remained in the BTP units at the end of each month. Based on this methodology, the average LOS for youth remaining in the BTP units would increase when one or more youth with a short LOS transition out of BTP during the month. The data by itself is not a very meaningful comparison. A more meaningful comparison may be needed to review and analyze the trend of LOS of youth who exited the BTP over an extended period.

BTP staff members are trained and are delivering the following modules that are specifically designed to address the aggression issues that are part of the entrance requirement in a BTP:

- Anger Control
- Social Skills
- Decisional Balance
- The ABC Model
- Project Impact

Two more modules are in development by the IBTM team. IBTM team members at VYCF are engaged in coaching and training BTP staff members to deliver the modules. The Mental Health Expert has observed delivery of several modules and has noted the high level of staff commitment and the progress in staff skill development.⁴⁴ Typically groups are being offered three times per week.⁴⁵

Use of Structured Activities that Reinforce Desired Youth Behavior

A chronic complaint of experts, Plaintiff and the Special Master has been the very real concern that part of the reason for problem behavior and violence is the lack of activities that constructively engage youth in desired behavior. The adage "Idle Hands are the Devil's Tools" attributed to Chaucer, is a well-recognized concept. Today research regarding what helps young people to not engage in high-risk behaviors speaks to the protective factors that include positive activities.⁴⁶ California's juvenile justice system like so many others in the nation turned away from common sense and research to purely punitive measures that include deprivation of meaningful activity. Defendant is beginning

⁴⁴ The Mental Health Expert was on site at VYCF 9/12-13 and 11/7-8 2012. He works with staff in the units, observes groups and treatment sessions as well as works with senior managers.

⁴⁵ Typically at this point in the process of introducing CBT groups or modules, there will be a failure to consistently deliver the groups. The first step is staff training, followed by experimentation with delivery and then the challenging issue of scheduling must be addressed and fidelity to the materials.

⁴⁶ David Hawkins and Richard Catalano from the University of Washington, School of Social Work, provide some of the best and most accessible research on the topic of delinquency prevention and the asset-based research.

to recognize that the latter approach results in unsafe environments for youth and staff because of the increased risk of violence. Efforts to create meaningful and structured activities are beginning in the BTP units.

One example of such endeavors is the BTP staff taking youth off the unit to the gym to work on the exercise equipment. On three occasions in November, staff have taken two youth from the BTP to the gym. By all accounts, this is proving to be a significant incentive for positive behavior change. Similarly, the yard area is now secured and ready for youth to be allowed to engage in activity in the area immediately adjacent to the living unit. The staff are also now engaged in creating activities to reward youth who have earned five weekly reinforcers.

Efforts by staff to Understand, Use and Create Effective Interventions that Assist Youth in Skill Development

Perhaps the most encouraging sign of change is the growing recognition by staff that the use of positive reinforcement changes youth behavior. For understandable reasons there was, and for some still is, a significant disbelief that “positive checks” for desired behavior that initially provide rewards as seemingly insignificant as shampoo or candy could actually change youth behavior.⁴⁷ The Special Master has observed the surprise of staff about how quickly the RS is changing youth behavior.⁴⁸ Youth are now observed to sometimes speak differently to staff, inquiring about their day, dress or asking if they can help in some way.⁴⁹ Youth are inquiring of staff if they received their check for a particular action.

⁴⁷ The problem of not having the items for reinforcers on the units has been resolved. The Special Master observed reinforcement items in the units, accessible to staff, with clear instructions for how and when to use on her site visits in November 2012.

⁴⁸ Conversations with unit staff on site visits as well as meeting minutes from the BTP management team provide the foundation for this belief.

⁴⁹ Conversation with the Special Master and Program Administrator Ray Galaviz on November 30, 2012.

The implementation of the RS is challenging and the staff continue to improve in their efforts to be consistent. Staff are also beginning to understand the concept of rewarding not just any behavior but the behavior that a particular youth needs to develop. Finally systems have been created and are being monitored to ensure that staff are using the system in the same manner. There is a greater consistency between staff and across shifts. This is helping the Psychologists and counselors to monitor youth behavior more effectively.

Staff have also begun to respond to feedback from the Safety and Welfare Expert that indicates the transition of some youth was too rapid and transfer took place without adequate assessment and planning, thus resulting in failure on the part of the youth.⁵⁰ Defendant is experimenting with a reintegration program or what is referred to as "the youth guest program" to address some of the identified concerns. It slows the transition process, provides for a process of experimentation working with other youth in the BTP prior to moving to another unit and incremental periods of time on the receiving unit. While there is still a long way to go to develop useful case plans that are guiding the process and the steps are still too big a leap for many youth, it does begin to provide a focus on more incremental change on behavior prior to attempting to move a youth to a core unit. Such efforts demonstrate willingness on the part of the staff to explore new options and to address concerns raised by the *Farrell* experts.

Defendant also reports that, starting late October 2012, VYCF's Re-entry Coordinator began facilitating groups with youth on BTP. At El Mirasol, the Re-entry Coordinator has begun the Re-entry Planning Journal Group with three youth who are

⁵⁰ OSM 23, pp.23-24.

long-term BTP residents and are scheduled to be released directly from the BTP. The Re-entry Coordinator is working individually with youth on the Monte Vista BTP.

Finally the management staff continues to attempt to develop a true level system to complement the RS. The Mental Health Expert, the Special Master, the Plaintiff and the Division Director have met with the VYCF senior management and developed a framework for an operations plan for unit activities.⁵¹ The Special Master will report on this plan in the Twenty-Fifth Special Master's Report.

B. Facility Improvements

Planned facility improvements have continued to stay on schedule. In addition to the planned renovations reported below, the Program Administrator responsible for the girls' unit has worked to find furniture that is more home like for the girls' unit. Soft couches and round tables are welcome replacements for the more industrial furniture.

- The modification to the recreation yard on EM has been completed and work on modification to create medical examination rooms on MV is almost complete.
- Renovation of EM unit to meet the BTP needs. Examples of work to be performed include hardening of walls and dayroom doors, repairing fire alarms, converting rooms to medical examination rooms, and repairing and extending security fencing. EM is the first of the 12 living units at VYCF to undergo such a renovation.

In addition, VYCF has completed the renovation of Casa De Colegio (CDC) that will make it possible to deactivate the problematic Casa de Los Caballeros (CLC) unit by moving its youth into the CDC unit. The conditions at CLC were found to be unacceptable by the Safety and Welfare Expert during his site visit in June 2012.⁵² The projected move-in date is mid December. Once vacated, the CLC unit will be renovated.

⁵¹ The meeting was held on November 8, 2012.

⁵² See Behavior Treatment Program Update ó Third Quarter 2012 from Superintendent Victor Almager to Director Mike Minor, dated August 27, 2012.

Defendant is to be congratulated for attending to the facility problems raised by the Safety and Welfare Expert and Plaintiff.

VII. CONCLUSION

The quality of care delivered by Defendant's health care services has achieved full compliance with the Standards and Criteria for the Health Care Remedial Plan by delivering a constitutionally acceptable level of services. The Medical Experts believe Defendant is ready to assume monitoring of health care services. The Medical Experts and Defendant are to be congratulated for creating a system that delivers and sustains high quality services to youth. The nursing standards created by Defendant are of the highest quality and can serve as a model for any correctional health care system. The costs of care are still high but are driven less by medical services and more by mental health services. These issues can be addressed with the help of the Mental Health Expert.⁵³ The Medical Experts have provided thoughtful support to the DJJ professionals who deliver health care services. Health care is the first remedial plan to achieve the distinction of a recommendation for full transfer of monitoring under the *Farrell* lawsuit.

Defendant has also made gains significant enough in the Safety and Welfare Remedial Plan that the Safety and Welfare Expert recommends transfer of almost all aspects of monitoring for OHCYCF, NACYCF and the Central Office. This is an enormous accomplishment and the management and staff of the NCYCC are to be commended. The Mental Health Expert will audit and monitor the IBTM pursuant to an agreement with the Safety and Welfare Expert. These two actions combine to allow the Safety and Welfare Expert to focus on VYCF and key issues such as use of force.

⁵³ A significant proportion of health care costs are the inpatient psychiatric care contract. Efforts are underway by Defendant to try and reduce these costs.

Notable progress has been made in this most difficult area. Some of the progress appears attributable to the IBTM while other progress is a direct result of the commitment by headquarters and facility management to revise their use-of- force review process.

Perhaps most heartening of all progress are indicators that VYCF is slowly but surely beginning to show signs of aligning its culture with the principles of the IBTM. Managers are more receptive to advice from experts and several BTP managers and line staff continue to demonstrate commitment and tenacity to making change in the BTP and other units. Mary B. Perry School continues to do a good job of ensuring education is available for all youth. It is quite likely that at least one of the VYCF BTP units is doing the most consistent job of using the RS system of any unit in the agency. VYCF needs to compare and contrast its outcome data to OHCYCF and NACYCF and explore why there is such variance between outcomes. There is much to be learned from peers as well as external resources.

The Special Master respectfully submits this report.

Dated: January 3, 2013

Nancy M. Campbell
Special Master

**Farrell v. Cate
Sixth Report of Consent Decree
by the Medical Experts**

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■**



FARRELL MEDICAL EXPERTS

Joe Goldenson, MD
Madie LaMarre, MN, FNP-BC



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On October 15-18 2012, Madie LaMarre MN, FNP-BC, on behalf of the Farrell Medical Experts conducted site visits to the Northern California Youth Correctional Complex (NA Chaderjian and OH Close) and Ventura Youth Correctional Facility. I was joined by the Ron Wisdom MD, Chief Medical Officer and Terri van Aalst RN, MN, Nursing Consultant.

The purposes of the site visits were to assess whether staffing reductions implemented in accordance with the DJJ staffing business rules had adversely affected access to health care; quality of health care; or compliance with the Health Care Services Remedial Plan (HCSR). It was also to evaluate DJJ's self-monitoring and quality improvement processes.

Due to the Medical Experts assessment of substantial compliance at each of the facilities for two consecutive audits, a formal audit was not performed. Rather, spot review of records of youth with potentially serious medical problems was performed to determine whether any systemic issues could be identified. These findings were compared against DJJ's most recent OACC audits at each facility. I also reviewed Quality Improvement Meeting minutes and other documentation that was provided to me following the site visits.

I did not conduct a site visit to DJJ Health Care Services, but requested information to evaluate compliance with Health Care Organization, Leadership, Budget and Staffing audit tool. I compared these findings against the Office of Audits and Court Compliance (OACC) October 2012 audit of Health Care Services. Certain information in this report has been amended based upon comments and clarifications presented to the Medical Experts in letter sent to the experts on November 21, 2012.

I would like to thank all DJJ staff for their cooperation and assistance during the site visits.

Ventura YCF Health Care Audit, May 1-4, 2012 Office of Audits and Court Compliance

NA Chaderjian YCF Health Care Audit, August 13-15, 2012, Office of Audits and Court Compliance

OH Close YCF Health Care Audit, August 20-21, 2012, Office of Audits and Court Compliance

Health Care Services Audit, October 1-3, 2012, Office of Audits and Court Compliance

Since our last report, DJJ has continued to experience a declining youth population but no further reduction in the number of facilities. In 2011, health care staff reductions were implemented at each of the facilities in accordance with DJJ staffing business rules. Despite these staffing reductions, my review of health care services at NCYCC and Ventura shows that DJJ has sustained access and quality of health care services to youth and DJJ remains in substantial compliance with the Health Care Services Remedial Plan.

At DJJ Health Care Services, medical leadership has stabilized with Ron Wisdom MD, CMO and Terri van Aalst RN, MSN, Nursing Consultant providing able leadership to DJJ health care staff. Significant progress has been made in development and implementation of standardized nursing procedures and related training. The quality of these nursing procedures and training materials is excellent and could serve as a model for other correctional systems. Ms. Van Aalst is to be commended for her outstanding work.

With respect to self-monitoring, OACC conducted audits at each facility and Health Care Services in the past six months. Although findings were generally consistent with previous Medical Expert audits, we identified an area of concern related to record selection. In comparing my chronic disease findings to those of the OACC NA Chaderjian audit, it became apparent that the OACC audit did not include youth with the highest medical acuity, including a youth with leukemia and the only two diabetics at the facility. An OACC auditor explained that the records were selected randomly, which likely overrepresented youth with mild asthma and obesity. We also learned that a nonmedical OACC auditor, rather than health care staff selected the records. This audit methodology does not facilitate DJJ's assessment of its ability to provide adequate health care to youth with serious medical conditions. I discussed this with Ms. Navarrette and Dr. Wisdom who agreed to change the audit methodology.

At NCYCC Quality Management Meeting minutes were comprehensive and used data to improve performance of health care services. Review of Ventura Quality Management Meeting minutes were multidisciplinary and comprehensive. I would encourage both facilities to continue to use data to analyze root causes of areas requiring improvement and as well as resource needs.

In summary, DJJ has demonstrated that both access and quality of health care services are sustained following staffing reductions and we find the facilities in continued substantial compliance with the Health Care Services Remedial Plan.

With respect to the health care budget, significant progress has been made in lowering health care costs per youth for which DJJ is to be commended. However, annual health care costs per youth remain high (>\$27,000) and warrant further measures to obtain cost efficiencies. We again recommend that decisions about staffing patterns be based on minimum staffing requirements and analysis of utilization of health care resources, including staff productivity. We recommend that DJJ continue to pursue collaborative measures with CDCR to obtain cost efficiencies, including accessing care through the CDCR health care facility in Stockton after it opens in 2013.

The Medical Experts commend DJJ for their hard work and achievement in obtaining substantial compliance and wish DJJ continued success. We recommend that formal monitoring now be concluded, but we remain available to provide consultation and assistance to DJJ as requested.

Glossary of Acronyms

AGPA	Associate Government Program Analyst
BCP	Budget Change Proposal
CDCR	California Department of Corrections and Rehabilitation
CHSA	Correctional Health Services Administrator
CMO	Chief Medical Officer
CTC	Correctional Treatment Center
DGS	Department of General Services
DON	Director of Nursing
DPA	Department of Personnel Administration
FMLA	Family and Medical Leave Act
HCS	Health Care Services
HCSA	Health Care Services Division
HCSR	Health Care Services Remedial Plan
ITP	Intensive Treatment Program
LOC	Loss of Consciousness
LVN	Licensed Vocational Nurse
MAR	Medication Administration Record
MBP	Monthly Budget Plan
MTA	Medical Technical Assistant
NP	Nurse Practitioner
OHU	Outpatient Housing Unit
OT	Office Technician
PCP	Primary Care Provider
PHN	Public Health Nurse
RFB	Request for Bid
RN	Registered Nurse
SCP	Specialized Counseling Program
SRN	Supervising Registered Nurse
SSA	Staff Services Analyst
TDO	Temporary Departmental Orders
UHR	Unified Health Record
YCC	Youth Correctional Counselor

The medical experts did not conduct a formal site visit to DJJ Health Care Services, but were provided information necessary to assess compliance with the HCSR. We evaluated the status of health care using the Health Care Audit Instrument audit tools, [Health Care Organization, Budget, Leadership, and Staffing](#). Due to previous substantial compliance in Statewide Pharmacy Services, this area was not evaluated.

Overall, Health Care Services scored 92% (12 of 13 Questions). This score is consistent with the score of the OACC audit and represents an improvement from the previous score of 77%.

Our findings and assessment of compliance with the questions in the audit tool are described below.



Assessment: Substantial Compliance

We reviewed DJJ Executive and Health Care Services Tables of Organization (TOA) that were approved on September 27, 2012. The Executive TOA shows Health Care Services reporting to the Deputy Director for Facility Operations and Programs Branch.

The Health Care Services Section TOA shows that the Chief Medical Officer is the health authority in DJJ. In addition it contains the following positions: Chief Medical Officer, Chief Psychiatrist, Pharmacy Services Manager, Supervising Dentist, Nurse Consultant, and Program Administrator for Population Management. Reporting to the Program Administrator are the Associate Government Program Analyst, Office Technician, and Standards and Compliance Coordinator.

The Medical Experts find the current table of organization consistent with actual practice.



Assessment: Substantial Compliance

As noted in previous reports, DJJ has established a centralized model for health care delivery, supervision and oversight. Health Care Services has authority over facility personnel decisions including decisions to hire and discipline staff.

Headquarters clinical staff (e.g. Chief Medical Officer, Chief Psychiatrist, Supervising Dentist and Pharmacy Services Manager) provides clinical supervision of their respective counterparts in

the field as well as direct services to youth. The Nurse Consultant establishes clinical guidelines and supervision of nursing staff.

The DJJ Health Care Services Facility Administration Supervision TO approved October 2, 2011 shows the Correctional Health Services Administrator (CHSA) II as providing administrative supervision to all health disciplines. It is internally consistent and provides clear lines of administrative authority and accountability at the facility level.



Assessment: Substantial Compliance

Since our last review the status of each position is as follows:

The Statewide Medical Director (Chief Medical Officer) has never been a budgeted position. The current position is filled in an acting capacity by Dr. Ronald Wisdom whose position is assigned to NCYCC and whose duties are divided between NCYCC and Health Care Services.

The Director of Nurses (Nurse Consultant) position is filled by Terri van Aalst MN, RN.

The Chief Psychiatrist position is filled by Edward Morales MD, but is to be vacated at the end of October 2012. We have been advised that a Senior Supervising Psychiatrist position will assume administrative duties of the Chief Psychiatrist and will provide direct clinical services to youth at NCYCC.

The Pharmacy Services Manager (PSM) position is filled by Steve Laverone. This position is based at the Northern California Youth Correctional Complex (NCYCC). The PSM divides his time between NCYCC and HCS.

The Standards and Compliance Coordinator position is filled by Carol Salazar.

The Health Care Administrator position has never been budgeted at the headquarters level. At our last visit, DJJ established and filled a Staff Services Manager I position, but this position was abolished for budgetary reasons. Since then, Paul Woodard, Program Administrator for Population Management has assumed administrative responsibilities. Staff reporting to this position includes an Office Technician, AGPA, and the Standards and Compliance Coordinator.

The Clinical Record Administrator position has been eliminated. As noted in our last report, given DJJ's decrease in facilities and population, it is our opinion that a full time position is no longer needed or justified. We recommend that DJJ obtain consultation in managing health records from CDCR.



Assessment: Substantial Compliance

In September 2011, DJJ appointed Ronald Wisdom, MD as acting Statewide Medical Director. He divides his time between NCYCC (1/2) and headquarters (1/2). Dr. Wisdom has clinical autonomy for the health care program.

Dr. Wisdom has brought needed stability to HCS. He has worked closely with Terri van Aalst, Director of Nursing to develop and implement DJJ's standardized nursing procedures which at the time of this report was still in process.

He is exploring ways to achieve cost efficiencies in DJJ to reduce health care costs.

█

Assessment: Substantial Compliance

At our last site visit, Ms. Terri van Aalst RN had been appointed as the Statewide Director of Nursing (Nursing Consultant). Ms. van Aalst has brought needed stability to the nursing program and has made significant progress with the development and implementation of the standardized nursing procedures. The quality of the standardized nursing procedures and training materials is excellent and could easily serve as a model for other correctional systems. Ms. Van Aalst is to be commended for this accomplishment.

The classification of the Statewide Director of Nurses position has been changed from a Nursing Consultant III (Supervisor) to a Nursing Consultant, Program Review. Although this position does not provide administrative supervision to nursing supervisors and other nursing personnel, it is our understanding that this position has the responsibility and authority to provide clinical supervision and enforce nursing clinical practice standards which is required in order to be in substantial compliance.

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Assessment: Partial Compliance

At our last visit, DJJ had replaced the Health Care Administrator position with a Staff Services Manager I position, however since then the position has been abolished due to staffing reductions. A requirement of the Health Care Services Remedial plan is that health care administrative leadership tracks each budget line item (e.g., pharmacy, hospitalizations, personnel, etc) and on a monthly basis monitors, analyzes and reports on expenditures for each facility to ensure that DJJ health care expenditures remain within budget. This system has never been developed and implemented.

Health care administrative duties have been assigned to a Population Management Program Administrator. We understand that this individual does not have any experience in health care administration. According to Dr. Wisdom, he has taken over many of the administrative functions of the previous Staff Services Manager including supervision of the support staff at HCS in Headquarters. In addition, he provides administrative support for Mental Health supervision.

Some health care administrative tasks have been assumed by CDCR. DJJ HCS has a memorandum of understanding (MOU) with the Receivers Office such that all contracts for outside clinical specialists, as well as billing and payment for outside services, is now handled through the Receiver's office. This has markedly reduced the workload for HCS support staff, and also expanded the availability of specialists. As the size of the staff at DJJ Headquarters has decreased, some of the workload related to monthly budget plans, etc., has been taken over by staff working for Greg O'Brien (finance and personnel). Mr. O'Brien and his team provides help with accounting, but is not involved in setting priorities or making budgetary or other decisions that affect HCS.



Assessment: Substantial Compliance

For the most recently completed fiscal year 2011/201, the initial health care budget allotment for was \$30,248,099. The average youth population for the fiscal year was 1,137. Based on this number, the average per youth expenditures for this fiscal year is \$27,768. Personnel costs represent 72% of the Health Care Services annual budget, compared to more than 80% the previous fiscal year. The number is based on total health care costs, including Mental Health and Dental. This represents a significant reduction in costs since the last review. Several factors attributed to this drop in cost, including the closure of two more DJJ facilities and further staffing reductions.

The 2012/2013 DJJ Health Care Services budget is \$20,991,000 for medical, mental health and dental services. It is not possible at this time to evaluate a cost per youth because of the decreasing population.

We commend DJJ and CDCR leadership for steps taken to provide more cost effective health services, but note that the cost per youth remains extraordinarily high. We believe that additional opportunities for cost savings remain, particularly in clinical positions. We also note that the Sierra Vista mental health contract comprises \$3,000,000 per year of the health care budget, and although utilization of Sierra Vista is low, that the contract requires DJJ to pay for beds regardless of whether or not they are occupied.

We strongly encourage DJJ to continue to pursue cost efficiencies through collection and analysis of health care utilization data.



Assessment: Substantial Compliance

This area was not evaluated because it's previous sustained substantial compliance. We requested and were provided a job description and duty statement for each central office position.



Assessment: Substantial Compliance

This area was not evaluated because it's previous sustained substantial compliance.



Assessment: Substantial Compliance

This area remains in substantial compliance. Health Care Services continues to update policies and procedures on an ongoing basis. We were provided a schedule of policy and procedure revision for the upcoming year.



Assessment: Substantial Compliance

This area remains in substantial compliance. HCS has developed chronic care policies and procedures. Clinical guidelines from the NCCHC have been distributed to the medical staff and appropriate training has been provided.

There have been no new physicians hired that require chronic disease training.



Assessment: Substantial Compliance

Health Care Services has implemented structured health care audits in collaboration with OACC. We were provided copies of audits conducted at Ventura, NA Chaderjian, O.H. Close and Health Care Services.

The audits are generally consistent with previous findings in reviews conducted by the Medical Experts. However, we noted that at NA Chaderjian that the sample of records selected for review of chronic diseases did not include the only two diabetics and a youth with leukemia at the facility. We discussed this with OACC and health care leadership and learned that a non-medical staff selected records on a random basis. Records should be selected by health care personnel, and although random selection of records may be appropriate for certain types of reviews, we do not believe random selection is useful when there are small numbers of patients with serious medical conditions. We recommend that DJJ use a targeted approach to record review, i.e., selecting records of youth with serious medical conditions in order to evaluate DJJ's ability to provide adequate health care.



Assessment: Substantial Compliance

Health Care Services currently does not have a Clinical Records Administrator, however review of compliance with health record policies and procedures is being performed under the auspices of the clinical monitoring process. In our opinion, this effectively meets the requirement of the HCSR. P.

Interview HCS staff. Review the DJJ Table of Organization, Staffing and Budget Reports. Review orientation and training materials.

Key: SC =Substantial Compliance, PC=Partial Compliance, NC =Noncompliance, NA = Not Applicable, NE =Not Evaluated

		SC	PC	NC	NA
Question # 1	The Health Care Services (HCS) Table of Organization is consistent with the Health Care Services Remedial Plan (HCSRП) (pages 9 and 10).	1			
Question # 2	The DJJ organizational structure has established a centralized model for health care delivery, supervision, and oversight. Health Care Services has authority over facility personnel decisions including decisions to hire, promote, and discipline staff.	1			
Question # 3	Key HCS leadership positions (pages 9-12) are budgeted, filled, or being effectively recruited. Pay parity exists with CDCR.	1			
Question # 4	The Statewide Medical Director position is filled or being effectively recruited and provides competent oversight and leadership of DJJ Health Services in compliance with HCSRП requirements (page 10). The Medical Director has medical autonomy for the health care program.	1			
Question # 5	The Statewide Director of Nurses (DON) position is filled or being effectively recruited and provides competent leadership and oversight of nursing services in compliance with the HCSRП (page 11). The DON has clinical authority for nursing services.	1			
Question # 6	The Health Services Administrator (HSA) position is filled or being effectively recruited and provides competent administrative leadership. The HSA has developed a comprehensive health care budget that includes monthly tracking and reporting for each line item (e.g., pharmacy, hospitalizations, equipment, and supplies, etc.) per facility. The HSA provides administrative support to clinical staff to ensure that operational systems are functioning smoothly.		1		
Question # 7	The health care budget is adequate to meet all the requirements of the Health Care Services Remedial Plan. The integrity of the health care budget is maintained (funds are not diverted to other programs except when approved by the Chief Deputy Secretary).	1			
Question # 8	There are job descriptions for each budgeted position in Health Care Services (HCS).	1			
Question # 9	HCS has developed and implemented a structured, written orientation program for headquarters and facility staff. All new headquarters staff is oriented within 30 days of hire. Personnel orientation is documented and maintained in personnel files.	1			
Question # 10	HCS has developed and implemented initial policies and procedures and health record forms in collaboration with the Medical Experts. These policies are reviewed annually and updated as necessary.	1			
Question # 11	Health Care Services has developed chronic care policies and procedures, and clinical guidelines that are consistent with nationally accepted standards of care (e.g., Joint National Committee reports (as applicable), NCCHC, American Diabetes Association, etc.). DJJ has provided appropriate policy and guideline training for the clinicians.	1			
Question # 12	HCS has developed and implemented a structured auditing process in compliance with the HCSRП.	1			
Question # 13	The Clinical Record Administrator monitors health record management at each facility a minimum of annually to ensure compliance with health record policies and procedures.	1			
	Totals:	12	1		

Compliance =92% (12 of 13 Questions)

I visited Ventura Youth Correctional Facility (VCYF) on October 17-18, 2012. I thank Tom Mahoney, CHSA II, Hung Do MD, Debbie Gerhart SRN II, and Superintendent Victor Amalger and staff for their assistance and cooperation during the review.

At the time of my site visit the population was 283 youth including 24 women. My review of health records showed that youth have timely access to nurse sick call, provider referrals, and emergency response. Management of youth with chronic diseases was excellent. Medications are administered to youth in a timely manner.

Record review also revealed opportunities for improvement. In one case, a youth was assaulted by another youth on a weekend and suffered intracranial hemorrhage. The nursing emergency response was excellent and the youth was taken to the local hospital where he underwent emergency neurosurgery. He was discharged from the hospital the following Friday afternoon and placed in the OHU. A nurse telephoned the on-call physician however there was no return call for 2½ hours; the physician orders given at that time did not include neurological checks. A physician did not see the patient over the weekend, nor was there documentation of any communication between a nurse and a physician over the weekend, which would have been expected given the seriousness of this sentinel event. Staff reported the on-call physicians do not always return calls in a timely manner. I discussed this case with Drs. Do and Wisdom.

My review of Quality Improvement Minutes from March, June and October 2012 were generally lacking in substantive content and were not data driven. They did not include mental health, dental, or infection control subcommittees; or meaningfully address these areas during QI meetings. In fact, the June and October meetings appear to be almost identical in content. For quality improvement to be meaningful, this area requires further development.

I visited the Northern California Youth Correctional Complex (NCYCC) on October 15-16, 2012. I thank Rose Bustillos, Correctional Health Administrator II, Jackson Wong MD, and Superintendent Erin Brock and staff for their cooperation and assistance in completing the review.

At the time of the site visit, the population at Chad and OH Close were 321 and 210 respectively. Staff reported that there were approximately 60 youth at the Pine Grove Camp; thus the NCYCC population was slightly less than 600.

My review of NCYCC showed no systemic issues regarding access to or quality of health care services provided to youth. Record review showed youth had timely access to nursing sick call and provider referrals when clinically indicated. Youth received medications in a timely manner and noncompliance issues were addressed. Providers routinely saw youth with chronic diseases to evaluate disease control and adjust the treatment plan as clinically indicated.

Health care staff reported that medical appointments were scheduled medical in accordance with the Program Service Day and urgency of the youth's medical condition; and that custody staff was cooperative in escorting youth to clinic appointments.

With respect to chronic disease management, I found that patients were generally well managed and there were opportunities for improvement. Health records showed that medical providers did not consistently document an adequate interval history specific to the patient's disease(s) and address all chronic diseases at each visit. In addition patients were not consistently monitored in accordance with their level of disease control. I discussed these cases with Drs. Wisdom and Wong and our discussion revealed that most findings were related to lack of adequate documentation, rather than deficiencies in quality of care.

I compared my findings against OACC's NA Chaderjian audit conducted in August 2012 and found that these findings were not identified in the self-audit. Discussion of audit methodology with Inez Navarrette revealed that OACC auditors' selected chronic disease records randomly rather than using a targeted approach based upon high medical acuity. In addition, in an attempt to be helpful to the physician conducting the audit, Ms. Navarrette, who does not have a medical background, selected the records for the physician to review. This resulted in a review of youth with mild chronic diseases such as asthma and obesity rather than of youth with more serious chronic diseases. For example, at NA Chaderjian the recent OACC audit excluded a patient with leukemia and the only two diabetics at the facility. This audit methodology does not facilitate DJJ's ability to evaluate its ability to provide adequate care to youth with serious medical conditions. I discussed this with Ms. Navarrette and Dr. Wisdom who agreed that the methodology needed to be changed.

NCYCC Quality Improvement Meeting minutes were excellent. They were comprehensive, data driven and included mental health, dental and infection control subcommittees.

A review of staffing showed that there were 3.5 clinical FTEs which is a clinician to youth ratio of 1:171. As noted in previous reports this exceeds staffing requirements for the size and acuity

of the population. Staff reported that a change from last year was that a registered nurse staffed the clinics for 16 rather than 8 hours per day, which is appropriate.

Farrell v. Cate
Safety and Welfare Remedial Plan
Final Comprehensive Report by Dr. Barry Krisberg
November 29, 2012

Purpose

The goal of this report is to offer the Court and the parties observations on the progress made and the challenges faced by the Division of Juvenile Justice's (DJJ) in its effort to implement the Safety and Welfare Remedial Plan. The report contains data that was generously provided by DJJ staff and compiled with the assistance of the Office of Special Master (OSM).¹

Data for this report also come from a series of site visits that were made to DJJ facilities during June and July 2011. I also conducted an audit of DJJ headquarters activities that were intended to meet the requirements of the *Farrell v. Cate* Consent Decree. With the assistance of the OSM and OACC, I conducted an audit of the youth grievance system that entailed additional site visits to DJJ facilities in August and September. Deputy Special Master Chen accompanied me on each of the site visits and the headquarters audit. John Blackwell of the California Department of Corrections' Office of Audit and Court Compliance (OACC) conducted a pre-audit of each of the facilities and DJJ headquarters approximately 60 days prior to my site visit and issued a report. The OACC report assigned a rating for each audit item identified in the Safety and Welfare Standards and Criteria with an explanation and rationale to support the assigned ratings. Mr. Chen and I reviewed and analyzed the OACC report, reviewed the related proof-of practice documents, and performed spot checks to validate the OACC ratings. In cases where our ratings differed from OACC's ratings, we sought to identify and explain the differences in the agreed-upon format (audit grid) of the S&W Standards and Criteria. The results are discussed in greater detail in a latter section of this report.

I visited every open DJJ facility with the exception of the Pine Grove Camp. These visits generally lasted two to three days. During these visits I toured all of the living units, paying special attention to the high core and restricted housing units. I also conducted interviews with DJJ managers and staff, and interviewed between 10 to 20 youth who were selected at random from the daily facility roster. Youth interviews were conducted in private and confidential settings. After the site visit, I provided an informal debriefing to DJJ headquarters staff and facility managers. I also reviewed reports produced by the OSM and other Court Experts in areas that overlapped with my audit responsibility in the Safety and Welfare Remedial Plan.

I had total and open access to any and all information that I requested from DJJ. There was a range of research and management reports produced by DJJ. Periodically, I received information

¹ Assistance in compiling data was provided by John Chen of the OSM. Special Master Nancy Campbell was generous in her time to discuss many of the issues identified in this report. In addition, I want to extend my appreciation to Dorene Nyland, Tammy McGuire, and Doug Ugarkovich who coordinated the assembling of information from DJJ. Many other DJJ staff contributed to the information used for this report. The opinions expressed in this report are solely my own.

from the plaintiff's counsel and other interested advocates who expressed concern about treatment of youth in DJJ. I generally discussed these matters with DJJ top managers and requested additional reports and data to the extent appropriate to enable me to evaluate these situations. I also received regular updates on CompStat data for every facility and had complete access to all reports from the Performance-based Standards (PbS) data collection. I was regularly invited to and attended DJJ headquarters meetings that involved the progress and issues related to the *Farrell* remedial plans. I met with and discussed issues with Director Michael Minor on a weekly basis.

In this report, I have not attempted to cover all of the items in the S&W Remedial Plan Criteria. Instead, I have chosen to focus on critical aspects of the S&W Remedial Plan that are particularly noteworthy or pose greatest challenges for DJJ. I will offer some quantitative indicators of performance as well as my opinions and suggestions to help facilitate DJJ's effort to achieve and sustain meaningful reform.

Strong New Leadership at DJJ

In my last comprehensive report, I expressed a serious concern about increased anxiety and decline in staff morale as a result of the perceived lack of commitment by the administration, legislative leaders, and the California Department of Corrections and Rehabilitation (CDCR) management to continue retaining DJJ as a state function. Much of the anxiety centered on a "trigger" provision in the 2011-12 Budget Act that called for the counties to reimburse the state \$125,000 annually for each youth housed in DJJ facilities. If this trigger is enacted, the youth population is expected to decline to a level that may not be feasible for DJJ to continue operation.

DJJ had a change in leadership shortly after the release of my last report. Michael Minor was appointed the new Director of DJJ after Director Rachel Rios retired from state service. Ms. Rios did an excellent job of advancing key parts of the *Farrell* reforms and greatly accelerated the progress of reform. The skill and leadership of her replacement is a key to further success.

While leadership changes often cause additional anxiety among staff, the transition from Ms. Rios to Mr. Minor as the new Director was a seamless process. Through his background and experience over decades of services at various capacities in DJJ, Director Minor already earned the respect and support among staff at different levels and disciplines within the organization. Moreover, he has proven to be an effective leader and a capable administrator in dealing with the various stakeholders involved in the *Farrell* lawsuit. As the Safety and Welfare Expert, I have had first-hand experiences in working closely with Director Minor on various *Farrell* related issues over a decade. I have found him to be proactive, forthcoming and receptive to ideas and suggestions. Other *Farrell* experts also made similar observations to me

As a direct result of Director Minor's leadership, I believe that staff morale at DJJ stabilized despite the uncertainties and the need to implement further budget reductions. The fact that the budget "trigger" provision was not enacted even though revenues fell below the established

threshold offers hope that DJJ will continue to operate as a viable state organization in providing treatment to youth.

Looking ahead, the state's fiscal dilemma is still far from being resolved, which causes uncertainties and could further adversely impact DJJ's operations. As a result of realignment and other austerity measures, CDCR's Adult Services Division is already undergoing a severe budget reduction that resulted in layoff notices being sent to thousands of employees of numerous civil service classifications. At the minimum, DJJ will be adversely impacted by the prospect of Adult Services Division employees with seniority "bumping" DJJ staff with less seniority for certain civil services classifications, thus causing more anxiety and disruption to DJJ's operations.

DJJ's youth population continues to decline, which raises further uncertainties, rumors and speculation about additional facility closure. Based on a report of "Weekly Living Unit Breakdown," as of September 4, 1012, DJJ's total youth population was 909. In comparison, DJJ's total youth population as of December 26, 2011 and December 28, 2010 were 1,091 and 1,276, respectively². The decline in youth population poses further challenge to DJJ management in determining the most appropriate organizational structure and resource level to implement reform in a cost-effective manner. Further, the Governor's budget requires that the counties begin payments of \$25,000 per year for youth they commit to the state system. How this may impact commitments to DJJ is unknown.

One of the fundamental elements of the Safety and Welfare Remedial Plan is for the state to provide sufficient resources at the Central Office and at facilities to support reform efforts. In recent years, the available budgetary resources to support *Farrell* reform efforts have been significantly reduced. Given the continued decline in youth population and closure of facilities, most of the past budget reductions appear to be reasonable, necessary, and appropriate. For example, in my last report, I supported the decision to downsize DJJ headquarters staff by approximately 50 percent as unavoidable and appropriate. However, with an additional round of budget cuts, some of which were primarily driven by the need for fiscal austerity rather than based on careful assessments of program needs, I am concerned about their impact on future reform efforts. For example, the remedial plan calls for a "Program Development & Implementation Team" to support reform efforts which originally was comprised of about 18 staff members. During the fourth round of audits of the Central Office, I learned the number had been reduced to 11, which seemed reasonable in light of the decline in youth population. During the fifth round of audits, I found out that this number had been reduced to six staff. I again rated this item to be in substantial compliance on the basis that there is no evidence to suggest essential functions or activities are not being performed. However, the ultimate outcome and effect of staff reductions often are not readily apparent and will not be evident until much later. I remain concerned that any further staff reductions at the facilities themselves should be evaluated very carefully in terms of the needs to meet various aspects of the *Farrell* Consent Decree.

² Figures came from Weekly Living Unit Breakdown as of December 26, 2011 and December 28, 2010.

While strongly endorsing and supporting DJJ management’s current effort and direction in defining its Central Office organizational structure and resource requirements, I urge close monitoring of the resources to ensure that they are aligned to fully support the functions and activities of the organization to carryout sustained reform.

DJJ’s Compliance with S&W Standards and Criteria

Despite the uncertainties and challenges as to its future, DJJ continued to make progress toward gaining compliance with the Standards and Criteria of the Safety and Welfare Remedial Plan. As indicated by the results of my latest round (fifth round) of audits, the percentage of audit items found to be in substantial compliance has increased at every DJJ facility and at the Central Office over the previous round of audits as indicated in the following tables:

Percentage of Audit Items in Substantial Compliance (SC), Partial Compliance (PC) and Non-Compliance (NC) – Rounds Three, Four, and Five

OHCYCF

	Percentage in SC	Percentage in PC	Percentage in NC
Round 3	83%	11%	6%
Round 4	89%	7%	4%
Round 5	91%	9%	0%

NACYCF

	Percentage in SC	Percentage in PC	Percentage in NC
Round 3	71%	29%	0%
Round 4	84%	15%	1%
Round 5	87%	13%	0%

VYCF

	Percentage in SC	Percentage in PC	Percentage in NC
Round 3	68%	27%	5%
Round 4	67%	19%	14%
Round 5	84%	16%	0%

Central Office

	Percentage in SC	Percentage in PC	Percentage in NC
Round 3	80%	16%	4%
Round 4	85%	13%	2%
Round 5	92%	7%	1%

Between the fourth and fifth round of audits, improvement was greatest at VYCF where the percentage of items in substantial compliance increased by 17%, from 67% to 84%. At NACYCF and at DJJ Central Office, the percentage increases were three percent and seven

percent respectively. The improvement was least at OHCYCF where the percentage of items in substantial compliance increased by two percent, from 89% to 91% between the rounds. It was more difficult for OHCYCF to make incremental rating improvement when its percentage of items in substantial compliance was higher than the other facilities.

In my last comprehensive S&W report, I urged caution in placing too much reliance on the Standards and Criteria compliance percentages to assess the overall success of DJJ's reform efforts. The Standards and Criteria audit items are not weighted relative to their difficulty and complexity in implementation and criticality to the reform efforts. Moreover, as the primary focus of the S&W Standards and Criteria is to determine compliance, these ratings by themselves do not constitute adequate measurement of performance of the facility's reform efforts. For example, the results of the fifth round of audits disclosed that the difference in the overall percentage of audit items found to be in substantial compliance was only three percent between NACYCF (87%) and VYCF (84%). It is my opinion there is a vast difference between the care of youth in these two facilities in terms of meeting the purpose and intent of the Safety and Welfare Remedial Plan on issues such as improving youth safety and delivering meaningful treatment program. Many of the audit items cover the creation of formal policies and procedures but not necessarily how well these new systems are actually working. It is the classic difference between evaluating laws on the books and law in action.

Other Positive Reform Indicators

During my site visits to the facilities and through youth and staff interviews, I identified a number of very positive developments at each facility. I have reported these conditions to the parties as observations after each site visit. My Observation Reports for VYCF, NACYCF, and OHCYCF are included as Appendix A, B, and C, respectively. Some of the more noteworthy developments include:

OHCYCF

- The implementation of the Integrated Behavior Treatment Model (IBTM) is proceeding very well at OHCYCF and the youth reported great value in the groups and counseling that they are receiving. Staff at the IBTM units appears to comprehend and be committed to the new model and are working diligently to make it succeed.
- Youth uniformly praised the school programs and were especially complimentary about the teachers. They feel that the teachers care about them and working hard to help them succeed. This is consistent with the findings of the Education Experts.
- Youth at OHCYCF get a large amount of outside exercise and sports compared to the past. Youth were very positive about the health care received and they liked the chaplains and the religious services. Youth rated the staff as professional and helpful to them.

- OHCYCF has an excellent youth incentive program and with a significant proportion of youth in A phase. As of April 23, 2012, the percentage of A phase youth at OHCYCF was 23% in comparison to 17% at VYCF and 16% at NACYCF.
- OHCYCF has recently opened a special recreation center for the A phase youth that illustrates the value of creating a home-like environments even in an old facility.
- The BTP program is combined with the TIP program at OHCYCF and both programs are used in a very sparing manner. Temporary cool-down periods usually occur on the unit in the youth's own rooms. It appeared that school and counseling were being delivered on a regular basis in these restricted programs.

NACYCF

- Youth uniformly praised the school programs and were especially complimentary about vocational programs at NACYCF. This is consistent with the findings of the Education Experts.
- Youth at NACYCF are engaged in numerous outside exercise and sports activities throughout the facility, which is highly encouraging. Staff informed us the NACYCF youth are now allowed to use the pool at OHCYCF. Staff also informed us that more NACYCF youth have jobs that allowed them outside the facility fences than previously.
- The NACYCF's BTP program appears to be very well run. In comparison to VYCF, NACYCF's BTP program is closer to the model designed by headquarters. Youth move around freely and showed good rapport with staff. Treatment and school were occurring on a regular basis. The youth, some of whom were from VYCF's BTP units, expressed the view that the BTP is a programming unit that allowed youth to succeed and to work towards release. Many of these BTP youth stated that staff are attentive to their concerns and are trying to help them. The fact that some of these youth, previously determined to be the most difficult cases by VYCF staff, are programming regularly in a relatively short timeframe after their arrival at NACYCF suggests that the BTP model can succeed if properly administered.
- Management and staff at the Stockton Complex should be commended for the newly created recreation center for model youth at NACYCF and OHCYCF. This is a well-designed state-of-art facility and should provide significant additional incentives for positive behavior.
- Review of use-of-force incident packages found evidence that suggest more staff have been referring to individualized crisis intervention plans before application of

force. Force Review Committee also identified positive action taken by staff during the force incidents.

VYCF

- VYCF has transitioned a significant number of youth out of the BTP units. Since January 2012, a total of 17 youth have been moved from the BTPs to high core and low core units within the facility and another four were transferred to NACYCF. To date, only three of the 17 youth transferred within VYCF had been returned to the BTP units. As a result, the total number of youth in the two BTP units declined from approximately 40 in January 2012 to 24 at the time of our site visit.
- Youth are less segregated in the BPT units. For example, on January 23, 2012, the El Mirasol (EM) living unit had approximately 20 youth divided into seven program groups (five program groups plus two youth on program solo status). During this site visit, the 12 youth in EM were divided into two program groups consisting of six youth in each program group. As a result of fewer program groups, youth in the BTP units are receiving more out-of-room time. Youth interviewed indicated that they are receiving more than the mandatory minimum requirement of 180 minutes a day. Youth stated that, in addition to attending school, they are receiving at least an additional three hours of out-of-room time each day. A physical education class is being provided to the high school graduates in the units.
- The BTP units no longer routinely place all youth in restraints during youth movements. The facility has adopted a policy of only placing youth in restraints to address past behavioral issues with frequent reviews to assess whether restraints could be removed. Typically, restraints are limited to movement and activities with escape risk. However, restraints are still part of daily life in the BTPs and their school units, as a number of youth continue to engage in unacceptable activities such of fighting and climbing over the fence of the exercise yard. A razor ribbon is being installed to prevent fence jumping.
- The school program is rated highly by most of the youth interviewed. The high school graduates and general educational development (GED) youth are still asking for more college classes and vocational programs. Jobs provided to non-school youth are still inadequate to meet the demand.
- The female program at the El Toyon living unit continues to function at a good level; the young women are getting lots of attention and services, appearing to be reasonably safe and secure in their treatment.

Program Service Day

At the broader level, I am particularly pleased by the dramatic increase in the amount of out-of-room time that is supported by the Program Service Day (PSD) hours, being provided to youth at

all three facilities. As indicated in the following tables, the percentage of total weekly average PSD hours increased by 60% at OHCYCF, 67% at NACYCF, and 83% at VYCF from 2010-11 to 2011-12. Increase in out-of-room time means youth spent less time in isolation in their rooms.

Comparison of Weekly Average PSD Hours
2010-11 and 2011-12

OHCYCF

	Clinical Hours	Counseling Hours	Education Hours	Organized Recreation	Other Structured	Total Average Weekly Hours
2010-11	.97	8.60	13.03	12.26	12.16	47.01
2011-12	1.55	11.03	15.14	25.35	22.36	75.43
Percentage Increase	60%	28%	16%	106%	84%	60%

NACYCF

	Clinical Hours	Counseling Hours	Education Hours	Organized Recreation	Other Structured	Total Average Weekly Hours
2010-11	1.23	4.72	6.89	17.64	10.07	40.54
2011-12	1.29	7.19	10.29	33.33	15.79	67.89
Percentage Increase	5%	52%	49%	89%	57%	67%

VYCF

	Clinical Hours	Counseling Hours	Education Hours	Organized Recreation	Other Structured	Total Average Weekly Hours
2010-11	.40	6.20	6.67	11.03	8.92	33.22
2011-12	.74	12.39	9.91	23.64	14.74	61.42 (
Percentage Increase	85%	100%	49%	114%	65%	83%

While I am encouraged by the staff efforts that resulted in the significant increase in youth out-of-room time, it should be noted that the category in which the most increases occurred is “Organized Recreation” activities. During my site visits, I observed such activities almost exclusively consisted of youth in dayroom watching television or working out in exercise yards with very limited interaction with any staff member. As DJJ continues to proceed with implementation of IBTM, management needs to explore means to promote and encourage staff of all disciplines to adopt routine practices of continuously interacting with youth in meaningful conversations and activities.

The Quality of OACC Audit Continues to be Exemplary

During my fourth round of audits, a new protocol was developed under Special Master Nancy Campbell whereby the CDCR’s Office of Audits and Court Compliance conducts an audit of the

facility or DJJ headquarters approximately 45 days prior to my site visits. The *Farrell* Experts and I supported this approach because it serves two purposes. First, it helps DJJ sustain reform by developing its own internal quality assurance system for self-monitoring. In addition, it enables the *Farrell* Experts to focus on the more substantive issues to expedite reform effort.

In my last comprehensive report, I noted that the work of OACC auditors to be highly accurate, professional, thorough, and objective and that there have been few instances where the OSM or I had to change the ratings assigned by OACC. I again found the work of OACC auditors continued to be to exemplary during the fifth round of audits and rating adjustments by the OSM and myself have been very minimal as indicated in the following table:

Rating Changes by the OSM and the Safety and Welfare Expert

	OHCYCF	NACYCF	VYCF	Central Office
NC to SC		1	2	1
PC to SC	3		6	2
SC to PC	2	3	2	1
NA to SC		1	1	
PC to NA	1			1
SC to NR	2			3
NC to NA				1
Variance/Total	8/73 (11%)	5/70 (7%)	11/70 (16%)	9/139 (6%)

Of the total of 352 items audited at the three facilities and the Central Office, the OSM and I made 33 (9.4%) rating changes. Approximately 52% (17 of 33) of the rating changes were upgrades that occurred as a result of additional documentation and change in facility practices after the initial OACC’s audit. Another five items (15% of 33) were reclassified from Substantial Compliance to Not Rated because these were items that are supposed to be audited by the Mental Health Experts. The remaining 11 items (33% of 33), or approximately three percent of total items audited, were changes that resulted from my qualitative judgment and decisions, which I discussed with OACC auditors.

Based on my observations through two rounds of audits, I have full confidence in OACC’s ability to continue perform future audits with professionalism and objectivity on Safety and Welfare matters. I would be very comfortable with OACC assuming monitoring responsibility for most S&W issues at the Stockton Youth Complex.

Exceptions to passing along S&W auditing to OACC include the following areas that I believe merit further attention by the Safety and Welfare Expert

- Implementation of the Integrated Behavior Treatment Model
- Reduction in Use of Force

- Improve the functionality, maintenance, and cleanliness of physical plant at the facilities
- Implementation and refinement of Program Service Day at the facilities
- Implementation of an evidence-based gang strategy

I believe that I need to continue to retain full monitoring responsibility for VYCF because of the myriad of issues still confronting that facility.

Reducing Fear and Violence

Reducing the levels of violence and fear among staff and youth in DJJ facilities has always been at the heart of the *Farrell* case. While DJJ has made progress toward achieving substantial compliance as measured by Standards and Criteria of the Safety and Welfare Remedial Plan, a review of certain key outcomes or performance indicators found fairly significant progress at OHCYCF but only marginal improvement in fear and violence reduction at NACYCF and at VYCF. I believe improvement in this area is closely connected with the successful and full implementation of IBTM at all DJJ facilities.

Use of Force

Since my last report, DJJ has made a concerted effort to reduce the unnecessary or excessive use of force in its facilities. As a result of a multi-disciplinary study on use of force, in which I participated as an advisory member, DJJ has revamped its use-of-force policies and procedures. Some of the most notable actions include:

- Completely revised the Crisis Prevention and Management Policy by March 2012.
- Provided training on the revised Crisis Prevention and Management Policy to all staff members by August 2012.
- Provided training on “Core Correctional Practices,” a course developed by the University of Cincinnati Correctional Institute (UCCI), by August 2012.
- Directed all living units to conduct weekly meetings of multi-discipline staff to discuss violence prevention starting November 2011.
- Directed all living units to prepare Crisis Intervention Plan for every youth in the DJJ system starting November 2011.
- Revised the process employed by the facilities to review use-of-force incidents by adding focus on ways to prevent use of force. Provided training to all management and staff members potentially involved in the review process by June 2012.

- Discontinued Violence Reduction Committees (VRC) at the facilities that were not very effective. The functions of the VRC were assumed by the Force Review Committees.

I believe all of the above measures are necessary and appropriate and applaud DJJ management’s diligent efforts in this regards. However, the matter is still a work in progress. While I believe the overall amount of violence and the use of force being used at DJJ facilities is still too high, I am encouraged by the recent positive trends at OHCYCF and at NACYCF. A review of CompStat data over the last 30 months suggests that use-of-force rate has declined fairly significantly at OHCYCF particularly during recent months, declined moderately at NACYCF, but remained fairly consistent and much higher at VYCF. As the pattern continues to emerge, DJJ management needs to monitor the data closely and intervene when necessary.

Use of Force (Rate per 100 Youth Days)

	Mar 10	June 10	Sept 10	Dec 10	Mar 11	June 11	Sept 11	Dec 11	Mar 12	June 12
All DJJ Institutions	.39	.40	.42	.29	.41	.32	.43	.32	.36	.31
OHCYCF	.19	.30	.31	.19	.26	.15	.37	.26	.18	.09
NACYCF	.47	.41	.52	.25	.33	.29	.33	.18	.38	.24
VYCF	.55	.53	.60	.49	.75	.56	.74	.60	.46	.53

Youth on Youth Violence

CompStat data indicate that there has been a fairly significant decline in violence among the DJJ youth overall. From the first six months of 2010 to the first six months of 2011, the overall rate of violent incidents³ per 100 youth days declined by approximately 16%, from an average of .51 to .43 per month. The overall rate declined by another five percent from an average of .43 to .41 between the first six months of 2011 and the first six months of 2012. However, further analysis found that OHCYCF accounted for most of the decline in youth violence rate. When excluding OHCYCF, the average youth-on-youth violence rate only decreased by approximately six percent, from 47% to .44% between the first six month of 2011 and the first six months of 2012. This is not altogether surprising since the IBTM has just been implemented at OHCYCF, is just starting at NACTCF and has not begun at VYCF.

³ Violent incidents include fights, group disturbances, and batteries on staff, gassings, and sexual assaults. Most of these violent incidents involved fights among youth and group disturbance. Reports of sexual assaults among youth were rare.

	Mar 10	June 10	Sept 10	Dec 10	Mar 11	June 11	Sept 11	Dec 11	Mar 12	June 12
All	.58	.43	.56	.41	.50	.35	.46	.30	.42	.40
OHCYCF	.54	.66	.30	.33	.62	.45	.94	.66	.40	.24
NACYCF	.52	.34	.30	.18	.52	.30	.34	.18	.35	.31
VYCF	.50	.52	.85	.77	.57	.41	.37	.28	.50	.59

Level 3 DDMS Cases

A similar pattern emerged when looking at the most serious (Level 3) DDMS cases. Level 3 DDMS cases involve violent behavior and serious violations of DJJ rules. Between the first six months of 2010 to the first six months of 2011, the overall Level 3 DDMS rate declined by approximately 11%, from an average of 8.0 to 7.1. The overall rate declined by another 8%, from an average of 7.1 to 6.5 between the first six months of 2011 to the first six months of 2012. VYCF accounted for the entire decline in Level 3 DDMS cases as it was able to reduce the Level 3 DDMS rates in line with the rates at OHCYCF and at NACYCF, which remained fairly constant over the three years. It is encouraging to note that staff members at VYCF apparently are less prone to rely on using Level 3 DDMS to address youth behavior issues.

Level 3 DDMS (Rate per 100 Youth Days)

	Mar 10	June 10	Sept 10	Dec 10	Mar 11	June 11	Sept 11	Dec 11	Mar 12	June 12
All ⁴	8.0	8.0	7.2	6.6	8.3	5.8	10.7	7.4	7.1	5.9
OHCYCF	1.5	1.6	1.5	1.5	2.6	1.5	3.7	2.9	1.5	1.6
NACYCF	2.6	2.2	2.1	1.5	1.7	1.8	2.3	1.3	2.3	2.4
VYCF	3.9	4.2	3.6	3.6	4.0	2.5	4.7	3.2	3.4	1.9

Group Disturbances

The number of group disturbance incidents declined sharply between 2011 and 2012, which is encouraging. During the first six months of 2012, DJJ facilities reported 20 group disturbances in comparison to 40 such incidents during similar period in 2011. Note that of the 20 group disturbance incidents in the first six months of 2011, 11 occurred at VYCF, six at NACYCF and three at OHCYCF. Based on review of past data, the number of group disturbances often could vary significantly from period to period. For example, a spike in the number of group disturbance incidents (29) that occurred over a three-month period in February, March and April 2011 accounted for a large portion of the 40 incidents occurred during the first six month of 2011. Thus, longer trend data is needed to ensure the validity of this trend.

⁴ Figures exclude Level 3 DDMS cases for Preston Youth Correctional Facility and South Youth Correctional Reception Center and Clinic, which have been closed.

Lockdowns and Limited Programs

The number of lockdowns and limited programs in DJJ increased substantially despite decline in the overall youth population. Lockdowns are supposed to be rare occasions of very serious threats to the facility security and safety of youth and staff that require restriction of all youth to their room or dormitory beds no less than a living unit. Limited programs consist of suspension of any operation, procedure, service or function to prevent or control a disruption of a portion of youth within a living unit. During the first six months of 2011, DJJ facilities had 26 lockdowns and limited programs in comparison to 15 such incidents during similar period in 2010 and 10 in 2009. The number of lockdowns and limited programs escalated to 43 cases during the first six months of 2012. Of the 43 lockdowns and limited programs in the first six month of 2012, OHCYCF accounted for 24 of the cases in comparison to five such cases during the same period in 2011. Similarly, NACYCF had 15 lockdowns and limited programs during the first six months of 2012 in comparison to seven such cases in 2011. Meanwhile, the number of cases remained constant at VYCF -- four cases in 2012 in comparison to seven cases in 2011. There is no apparent reason for the escalation of the lockdowns and limited programs at OHCYCF and NACYCF. Management should further investigate the causes of the drastic increase and, if necessary, take appropriate action.

PbS Data about Youth and Staff Safety Concerns

PbS contains outcome measures that, among other things, survey youth and staff for their safety fear. Over time, there have been significant disparities in PbS survey rates from collection cycle to collection cycle that are difficult to explain. One possible factor may be that the sample size, based on response rate, could vary significantly from collection period to collection period. For example, a review of the sample size of VYCF over the last ten collection periods for Safety 13 fluctuated from 24 during the April 2008 collection period to 87 during the April 2009 collection period. The significant variation in sample size could skew the validity of survey data.

According to PbS, the safety concern among youth remained fairly constant at OHCYCF and NACYCF. Youth at Ventura have expressed increasing concern about their safety in recent collection cycles, but such concerns apparently have largely been alleviated in 2012. At OHCYCF, the percentage ranged between 21% in April 2011 and 38% in October 2010. The 38% rate was an isolated situation. At NACYCF, the rates ranged from 18% in October 2011 to 32% in October 2010. At VYCF, the percentage of youth interviewed who feared for their safety increased from 27% in October 2009 to 33% in April 2010, to 37% in October 2010, and 44% in April 2011. In the two latest collection cycles, the percentages dropped to 19% in October 2011 and 18% in April 2012.

Safety 13 – Percent of interviewed youth who report that they feared for their safety within the last six months while at this facility.

	April 2008	October 2008	April 2009	October 2009	April 2010	October 2010	April 2011	October 2011	April 2012
OHCYCF	17%	25%	20%	28%	22%	38%	21%	23%	22%
NACYCF	35%	29%	31%	32%	23%	32%	28%	18%	23%
VYCF	8%	18%	15%	27%	33%	37%	44%	19%	18%
Field Avg	19%	18%	16%	18%	23%	22%	20%	19%	19%

The safety concern among staff remained fairly constant at all facilities over time with some temporary spikes. There is significant disparity between OHCYCF and the other DJJ facilities as staff at OHCYCF constantly have had the lowest safety concerns.

Safety 14 -- Percent of staff who report that they feared for their safety within the last six months.

	April 2008	October 2008	April 2009	October 2009	April 2010	October 2010	April 2011	October 2011	April 2012
OHCYCF	2%	7%	6%	11%	19%	8%	14%	14%	4%
NACYCF	10%	15%	20%	16%	18%	15%	20%	28%	21%
VYCF	6%	10%	21%	15%	25%	32%	17%	23%	25%
Field Avg	16%	18%	16%	17%	20%	23%	23%	23%	22%

At DJJ’s request, the Safety and Welfare Expert included the “Field Average” of these outcome measures for comparison purposes. Field average is the average of the juvenile justice agencies that participate in PbS. The Safety and Welfare Expert urges extreme caution in using this data for the following reasons:

- These numbers are from a non random sample of facilities that participate in PbS and the data collection methodology and definitions differ among the facilities.
- Many of these PbS facilities are very small, non-secure, short term holding or placement facilities and they house very different types of youth.
- A better comparison would be to PbS facilities with larger youth populations and much longer length of stays.
- The PbS field average varies based on which facilities join or leave PbS each time period.

Other Safety and Welfare Issues that Require Additional Consideration

In addition to the issues identified above, I have made additional observations of issues for consideration by the parties and the Court. Each observation is discussed below:

Data to Measure Program Effectiveness

One of the key principles of the Safety and Welfare Remedial Plan is that the state is to provide “effective rehabilitative treatment to reduce recidivism.” On October 22, 2012, CDCR released a report prepared by its Office of Research entitled “2012 Outcome Evaluation Report.” The report is primarily about outcome of inmates released from adult prisons but also contains recidivism data on youth offenders released from DJJ during the 2007-08 fiscal year. The report disclosed that, within three years, 53.8% of youth released from DJJ during the 2007-08 fiscal year were returned or committed to either DJJ or the Division of Adult Institutions (DAI). This figure is a slight decline from a prior study of youth released from DJJ during the 2004-05 fiscal year, which showed a recidivism rate of 56.5% to any state-level institution within three years. However, the comparison may not be meaningful as the composition of youth population has changed significantly between the two study periods. Prior to September 2007, youth with either felony or misdemeanor adjudications were eligible for commitment to DJJ. Due to the belief that youthful offenders could be better served at the local level where services and family are close at hand, Senate Bill 81 (SB 81) was passed and continued the fundamental shift of keeping lower level offenders close to home near local treatment services and support from their families and the community at large. This legislation limited the type of youth who could be committed to DJJ. Only youth whose most recent sustained offense was listed under Welfare and Institutions Code (W&IC) 707(b), violent offenses, or an offense listed in Penal Code (PC) 290.008, sex offenses, (henceforth, 707(b)/290”) are eligible for commitment to DJJ. In addition, this legislation required that non-707(b) offenders be returned to the county of commitment upon release for community supervision, rather than DJJ parole.

A more meaningful comparison may be the recidivism rate for 707(b)/290 offenders, which likely represent DJJ’s future youth population mix. After approximately three years of reform efforts, the recidivism rate for this group of youth population increased slightly, from 56.5% for youth released in 2004-05 to 59.8% for youth released in 2007-08.

It should also be noted that IBTM was far from being considered or implemented at any of the DJJ facilities at the time both youth groups affected by the studies were released. Without an effectiveness treatment model, it is unrealistic to expect drastic decline in recidivism rates. As IBTM is being implemented at all facilities this fiscal year, DJJ should consider capturing and tracking the data on a more frequent basis to continue monitoring the effectiveness of the program.

Implementation of IBTM

As previously noted, I found the implementation of IBTM to be proceeding well at OHCYCF, as youth and staff interviewed reacted and commented positively about the program. Based on my observations during site visits, I am reasonably optimistic that the program will succeed at NACYCF given the strong leadership there as well as the youth perception that the staff are willing to work with them in providing the needed treatment and services. This is evidenced by the experiences and testimonies of youth transferred from VYCF’s BTP units to NACYCF’s BTP unit. At VYCF, DJJ’s Central Office definitely needs to assume a proactive role in

providing guidance, direction, and support in order to overcome the apprehensive and negativity expressed by youth and staff. The distance of VYCF poses additional challenges that requires to Central Office to assume a greater oversight and supportive role throughout the implementation process.

I agree with Special Master Nancy Campbell's suggestion of having Mental Health Expert Bruce Gage to assume the lead role in assisting with the implementation of IBTM and in designing an audit instrument to proceed with assessment of the program. I will continue to evaluate and monitor the overall progress of the program through identifying and reviewing outcome measures and provide advices and suggestions as deemed necessary and appropriate. I will provide training and technical assistance in those aspects of the IBTM that DJJ managers or the party's request.

Youth Classification and Assessment System

In my last comprehensive report, I expressed a concern about reliance on CA-YASI to make security assignments to living units and as the main assessment tool for IBTM implementation. I stated that CA-YASI has neither been proven to be reliable or valid. My interviews with staff at OHCYCF suggest that there is still little real understanding by DJJ staff of the CA-YASI and how it could be utilized to drive effective treatment programs. Spending more money on CA-YASI seems a poor investment, especially given the findings produced by UC Irvine researchers and the judgment of Cheryl Maxson who looked at gang issues. I advised DJJ to consider replacing CA-YASI with a truly evidence-based assessment system. The tools that are provided without usage charges by UCCI appear to be a viable and more cost-effective option. To date, DJJ continues to plan to use CA-YASI as the assessment instrument for the IBTM. There is an argument for not changing the assessment tool right now because there are too many "moving pieces" to implementing the IBTM. But if DJJ wants to continue to use CA-YASI there is an urgent need to substantially upgrade the knowledge of how to use this approach among the YCC, treatment teams and top DJJ managers. The question is whether it is wise to invest more in supplemental training or to switch to training by UCCI.

DJJ pointed out that the validation study of CA-YASI is still taking place and the final report is anticipated in the near future, I am willing to reserve final judgment on this issue pending final outcome of the validation study.

Ultimately, I agree with the Special Master that this decision belongs to the DJJ management but I am available to meet with DJJ managers to consider options and to summarize the research literature on this issue.

Grievance System

During my recent site visits, youth at VYCF overwhelmingly expressed dissatisfaction with the grievance system. The dissatisfaction was voiced at a lesser extent by youth at NACYCF. Therefore, although DJJ has achieved substantial compliance as measured by Standards and Criteria of the Safety and Welfare Remedial Plan based on the promulgation of new policies and

training, with DJJ's concurrence, the OSM and I conducted a review of DJJ's grievance system at all three facilities. I led the audit team on the grievance process with Deputy Special Master John Chen, John Blackwell and Linda Wong of OACC as team members.

Our review found DJJ's current grievance policy and procedures can be effective if they are appropriately carried out as in the case at OHCYCF. However, a large number of youth do not understand the process. The report of review of the grievance process is included as Appendix D of this report. We recommend additional training for youth and staff to better communicate and interact with each other when issues/problems surface.

Gender Responsive Programming

As previously noted, my site visit to VYCF found that female youth appear to be happy with the attention and services they have been receiving. The consolidation of two female living units into one as a result of closure of Southern Youth Correctional Reception Center and Clinic was completed without significant problems. However, because of budgetary restraint, DJJ is continually unable to live up to its agreement of hiring a team of nationally respected experts in gender-responsive programs to provide staff training and mentoring and to assist in the implementation of evidence-based programs for young women.

According to DJJ, VYCF offers the following programs to women: Individual Counseling, Alcoholics Anonymous, Narcotics Anonymous, Girls Moving On, Women Incarcerated Still Enduring, Anger Interruption Training, Dialectical Behavior Therapy, Community Labor Experience and Responsibility (CLEAR), Interactive Journaling, Bridge to Success, and vocational training in animal grooming. In addition, the Office on Juvenile Justice and Delinquency Prevention (OJJDP) did provide gender responsive training at VYCF on May 10 – 13, 2011.

The female population at VYCF continued to decline to 25 as of September 4, 2012. DJJ indicated that it could not fund a gender-responsive program, which should be very modest for such a limited number of youth. I again reiterate my previous recommendation that the parties meet and agree on another option to provide more meaningful program opportunities to the female youth. I continue to recommend that DJJ work with the counties to transfer out all of the young women at VYCF.

I have also connected DJJ managers with the OJJDP National Girls Institute that will provide free training and TA on gender responsive programs. Further, I provided DJJ a checklist of the core components of an evidence-based gender responsive model that they could use as a self assessment tool. I would be available to train DJJ in the use of this self assessment checklist.

Towards a DJJ Comprehensive Gang Strategy

DJJ retained Dr. Cheryl Maxson of UC Irvine, a nationally renowned expert on gangs in California, to conduct an analysis of gang issues and make recommendations. Dr. Maxson and her team has completed the study and issued a report that in essence recommends a strategy of

focusing on youth behavior issues and progress toward treatment goals rather than youth gang involvement and affiliations. DJJ has created an internal task force to formulate an action plan to address Dr. Maxson's recommendations. I have been involved in providing advice and consultation to the task force. The task force has met a number of times and is anticipating releasing a report of its finding and recommendations by mid-November 2012. I had a conference call with the task force members on November 6, 2012 during which I received a briefing about their preliminary recommendations. I believe the directions outlined by the task force are completely in line with Dr. Maxson's report and the principles of IBTM.

Family Involvement

The Safety and Welfare Remedial Plan identified family involvement as one of the key principles of the plan. The Standards and Criteria identify two audit items pertaining to this issue. First, the facilities are to organize quarterly family visiting events. In addition, the facilities are to facilitate ongoing family phone contact, which has been determined to be at a minimum of four times a month or approximately once each week.

In general, the facilities have been able to organize the quarterly family visiting events on a fairly constant basis. However, there is a great disparity over the practice of family phone calls, sometimes within the same living unit. While almost all youth interviewed stated that they have been afforded opportunities to make collect calls to their families, a large portion of them also indicated that their families either could not afford to accept the collect calls or that it is inconvenient to make such calls with their families' phone system.

With respect to "direct calls," which are free of charge to the youth or their families, they are being made at the discretion of staff. Interviews of youth and staff disclosed that significant variation exists. Some staff members allows youth to make unlimited number of direct calls while others on permit such call on a limited basis involving urgent situations. Still other staff uses direct calls as an incentive. One youth interviewed stated that a staff member allows him to make as many direct calls as he wants because he and that staff both are close followers of the same professional baseball team. Meanwhile, some youth reported that they have no phone contact at all with their families.

I believe family involvement is even more important as DJJ proceeds to expand the implementation of IBTM to all facilities. I urge DJJ management to consider exploring other means to encourage and promote family contact to beyond organizing the quarterly family visiting events and sometimes sporadic phone contacts.

Improving DJJ Facilities

As with the comments in my previous reports, I found the outmoded and deteriorating DJJ facilities continue to be a problem that impedes reform. Space limitations and "prison-like" environments are likely to continue to frustrate efforts to improve the quality of care with DJJ. Unfortunately, there is no solution in sight as the state's budget crisis precludes any new construction or major renovation of existing DJJ facilities in the foreseeable future.

To its credit, DJJ continues to make improvements at its facilities, particularly at VYCF. Some of the more notable efforts include:

- One of the facility's serious challenges has been the lack of spaces to program youth and to deliver mandated services. The group recreation areas at VYCF were completed on September 30, 2011. The areas are used for program and outside recreational space for youth in the BTP units. In addition, DJJ entered into an agreement with the Prison Industry Authority (PIA) to purchase and install nine modular units at VYCF. The modulars were installed by the anticipated completion date of December 31, 2012 which added program spaces to the BTP units, the high core units, and the adjacent core units.
- DJJ is continuing to make improvements at the two VYCF BTP units. Youth rooms are being converted to medical examination rooms and office spaces. Other measures are being taken to meet BTP needs including hardening of walls and dayroom doors, repair fire alarms, and extend security fencing.
- Modify existing restroom to improve security and attain compliance with the Americans with Disability Act (ADA) requirements.
- VYCF installed a razor ribbon at the BTP units to prevent youth jumping the fence from the recreation area.
- After I expressed concerns during my site visit in June 2012, VYCF has made plans to deactivate the Casa de Los Caballeros (CLC) unit by moving youth in the unit to the Casa De Colegio (CDC) unit after repair work have been completed at CDC. Youth at CDC have been moved to the previously deactivated Alborado Intake Unit.

Meanwhile, DJJ managers have a good system of reporting maintenance problems and following through on routine repairs. Each facility conducts quarterly inspections to identify deficient sanitary and physical plant conditions by type and location within each facility as well as projects that may require additional funding requests outside the facilities support and maintenance budgets. Each facility develops corrective action plans (CAPs), from the results of its quarterly inspections that include recommendations and completion dates to remedy identified deficiencies. Where funding or repairs are beyond their control or budget, facilities must document requests for capital outlay and/or special repairs to be considered as part of the CDCR Five-Year Infrastructure Plan.

Also incorporated in the quarterly CAP's prepared by the facilities are issues identified in the bi-annual Environmental Health Survey's (EHS) conducted by Department of Public Health (DPH). Issues effecting the health and safety of a facility that require facility maintenance services and the allocation of local resources can be monitored through the facilities CAP submitted quarterly to the Director of Facilities. Those items related to deferred maintenance that may require

additional funding requests outside the facilities budget can be documented on the CAP for inclusion if future funding requests from the departments support budget.

DJJ is working closely with Facility Planning, Construction and Management, has identified and submitted 96 projects for additional funding through the capital outlay or special repair/deferred maintenance process. It must be noted that DJJ maintains projects on existing and closed facilities in order to protect state assets. All DJJ projects are reviewed during the annual Call Letter process to identify major and minor capital outlay, special repair, and deferred maintenance for funding in future fiscal years consistent with DJJ's Five-Year Infrastructure Plan. The Call Letter process also allows DJJ to reaffirm the necessity and estimated cost of previously submitted proposals. However, according to documents provided by DJJ, only a small fraction of the identified projects have been funded because of the state's budget dilemma. Approximately 3% of the capital outlay projects and approximately 15% of the special repair and deferred maintenance projects have been funded.

Recommendations

1. Transfer auditing of most Safety and Welfare Remedial Plan audit items to DJJ for OHCYCF with periodic consultation from the Safety and Welfare Expert.
2. Transfer auditing of most of the Safety and Welfare Remedial Plan audit items at NACYCF to DJJ with the exception of the IBTM, reducing use of force, implementation of an evidence-based gang strategy, and refinement of the Program Service Day.
3. The Safety and Welfare Expert and OSM should continue to focus their monitoring and auditing on all Safety and Welfare Remedial Plan audit items at VYCF.
4. Emphasize Safety and Welfare Expert's participation and monitoring in continued efforts to reduce the use of force at all DJJ facilities, especially the successful implementation of the new use-of-force policies.
5. The Safety and Welfare Expert and OSM should monitor recommended improvements in the youth grievance system (see attached report).
6. The Safety and Welfare Expert and the Mental Health Expert should monitor the rollout of the IBTM at NACYCF and at VYCF.
7. The Safety and Welfare Expert should continue to monitor DJJ progress in implementing improvements in the physical conditions of the facilities and program space at all DJJ facilities.
8. The Safety and Welfare Expert should monitor and strengthen DJJ's efforts on reentry and the preparation of the youth for successful behavior after discharge.

9. DJJ should conduct a study of lockdowns and limited programs at each facility similar to the recent special analysis of the grievance system and share the results of findings with the Safety and Welfare Expert and OSM.
10. DJJ should continue to examine the issue of those youth who spend very long stays in the BTP units, especially at VYCF and share the results of findings with the Safety and Welfare Expert and OSM.
11. The Safety and Welfare Expert and OSM should review and analyze the results of OACC's findings, facility safety data, PbS data, and other relevant information and determine whether any additional work is necessary and appropriate.
12. In accordance with the recommendations of the Special Master with respect to youth with disabilities, the Safety and Welfare Expert will assume monitoring responsibility for use-of- force practice, the grievance system, and for youth orientation process from the Disability Expert.