

SUPERIOR COURT OF CALIFORNIA
CITY AND COUNTY OF ALAMEDA

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

TWENTY-SIXTH REPORT OF SPECIAL MASTER

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APPENDIX

Appendix A: *Schwartz, California Division of Juvenile Justice Sexual Behavior Treatment Program Administrative Audit, March 18-20, 2013*

I. INTRODUCTION

The Special Master submits for filing the Twenty-Sixth Report of the Special Master. This report reviews the *Farrell* Sexual Behavior Treatment Expert's sixth round of audits and comprehensive report as well as summarizes and analyzes the status of the California Department of Corrections and Rehabilitation, Division of Juvenile Justice's (DJJ) compliance with the *Farrell Sexual Behavior Treatment Remedial Plan*. The sixth comprehensive report of the Sexual Behavior Treatment Expert (site visit March 2013) is attached as Appendix A. Consistent with an agreement by the parties, the Special Master's report limits the summarization of the expert's 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 Sexual Behavior Treatment Program (SBTP). Progress in the Court's October 2012 Order re: Wards with Disability Monitoring Issues is reviewed and a recommendation to transfer monitoring of the *Farrell Wards with Disability Remedial Plan* to Defendant is made by the Special Master. A review of compliance with the *Farrell Education Services Remedial Plan* is discussed with again a recommendation to transfer monitoring of the remedial plan to Defendant. Issues relating to progress at the Ventura Youth Correctional Facility (VYCF) are discussed next. The report concludes with a review of when and how force is used.

II. INTEGRATED BEHAVIORAL TREATMENT MODEL

A. Current Progress

Defendant has created an effective, stable and robust change process with the IBTM structure. The volume of work completed during this reporting period is impressive, as is the quality of the work.¹ The Central Office IBTM Team continues to demonstrate a growing knowledge of the evidence-based programs and practices. This is clearly evidenced by the level of skills developed by managers in the quality assurance processes. Such processes are essential to the long-term viability of the IBTM.

Executive leadership has again demonstrated a high level of commitment to the implementation of the IBTM by ensuring sufficient staffing of the Central Office IBTM Team and by finalizing the mission and vision of DJJ. The high level of vacancies in the team is being addressed. A new administrator has been appointed as has a much-needed Clinical Psychologist, an Office Technician, and a Treatment Team Supervisor (TTS). Several staff members have been re-directed to the unit on a temporary basis. They include three Youth Correctional Counselors (YCCs), an Associate Government Program Analyst (AGPA) and a Senior Clinical Psychologist. Hiring is underway for a Training Officer, Instructional Designer and an AGPA. Defendant has been diligent in its hiring efforts for this team.²

Similarly, Defendant has stayed focused on the revision of its mission and vision. The mission and vision provide the foundation for all of the IBTM efforts. It is clear and directs the DJJ's energy and focus toward reform. Defendant has provided all staff with the new mission and vision and is planning steps to provide training opportunities.³ The mission and guiding principles provide a very concrete explanation of DJJ services and

¹ This is particularly notable in light of the staffing shortages in the Central Office IBTM Team. Nancy Hanley, Acting Program Director, is to be congratulated for ensuring the team continued its high level of productivity.

² See e-mail from Tammy McGuire, titled re: IBTM staffing and PoP 959.

³ PoP 953.

how they are to be provided.

Defendant has also revised a brochure that explains the IBTM to youth, families and visitors. It provides an overview of interventions, implementation progress to date and contact information.⁴

Youth Orientation

The IBTM Central Office Team has finished revising the youth handbook and youth orientation. Defendant has revised the youth orientation process to better address a young population through engaging in age-appropriate activities. The handbook and the PowerPoint slides have been revised. Creative and interactive exercises have been included in the training. Breaking the orientation into three sessions makes the quantity of information less daunting and easier for youth to retain.

Case Management Process

The Special Master has opined in several reports that it is essential for Defendant to develop a meaningful case management system that is rooted in assessment of the risk, needs and protective factors of a youth. The case management system encompasses the development of an actionable behavior plan, prepared with full participation of the youth, that the youth counselor and all unit staff understand and support in their daily interactions. Several initiatives undertaken during this reporting period are evidence of Defendant's focus on creating a more effective case planning process.

A critical step in developing a plan to help youth develop the skills they need to function effectively with others is accurate assessment of the risk for re-offense and the needs and protective factors a youth possesses. This process begins in the intake clinic

⁴ 5.a. IBTM Brochure 6 English 5-2013. Once approved by the Central Office Headquarters Committee, the brochure will be distributed.

(one of the first units for implementation of the IBTM). All too often, correctional facilities assess individuals but do little or nothing to use the assessment data to drive a behavior change plan. Typically, far too much time is spent focusing on what assessment tools to use and not enough time is dedicated to translating the data from the assessment to an action plan.⁵ Defendant has been diligent in attempting to create a system that uses the data gathered at intake to translate into meaningful action for youth. A written protocol for case planning has been drafted that describes all steps in the intake process and how the case plan behavioral targets are developed by the Parole Agent or Case Work Specialist.⁶ The draft is comprehensive and thorough.

Effective placement is an essential first step in a youth's behavior change process. The IBTM Central Office Team members have drafted a procedure for unit placement. The Mental Health Experts and the University of Cincinnati Corrections Institute (UCCI) consultants should review the placement criteria.⁷ A draft flow chart for N. A. Chaderjian Youth Correctional Facility (NACYCF) intake has been created and is under internal review.⁸ This process should be reviewed with the Mental Health Experts. In addition, a criterion for placement of youth in interventions has been reviewed with the UCCI consultants. The criterion has been approved and, once reformatted, is ready for release.⁹

Implementing the substance abuse curriculum

⁵ There is a history in this case of disagreement about which risk/needs assessment tool should be used. All tools have their strengths and weaknesses. It is the experience of the Special Master that the issue of effectiveness is far less related to the type of tool used than the issue of whether anything happens with the information gleaned from the tool. Agencies with the most current and highly validated tools sometimes have lower recidivism reduction than those with older and less refined tools but have staff who are fully engaged and committed to helping the offender. Staff members who are committed and skilled at shaping behavior are the key to recidivism reduction.

⁶ 14.a Draft case plan written protocol and AQ document 5-8-13.

⁷ 9.a Clinic Procedures to Determine Initial Placement of Youth 05-7-13.

⁸ 13.a Draft Intake 60-Day Reporting Timeline Flowchart 5-10-13.

⁹ 18.a Draft Intervention-Dosage Proposal UCCI.

The pilot of the new substance abuse curriculum continues to be implemented according to schedule.¹⁰ Three of the four pilot groups have completed the curriculum with the fourth scheduled for completion by the end of May 2013.¹¹ Each group started with 10 to 12 participants and two facilitators. Thirty-two youth will have completed the five-month curriculum by the end of the pilot. The curriculum consists of six modules and 39 sessions. Dr. Heather Bowlds and Program Administrator, Alicia Ginn, provide program oversight.

Of the 16 staff members who were trained to deliver the substance abuse curriculum, nine have been recommended to become trainers. The training for trainers is scheduled for August of 2013. As they did with the other curriculum, the UCCI consultants will work with Defendant to train trainers, develop screening mechanisms and ensure quality assurance (QA) systems are in place. The plan to identify who will facilitate groups, the timing of groups and QA observation strategies should be in place prior to expansion of the curriculum. Defendant should ensure that substance abuse need should be determined, in part, by a validated substance abuse assessment as well as overall risk level.¹²

Quality Assurance

A monthly casework report has been used to track case management functions such as risk/needs score, intervention eligibility, group enrollment and completion as well as case conference and case reporting compliance. This form has now been revised to

¹⁰ E-mail from Alicia Ginn, Program Administrator, FW: Update on the SA Program as well as information provided by the Central Office IBTM Team is the basis for the information in the substance abuse curriculum implementation section.

¹¹ Each facility piloted a group with males and VYCF piloted one group for males and one for females. The group for girls has not yet completed the full curriculum.

¹² These issues are discussed in UCCI January 2013 Report, p.3.

create consistency where appropriate for core, Behavior Treatment Program (BTP) and the SBTP units. The same report has now also been created for the intake unit at NACYCF and the girls unit at VYCF. These reports serve as excellent quality assurance tools that measure both if and when groups are being consistently held as well as the progress of an individual youth in completing groups including pre and advanced treatment. They also serve as a mechanism to ensure that the California Youth Assessment Screening Instrument (CA-YASI), the risk/needs assessment tool, is being used to drive group placement. These reports should roll up into a management level report that shows progress on the unit level. The reports are only of value if they are used by management to ensure that YCCs and Parole Agents are completing their tasks in a timely manner consistent with program protocols.

Observations by the IBTM Central Office Team and supervisors and managers continue at O.H. Close Youth Correctional Facility (OHCYCF). The IBTM Central Office Team continues to develop coaching/observation forms that are used by staff to provide feedback to those observed. These forms are being developed for each intervention including Skill of the Week and a general group facilitator form.¹³

From mid-February through the end of April, facility managers and supervisors made 42 observations and IBTM Central Office Team Program Specialists made 24 observations at OHCYCF. This is an increase of 26 observations from the prior reporting period for the OHCYCF staff and 20 for the IBTM Central Office Team. This increase is believed to be attributable to a monthly observation calendar that has been created.¹⁴ There is noted improvement in the completion of intervention observations by OHCYCF

¹³ Summary of IBTM Activities for OSM Report 26.

¹⁴ 6.b.1 OHC April Calendar.

managers and supervisors.

The quality of the reviews is by and large very good and in some cases excellent. Many of the OHCYCF managers and supervisors are evidencing good understanding of both facilitation skills and interventions.¹⁵ Most take the time to provide both constructive and positive feedback. Some managers still provide primarily positive feedback and few recommendations for improvement. At this point in the process, it would be rare to find many facilitators who know the material so well that they are completely facile in their use of it. Wisely, the IBTM Central Office Team has created a feedback form to assist managers and supervisors with providing feedback.¹⁶ Also, efforts are being made to ensure there are follow-up plans for facilitators who need help and on-going support.¹⁷ A protocol is being created to ensure that senior managers are able to observe if and when observations are occurring.¹⁸ The development of management oversight protocols will help to ensure that quality assurance activities are taking place. In addition, plans will need to be made to continue to provide training for the managers and supervisors who are observing. Before taking on a quality assurance role, observers have typically trained extensively and developed master skills in an area. Given that this is not the case with the implementation of the IBTM, it is critical that managers and supervisors who are performing quality assurance functions continue to receive support from the IBTM Central Office Team in the form of training and coaching.

The Central Office IBTM Team is also continuing its efforts to support staff to

¹⁵ This observation is based solely on the Special Master's review of the feedback forms.

¹⁶ 6.c.i. Feedback Protocol Draft is the proposed tool to assist facility managers and supervisors in giving feedback to the staff they observe.

¹⁷ Summary of IBTM Activities for OSM Report 26, p.2.

¹⁸ 6.e.1 Observation Protocol 5-21-13_jvb.edits.

increase their understanding of the risk/needs assessment process and case planning as well as the Reinforcement System (RS). Eighteen observations/coaching/mentoring were provided during the reporting period.¹⁹ This is an essential function and the team has created a draft PowerPoint presentation to help staff understand casework and behavior shaping concepts. The initial draft is excellent and will help staff understand the concepts of how to choose target behaviors and shaping.²⁰

Observations of the IBTM implementation unit, El Toyon, began at VYCF. Six observations were completed -- four by unit managers and two by the IBTM Program Specialist.²¹

Behavior Management System

In addition to teaching staff about how to shape behavior, two components of the behavior management system are essential in the effort to ensure that the entire milieu supports behavior change. The RS and level systems are essential elements of an effective behavior management system. The initial draft of the RS was too comprehensive and complex for staff to use effectively. Defendant and the Mental Health Experts have reduced the number of positive checks in the RS system from 72 to 18. The level system has also been revised to focus more on acquiring positive behaviors than on not engaging in negative behaviors.²² It is believed that the revised and much simplified

¹⁹ Observations were at both OHCYCF and NACYCF. All observations were performed by IBTM Specialists, Lum and Cerniglia. For examples see 6.d.2-22.13K Cerniglia CAYASI óCase Coaching Butte Hall parole agents and 6.d.3-17-13 H. Lum.

²⁰ 15.a Shaping Behavior (DRAFT) 5 22 13

²¹ Not surprisingly observations by VYCF unit staff are not as well done as those by managers and supervisors at OHCYCF. Little constructive feedback is provided and the feedback is very cursory in nature. OHCYCF staff demonstrates a higher level of quality in their observations. The difference is likely a result of experience with the material and process. VYCF supervisors and managers should receive more coaching and support. An example is 6.f. 4-24-13 El Toyon P Ramirez SYCC.

²² Revised RS 5.17.13.

system will be easier for staff to understand and use. The revised system is still in draft form and requires vetting through administrative review processes.

Implementation of IBTM at NACYCF and VYCF

Progress at NACYCF and VYCF continues to be timely. Implementation began at NACYCF in January of 2013 and at VYCF in March of 2013.²³

The implementation of the cognitive behavioral groups (CBT) in the first NACYCF living units, San Joaquin, low core, and Tuolumne Hall, intake, is well underway. The next living units scheduled for implementation are the high core units, Owens and McCloud.

Implementation of the IBTM at VYCF has begun in the girls unit, El Toyon. The emphasis has appropriately been on staff training and implementation of the systems and structures needed for program implementation. The girls unit already has in place several of the IBTM interventions but the programs were not always being implemented with fidelity. For example, groups were not being held according to the prescribed schedule, and fidelity of content and delivery varied significantly among facilitators. Staff have familiarity with several interventions but will need to increase adherence to the curriculum and strengthen delivery skills.

Tasks completed this reporting period for both facilities in addition to those discussed above include:²⁴

- Implementation committees established.
- Defined roles of interdisciplinary treatment team.²⁵
- Revised the case conference schedule to allow for representatives from education

²³ The 5-24-13 Comprehensive Guide w Deliverables outlines the IBTM implementation action steps and progress to date at NACYCF and VYCF.

²⁴ This list does not include the many items discussed above. For example, the changes made in the intake and case management processes at NACYCF.

²⁵ 12.a IBTM Interdisciplinary Treatment Team Memo ófinal-4-25-13

- to attend.
- Identified interventions for the initial implementation units.²⁶
 - RS supplies and systems in place in pilot units.

Training

Training has continued at all three facilities. The numbers of staff trained at OHCYCF and NACYCF during this reporting period were:

- Anger Interruption Treatment (31)
- Skill of the Week (11)
- IBTM Overview (115)
- Crisis Intervention and Conflict Resolution (88)²⁷

The training at the girls unit at VYCF has been extensive. In addition to the IBTM training, the entire unit staff participated in a five-hour training on gender responsiveness.²⁸ One of the criticisms of the Safety and Welfare Expert and the Special Master has been the lack of understanding of the concepts of gender responsiveness by most unit staff and senior administrators at VYCF and the Central Office. While past training has taken place, the majority of trained unit staff members have rotated off the girls unit, leaving staff who are not trained to work with girls and young women. All senior managers and administrators including security personnel should undergo this training. Additional in-person training should be planned for unit staff to further understand gender differences. Understanding gender differences is a critical pre-cursor to the development of any treatment modality.

In addition to gender responsive training, the numbers of staff trained at VYCF

²⁶ 22.b NACYCF Adopted Interventions, 22.c Primary Intervention Memo Ventura and 22.a Interventions chosen for ET.

²⁷ Summary of IBTM Activities for OSM 26, p.7.

²⁸ The training is a webinar of the National Institute of Corrections entitled Health Justice Women: Transforming Systems, Changing Lives.

during this reporting period were:²⁹

- AIT (10 staff)
- Crisis Intervention & Conflict Resolution (18 staff)
- Introduction to Treatment ((16 staff)
- Skill of the Week (18 staff)
- IBTM Overview (13 staff)
- Effective Case Work Overview (15 staff)
- Gender Responsiveness (17 staff)
- DBT Overview (17 staff)
- How to Use Observation/Coaching Forms (4 observers)
- Group Facilitation (36 staff)

The VYCF staff have also created project plans for additional training and coaching needs.

The staff have also created an excellent Case Conference Checklist to ensure all necessary steps are being taken at the meeting.³⁰ Checklists are a well-researched practice that increases accuracy and productivity. A critical step is to ensure that someone is assigned to review the checklist and to report to the group on it at the close of each conference. The assigned reporter is often not an administrator. Sharing responsibility for conference outcomes is an excellent strategy to ensure team members all own the process.

The El Toyon unit staff members are creating some innovative programs for the girls. A soothing room to help girls develop calming strategies and honor rooms beautifully decorated will serve as privileges to use in shaping behavior and teaching skills. The girls have chosen vibrant colors for the dining hall and hallways and are proudly displaying artfully crafted posters displaying their treatment goals. Access to computers assist with homework, letter writing and playing games that develop skills.

²⁹ Summary of IBTM Activities for OSM 26, p.8. VYCF has developed a document to chart and to identify future training needs. *See* 21.a ET Training May 2013.

³⁰ 21.e Case Conference Checklist.

Elegant curtains and new furniture are beginning to soften the dayroom to make it more welcoming and safe. All of these changes have taken place in a matter of months and are a credit to the unit leadership and staff.³¹

All facilities are to be congratulated for their continued effort to ensure uniformity of processes so that should transfers between facilities occur, youth can move seamlessly to and from programs.

B. Next Steps

The only area that has not made significant progress is mental health. The court has advised Defendant that progress must begin immediately in the implementation of the mental health program.³²

While there is little to report in terms of substantive programmatic changes, there is hope on the horizon. A very effective Program Administrator has been appointed to head the implementation of the mental health program. While not a mental health expert, she has the tenacity and skills to get things done. She is paired with the newly hired full-time Central Office IBTM Team Psychologist who will partner with the part-time IBTM Psychologist as well as yet another temporarily assigned part-time Psychologist. The troops have finally arrived in numbers and best of all, they are highly qualified.

During the last reporting period, the mental health definition had been revised. During this period, an initial program plan has been developed that outlines eight implementation areas.³³ Each area has been broken down into action steps, deliverables

³¹ The Special Master has had two site visits to VYCF on May 8th and 28th, 2013 during which she has observed the progress in these areas.

³² Defendant was told at the April 2013 Case Management Conference (CMC) that it is the Court's expectation that progress in this area is to be in evidence at the July 2013 CMC.

³³ Mental Health Implementation Plan Summary. *See* Mental Health Youth Definition 5-22-13 for an example of the deliverable schedule for one of the eight areas. The Program Administrator and Central

and due dates. The plans appear to be thoughtful and should be reviewed with the Mental Health Experts. The Special Master looks forward to seeing significant progress in the development of the mental health program.

III. SEXUAL BEHAVIOR TREATMENT PROGRAM

Dr. Barbara Schwartz, *Farrell SBTP* Expert, completed her sixth round of compliance monitoring of the *Farrell SBTP Remedial Plan*. With the assistance of Special Master Nancy Campbell, Dr. Schwartz conducted her audit of the Central Office and the two facilities in the Stockton Complex on March 18, 19 and 20, 2013. Appendix A provides the SBTP Expert's *California Division of Juvenile Justice, Sexual Behavior Treatment Program Administrative Audit*, which constitutes her comprehensive report for audit round six.

In response to the Special Master's suggestion in her twenty-third report,³⁴ Defendant's Office of Audits and Court Compliance (OACC) conducted a full-scope compliance audit of the Central Office in advance of the SBTP Expert's site visit. OACC auditors used the Standards and Criteria (audit tool) developed for the *SBTP Remedial Plan* to assess each of the three sites (Central Office, NACYCF and OHCYCF). A separate report was prepared for each of the three sites. OACC staff members also accompanied the SBTP Expert during her site visit to respond to questions.

A. Current Progress

The SBTP Expert's comprehensive report (Appendix A) suggests that Defendant is very close to achieving full compliance with the Consent Decree requirements identified in the *SBTP Remedial Plan*. At all three sites (Central Office plus two

Office IBTM Psychologist consulted with Dr. Gage, Mental Health Expert, in the development of the eight implementation areas.

³⁴ See OSM 23, p. 19.

facilities (operating SBTP units) visited, the SBTP Expert has found that each site has made significant improvements and well exceeded the threshold of an 85% overall rate of substantial compliance. This is the second consecutive audit round in which Defendant has met or exceeded the 85% substantial compliance threshold for all three sites. The following table provides the percentage of audited items found to be in substantial compliance during the last three audit rounds:

Percentage of Items in Substantial Compliance

Location	Round 4³⁵	Round 5³⁶	Round 6³⁷
Central Office	58%	88%	97%
NA Chaderjian Youth Correctional Facility	33%	85%	94%
OH Close Youth Correctional Facility	50%	85%	96%

All of the systemic issues identified during this round of audits were directly associated with the lack of stability in the Psychologist positions. At the time of the SBTP Expert’s site visit, the two facilities had several vacant Psychologist positions and the state’s hiring process precluded Defendant from immediately filling the positions. As a result, many youth did not receive a minimum of 30 minutes per week (or 60 minutes every two weeks) of individualized clinical counseling time. High turnover also led to some Psychologists not having sufficient experience with working with adolescents or a cognitive behavioral sexual behavior treatment program.

Shortly after her site visit, Defendant on April 22, 2013 provided additional documents and data to the SBTP Expert that suggested improvements have been made.

³⁵ See DJJ Quarterly Compliance Report as of April 1, 2013.

³⁶ *Ibid.*

³⁷ See SBTP Expert’s Administrative Report of sixth round of audits. .

The SBTP Expert completed her comprehensive report and her site-specific reports for the Central Office, NACYCF, and OHCYCF after carefully considering the additional documentation provided by Defendant. Only the following audit items remain to be in less than substantial compliance:

Central Office ó Audit Item 8.1.1: This audit item specifies that the Sexual Behavior Administrative Task Force will monitor and ensure adherence to the Program Guide. While acknowledging that the program's QA system is very well designed, the SBTP Expert rated this item in partial compliance because she found the core curriculum groups to be very poorly facilitated and not in adherence to the Program Guide. The SBTP Expert reached this conclusion based on group observations as well as youth and staff interviews. She attributed the problem to constant staff turnover, particularly at the Psychologist positions, which in turn led to insufficient staff knowledge and training of course curriculum.

NACYCF -- Audit Items 4.4.4 and 4.6.4: The two audit items were rated partially compliant due to the inability of Psychologists to provide 30 minutes of clinical counseling time to youth each week (or 60 minutes every two weeks) in the orientation units (Smith Hall) and in the residential treatment unit (American Hall). Defendant's SBTP Coordinator attributed the problem to a shortage of Psychologists, as two positions were vacant and one Psychologist was on extended leave due to medical reasons. For two other audit items (4.4.2 and 4.6.2) pertaining to a minimum of 180 minutes of Health Living or Core Curriculum Groups each week, the SBTP Expert assigned a "conditional" substantial compliance rating contingent upon Defendant producing additional

documentation to demonstrate the March 2013 compliance rate is sustained in April and May 2013.

OHCYCF's Audit Item 4.13.2: This audit item requires every SBTP unit to have a minimum of two SBTP Community Committees. Such committees must be youth driven and each youth on the committee should play an active role in the committee's decision-making process. At OHCYCF, no such committee existed at the El Dorado Hall during the time of the SBTP Expert's site visit.

In its response to the SBTP Expert's reports, Defendant stated that all Psychologist positions will be filled with permanent staff by June 17, 2013 and youth have been provided a minimum of 60 minutes of clinical counseling every two weeks starting April 2013. Defendant also stated that three youth-driven committees (Peer Mentoring, Community Projects, and Therapeutic Community Groups) have been established at the El Dorado Hall in April 2013.

In addition, as a result of the concerns raised by the SBTP Expert regarding the core curriculum group being poorly facilitated, Defendant adopted additional quality assurance measures requiring monthly assessment of core curriculum group facilitated by newly trained Psychologist during the first three months. The SBTP Coordinator, a highly respected individual well versed with SBTP program requirements, will use a newly revised "Mentor's Fidelity Assessment" tool to make assessments and provide feedback. The assessment tool encompasses three components - Group Facilitation, Delivery, and Responsivity. Besides providing a numerical rating based on pre-established criteria, the SBTP Coordinator will provide additional comments and suggestions for each component.

B. SBTP Youth Population

Defendant's SBTP youth population has remained fairly constant recently after years of steady decline. The population count is 122 as of May 23, 2013 and the current projection is that the number will remain constant or increase.³⁸ As Defendant's overall youth population declined by approximately 20% over a 10-month period, from 930 in July 2012 to 742 in April 2013, the fact that the SBTP youth population remains steady and may increase strongly suggest that the sending counties are finding value in the service provided by Defendant under this program.

The stability in the SBTP youth population negates the need for further living unit closures or changes. Since 2008, events had occurred every year that either resulted in closure of one or more living unit(s) or moving a living unit from one facility to another.³⁹ Living unit closures and transfers caused disruptions and uncertainties. On the other hand, unit stability promotes program continuity and should enhance management and staff's capability to deliver high quality treatment and services to the youth population.

C. New SBTP Curriculum

As noted in the Twenty-Third Report of the Special Master, Defendant has adopted and implemented the new SBTP curriculum in June 2012. The SBTP Expert was very impressed with the new curriculum and indicated that "the implementation of the new curriculum should make SBTP one of the best, if not the best program of its kind in the country."⁴⁰

³⁸ See email of May 23, 2013 from Dr. Heather Bowlds, SBTP Coordinator, to Deputy Special Master John Chen.

³⁹ See OSM 23, p.13.

⁴⁰ SBTP Expert's Administrative Report of sixth round of audits.

While this is an excellent curriculum, it is expected that it will take some time to adequately implement it. In January 2013, Dr. Nancy Calleja, program consultant and curriculum author, provided a final overview of the curriculum and its implementation. All curriculum components were reviewed. The key SBTP managers and all stakeholders including the Plaintiff, the SBTP Expert, and the Special Master attended the presentation. During the session, Defendant provided a video presentation showing the youth's experiences in the program and youth testimonies on how the program has and will continue to exert positive impact in their lives. The Special Master and other stakeholders have found it extremely gratifying to observe a program with such positive outcomes. The effectiveness of the program should continue to improve as the program stabilizes and undergoes further refinements. The Special Master wishes to commend Defendant and Dr. Calleja for their efforts to develop and implement such a well-designed curriculum.

D. Family Night at NACYCF

The SBTP units at NACYCF are planning to run family night separate from the rest of the institution starting June 21, 2013.⁴¹ This is important because it allows the facility staff to build in time for family forums as well. This is not possible when the entire facility is running family night, which in turn causes problems with lack of meeting space. This is yet another positive indicator of the commitment of SBTP program staff to continue to proactively explore means and undertake measures beyond the *SBTP Remedial Plan* requirements to enhance program effectiveness.

E. Quality Assurance

⁴¹ See email of May 23, 2013 from Dr. Heather Bowlds to Deputy Special Master John Chen.

QA of the SBTP program is more advanced than other Defendant programs. QA encompasses compliance audits by OACC, which is a unit external to the DJJ and SBTP self-QA activities.

1. OACC Audits ó As previously noted, OACC conducted a full-scope compliance audit of the Central Office and the two facilities in advance of the SBTP Expert's site visit. Despite this was the first time OACC conducted a full-scope audit of the program, a review of ratings assigned by OACC audits and the SBTP Expert found consistency as indicated below:

Comparison of Assigned Ratings between OACC and SBTP Expert⁴²

	Central Office	NACYCF	OHCYCF
Items found to be in Substantial Compliance by OACC	33 of 34 (97%)	27 of 33 (82%)	24 of 27 (89%)
Items found to be in Substantial Compliance by SBTP Expert	33 of 34 (97%)	31 of 33 (94%)	25 of 26 (96%)

Although OACC and the SBTP Expert found the same number of items to be in substantial compliance at the Central Office, minor differences exist as the SBTP Expert upgraded one of the ratings from substantial compliance to partial compliance and downgraded another one from substantial compliance to partial compliance. The upgrade is related to an audit item concerning staff participation in national/outside training opportunities which did not occur until after OACC's site visit. The SBTP Expert and OACC auditors also reached different conclusions on the audit item specifying what the Sexual Behavior Administrative Task Force will monitor and ensure adherence to the Program Guide because they observed different groups with different facilitators. OACC

⁴² Compiled by OSM based on the reports of SBTP Expert and OACC.

observed groups facilitated by more experienced Psychologists and thus had no issue with the way the groups were being run.

At NACYCF, the rating differences stemmed from timing of the data utilized. OACC assigned partial compliance ratings on three items (Healthy Living Group, Core Curriculum Group, and individualized resource group) based on data from November 2012 through January 2013. The SBTP Expert relied on February and March 2013 data and rated these three items in substantial compliance. Two of the substantial compliance ratings are "conditional" contingent on Defendant producing additional documentation to demonstrate sustainability. The SBTP Expert upgraded another item regarding youth-driven community group from partial compliance to substantial compliance because of improvements made after OACC's site visit.

At OHCYCF, timing of the site visits also caused the rating variances for two items regarding clinical counseling hours and individualized resource groups. OACC relied on data from November 2012 through January 2013 whereas the SBTP Expert used February and March 2013 data. OACC's report also contains an apparent recording error as the report summary indicated a substantial compliance rating for the audit item regarding the creation of an SBTP orientation unit in the facility whereas the narrative description identified this item as "not applicable" because OHCYCF does not have an orientation unit. The SBTP Expert rated this item not applicable.

Based on the above analysis, the Special Master finds the quality of OACC audits to be professional, thorough and objective. This finding is consistent with the observations of other *Farrell* experts.

2. Self-QA Activities -- QA in SBTP occurs at several levels and engages many people and encompasses the following elements:

- Monthly reports are prepared and they track groups and individual programs. The reports are reviewed and analyzed by the SBTP Task Force for possible actions.⁴³
- The Facilitated Stage Work Exercise Checklists allow for the capture of information related to the facilitated stage work exercises so that ongoing tracking is conducted.⁴⁴
- Peer reviews of Psychologists are conducted every six months, with the next round of peer reviews scheduled to start in June 2013.⁴⁵
- Youth surveys are conducted on an individual basis when youth are released from the SBTP Program. The interview results are forwarded to the research division for compilation in the annual survey report.⁴⁶
- New employee orientation trainings are scheduled to ensure all new SBTP program employees receive such training within 30 days of assignment to the program.
- In response to the concerns raised by the SBTP Expert, the SBTP Coordinator will conduct monthly assessments of new group facilitators using the newly revised "Mentor's Fidelity Assessment" tool.⁴⁷
- The program has a research blueprint that outlines the outcome measures and the evaluation process for the program.⁴⁸

In her sixth round comprehensive report, the SBTP Expert opined that "The quality assurance measures (QA) in the SBTP program are a model for other units." The Special Master shares the SBTP Expert's opinion and believes QA for the SBTP program to be thoughtful and comprehensive.

F. Outstanding Issues

⁴³ See OSM 23, pp. 16 & 17.

⁴⁴ *Ibid.*

⁴⁵ See email of May 23, 2013 from Dr. Heather Bowlds, SBTP Coordinator to Deputy Special Master John Chen.

⁴⁶ *Ibid.*

⁴⁷ Based on conversation between Dr. Heather Bowlds and Deputy Special Master John Chen on May 23, 2013.

⁴⁸ See OSM 23, p.17.

Providing that Defendant will produce sufficient documentation to demonstrate stability in Psychologist positions to sustain continuous delivery of the required clinical counseling minutes and to facilitate resource groups, the only remaining outstanding issue is the questions about core curriculum groups not implementing the curriculum as was intended. The SBTP Expert believes that a return engagement is necessary so that she can observe the groups again to ensure program fidelity before full transfer of monitoring to Defendant. Defendant is of the opinion that no further monitoring by the SBTP Expert is necessary in light of the enhancement to its QA system in response to concerns identified by the SBTP Expert. Defendant believes that the enhanced QA system will timely identify and address the issues noted by the SBTP Expert. Plaintiff believes the return site visit is warranted.⁴⁹

G. Next Steps

The issue of whether a limited-scope onsite visit by the SBTP Expert is necessary is a matter to be decided by the parties. From her perspective, the Special Master believes a sound QA system is the key to effective program delivery. While there is no question that the SBTP program has a well-designed QA plan in place, the challenge is to ensure proper execution of the plan. Although another onsite visit by the SBTP Expert to observe groups could add value by offering advice and suggestions, it is limited to the groups observed and at a particular point in time of the visit. Instead of another onsite visit, the parties may wish to consider asking the SBTP Expert to conduct reviews of all QA-related documents, such as results of peer reviews and mentor's fidelity assessment, and provide comments and suggestions during the next three months.

⁴⁹ See e-mail from Sara Norman, re: Final Draft of SBTP reports.

IV. WARDS WITH DISABILITIES PROGRAM (WDP)

In the Twenty-Second Report of the Special Master, recommendations were made regarding the steps that need to be taken to transfer monitoring of the *Farrell Wards with Disabilities Remedial Plan* to Defendant. For some issues, the Special Master recommended completion of several tasks prior to June 2013. In other areas, it was recommended that items remain under the monitoring of *Farrell* experts other than the Disability Expert.⁵⁰

Defendant is to coordinate with the Safety and Welfare Expert, the Education Experts and Mental Health Expert for assumption of monitoring responsibility of concerns identified by the Disability Expert on cross-over issues (use of force, grievance, education in restricted programs, psychotropic medication).⁵¹

The Court considered the recommendations and ruled on them in October of 2012.⁵² The Court supported the transfer of monitoring subject to the Disabilities Expert observing and commenting on the youth orientation and Defendant completing the actions outlined in the Twenty-Second Report of the Special Master.

In her twenty-fifth report, the Special Master updated the court on the progress of the areas outlined in the court order and indicated that only one item, the youth orientation, had yet to be completed. Having successfully implemented an effective youth orientation, Defendant has completed all of the tasks outlined in the Twenty-Second Report of the Special Master. As such, the Special Master now recommends transfer of monitoring of the *WDP Remedial Plan* to Defendant.

⁵⁰ Issues that have been under dual monitoring by several experts include issues such as use of force, grievances, education and use of medications.

⁵¹ OSM 22, p.47.

⁵² Order re Wards with Disabilities, October 2012.

The following reviews the issues identified in the court order that Defendant needed to address to allow for a transfer of monitoring.

A. Identification of Youth with Disabilities

To address concerns regarding accurate identification of disabled youth, Defendant has undertaken the following:

- An on-the-job training module for medical and mental health clinicians was revised and implemented. Plaintiff and the Special Master were provided an opportunity to critique the module.⁵³ The module appears to be comprehensive yet easy to understand.
- The Disability Referral/Evaluation Form (DREF) was distributed to all staff on February 6, 2013. Staff members are required to sign a memo that documents they have read and understand the referral process.⁵⁴
- The Disability Awareness Curriculum is provided by the WDP Coordinator or Manager annually in block training for all staff and includes a review of the referral process.
- In May 2012, the Initial Case Review (ICR) Guidelines were revised to ensure attendance of a WDP Coordinator at all conferences when a youth with disabilities is identified.
- A Youth with Disabilities Information Sheet which overviews the basic information staff should know about youth with disabilities was distributed for review and comment to Plaintiff and the Special Master in February of 2013.⁵⁵ The final document is laminated and posted in locations where ICRs take place to ensure disabilities are identified.

These additional efforts to the existing identification processes ensure accurate identification of youth with disabilities.⁵⁶

B. Stability of WDP Staffing

⁵³ PoP 960 was distributed to Plaintiff and the Special Master on May 16, 2013. Medical and Mental Health Clinicians also attend the annual block training which includes the Disability Awareness Curriculum.

⁵⁴ See e-mail from WDP Coordinator, Sandi Becker, May 21, 2013.

⁵⁵ See PoP 945 that includes the original draft of the information sheet. Re: Pop 945 óWDP. One page Info Sheet documents that changes were proposed by Plaintiff and that Plaintiff finds the revised draft of value.

⁵⁶ OSM 22. pp. 29-36, provide a detailed analysis of other steps that are used by Defendant to ensure accurate identification of youth with disabilities.

The WDP Manager has been in her position for five years and was relocated from the Central Office to the Stockton Complex in November of 2011. She assists the full-time Facility Coordinator. The Facility Coordinator at VYCF has been in place since October of 2012. The Deputy Special Master has found the Coordinator to be invested in his role with no desire to leave his position. Both coordinators have completed the expert-approved ADA training.

C. Grievances

On April 18, 2013, Director Minor sent a revised grievance policy to all staff with a memo informing them that youth are to be provided with a staff assistant at the earliest stage in the grievance process and whenever a grievance is returned.⁵⁷ The revised grievance policy resolves the issue of youth with disabilities not getting assistance at the informal or first stage of the grievance process.

D. Youth Orientation

The Special Master observed the orientation on two occasions and the Disability Expert on one occasion.⁵⁸ The Special Master found the revised orientation to be more developmentally appropriate for young people. The staff delivering the orientation did a good job of trying to engage the youth and to put them at ease in what is often a time that is disconcerting, confusing and frightening. The Disability Coordinator did an excellent job of sending a message of inclusion and clarifying the rights and options for youth with disabilities.⁵⁹ The impact of disabilities was discussed throughout the module not just in

⁵⁷ See PoP 954.

⁵⁸ Observations were made on April 30, 2013 and May 15, 2013. The Disability Expert attended the May 15, 2013 orientation. As of this writing, the Special Master provided feedback to Defendant regarding both orientations she observed. The Disability Expert sent his feedback on May 28, 2013.

⁵⁹ The content of the WDP section of the orientation has been approved by the Disabilities Expert and is consistent with the requirements of the *Farrell Wards with Disabilities Remedial Plan*.

the youth with disabilities section. The Disability Expert found the youth orientation to be in substantial compliance with the *WDP Remedial Plan*.⁶⁰

E. Cross-Over Issues

The Special Master suggested four items -- grievances, provision of special education services, use of medications and use of force, continue to be monitored after the transfer of monitoring of the *WDP Remedial Plan* to Defendant. It is the opinion of the Special Master that one item has been resolved and three items should continue to be monitored by other *Farrell* experts.⁶¹

1. Grievances

The issue of grievances as it relates to disabled youth has been resolved. The problem that Defendant has addressed was a failure in policy, training and practice, to ensure that youth with disabilities are provided a staff assistant at all stages of the grievance process. Defendant appropriately tries to teach youth to resolve grievances at the lowest level. This level, referred to as the "informal" grievance process, typically consists of attempts by staff to work with youth in the living units, school, etc. to resolve problems without resorting to the formal grievance process. In a youth correctional institution with effective and productive relationships between youth and staff, most grievances are indeed resolved informally. Unfortunately, policy and practice only required the appointment of a staff assistant for a youth with a disability if the formal grievance process had begun. Thus, most grievance resolutions were conducted without staff assistance for youths with disabilities.

⁶⁰ Disability Expert's response to Youth Orientation 5-28-13.

⁶¹ A fifth item, provision of special education services to disabled youth, was scheduled for transfer of monitor to the Education Experts. This issue remains only a small problem in two locations and will continue to be monitored by OACC and the Special Master.

As noted, Defendant has modified the grievance policy to ensure a staff assistant is assigned at all steps, informal or formal, in the grievance process. In addition, Defendant changed the documentation system so that the WDP Coordinator can monitor appointment of staff assistants on a quarterly basis.⁶² This issue now appears to be in substantial compliance and does not require additional monitoring by the Safety and Welfare Expert.

2. Provision of Special Education Services

The Disability Expert and the Education Experts have found an inability by Defendant to provide some mandated education services to youth in restricted programs at NACYCF and VYCF.⁶³ The Special Master agrees with these findings but has not found any evidence in any of the reports or in her observations to suggest that youth in restricted programs were denied education services because of a disability. Defendant has rectified several problems regarding the provision of education services. Classroom space and adequate teaching staff are now available and provided in all settings. The failure to provide services is a result of the absence rate that is in turn largely related to youth refusals to attend school. On their last site visit, the Education Experts discovered that less than 15% of the students were responsible for more than 70% of the unexcused absences.⁶⁴ The Education Experts interviewed some of the youth refusing to attend school and indicated that the youth were clear they did not want to attend school and showed no indication that anything would change their minds.⁶⁵

⁶² See Actions Taken by DJJ Wards with Disabilities Remedial *Plan* Issues. The actions in this document were reviewed at a parties meeting on May 15, 2013.

⁶³ OSM 22 and 25 discuss this issue in the Disability and Education sections.

⁶⁴ OSM 25, p.19.

⁶⁵ Conversation with the Special Master and Education Expert at the VYCF education audit, November 2012.

With respect to Special Education, the OACC auditors and the Education Experts have found both NACYCF and VYCF to be in substantial compliance on the Educational Remedial Plan Audit Item #5.6 requiring each facility to provide a continuum of placement options, including the full range of time, frequency and duration within each option for Special Education students.⁶⁶ As previously noted, classroom space and adequate teaching staff are now available and provided in all settings. Thus, although the failure to achieve 90% or greater delivery of special education services affects youth with disabilities, it is not a disability-specific problem but instead a piece of the broader struggles with education services at VYCF.

The California Department of Education (CDE) assesses the school district's compliance with state special education programs. As the state agency that "passes-through" federal funds to Defendant, CDE also monitors compliance with federal special education requirements. Significant and persistent instances of non-compliance could lead to a suspension or loss of federal special education funding. In 2011, the CDE assessed all three Defendant high schools and cited four areas for improvement. A reassessment in 2012 found the district to be in full compliance with the state and federal special educational requirements. CDE has scheduled future special education services audits of Defendant's schools on a regular basis. This is the same audit used for all public schools.

Defendant also participates in the Special Education Information System (SEIS) that allows special education information to be shared between the districts. According to Defendant, approximately 95% of California school districts participate and the ease of

⁶⁶ Based on the Special Master's review of the Education Experts' Final Education Summary Report for School Year 2012-13.

data retrieval helps the CDE to easily monitor special education services in DJJ. Given the fact that the oversight-funding agency has found NACHS to be in compliance and has an ongoing program to regularly monitor compliance, the Special Master questions whether another layer of monitoring is needed.

The problem is most likely a reflection of not having the nature and type of interactions between youth and staff that results in greater compliance with issues such as attending school. The solution to this problem lies with the implementation of the IBTM and requires the expertise of those who are trained to implement behavioral management systems. The Mental Health Experts who are responsible for the IBTM implementation that includes the behavioral management system can address monitoring of this issue. There appears to be little added value in having multiple sets of experts reviewing the same issue in addition to CDE's monitoring efforts. The Special Master believes the Mental Health Experts should address monitoring for this issue if additional monitoring is deemed necessary.

3. Use of Medications

The issue of whether or not the type and level of medications for any youth is appropriate has not been audited by the Mental Health Experts. The experts will begin monitoring the mental health program in the near future and this issue is included in the audit process. Youth with disabilities will be included in the review. The Mental Health Experts should monitor this issue.

4. Use of Force

The Disability Expert's concern on this topic is primarily focused on lack of staff awareness of accommodation to be provided to youth with disabilities during force

incidents involving a single non-compliant youth or similar incidents where it is possible to isolate youth with disabilities.⁶⁷ Under the revised Crisis Prevention and Management Policy, each youth is supposed to have a crisis intervention plan that details the best way to respond to a youth in crisis. The plan should include the accommodation needs of a disabled youth. Every force incident that involves a non-compliant youth should require a review of the crisis intervention plan and approval to use force.

The newly designed force review process, which is now in effect, requires every force incident involving single or multiple non-compliant youth to be reviewed by the facility's Force Review Committee (FRC). The FRC review results and the cases are submitted to the Departmental Force Review Committee (DFRC), which select a sample of cases for further review. The Safety and Welfare Expert and the Deputy Special Master have been actively involved in monitoring the implementation of the revised force review process and continue to participate in force review meetings and auditing activities.⁶⁸ The accommodation needs of youth with disabilities is a topic of discussion in every case review by the DFRC. To avoid duplication of effort, continuing monitoring responsibility for compliance with the Crisis Prevention and Management Policy should be assigned to the Safety and Welfare Expert.

F. Quality Assurance

Defendant continues to self-monitor the quality of its WDP Program through OACC audits using the adopted Standards and Criteria (audit tool) for the *Wards with Disabilities Remedial Plan*. OACC completed latest rounds of WDP audits and issued reports for NACYCF, OHCYCF and VYCF on March 8, 2013, April 19, 2013, and May

⁶⁷ See OSM 22, p.36.

⁶⁸ A detailed discussion of progress in this area is discussed in Section VI. Use of Force.

21, 2013, respectively. The overall percentage of items found to be in substantial compliance is 95% for NACYCF (82 of 86 items), 96% for OHCYCF (71 of 74 items), and 99% for VYCF (85 of 86 items). The facility is required to develop a corrective action plan for each item found to be less than substantial compliance.

Defendant has also taken an additional step to enhance the protection of youth with disabilities. The WDP Coordinator now serves as a member of the Executive Policy Review Team where she ensures the rights of disabled youth are considered in all policy development.⁶⁹

Defendant has created a thoughtful program that both identifies and provides appropriate accommodations and services to youth with disabilities as well as educating all youth about disabilities. Steps such as the policy review role are evidence of a continued awareness and desire to protect the rights of disabled youth. The Special Master believes transfer of monitoring for the *Wards with Disabilities Remedial Plan* to Defendant should occur no later than the close of the state fiscal year, June 28, 2013.

V. EDUCATION

At the conclusion of the seventh round of education audits, all three DJJ schools met or exceeded the threshold of an 85% overall rate of substantial compliance for at least two audit rounds. Compliance ratings ranged from a low of 97% to a high of 100%.⁷⁰ In this audit, the Education Experts revealed two issues that still need to be addressed.⁷¹ These issues include an absence rate that continues to be too high at Mary B. Perry High School (MBPHS) and a failure to deliver adequate special education services

⁶⁹ Noted in the document, *Actions Taken by DJJ in Wards with Disabilities Remedial Plan Issues*, that was shared with Plaintiff and the Special Master at a meeting on May 15, 2013.

⁷⁰ The ratings are 97% at MBPHS, 99% at NACHS and 100% at JBHS.

⁷¹ OSM 25, pp. 15-25.

at N.A. Chaderjian High School (NACHS) and MBPHS. Johanna Boss High School (JBHS) is substantially compliant in all areas.

A. Absence Rate

The Education Experts and the Special Master have opined that the current absence threshold of seven percent set in the *Education Services Remedial Plan* is lower than that set for public schools⁷² and that this rate may be unrealistic and could be modified to better reflect the challenging incarcerated population.⁷³ Defendant decided against requesting a modification of the remedial plan and has worked hard to achieve an absence rate that meets the target. The Special Master continues to believe a realistic goal for all facilities is to stay in the range of a 10% absence rate.⁷⁴

JBHS has achieved an absence rate of 10% or less for seven consecutive months and NACHS for four consecutive months. NACHS maintained a rate of less than 13% for six months and experienced an increase in April due to a failure of the alarm system in the school.⁷⁵ MBPHS continues to average below 25% rarely dropping below 20%.⁷⁶ The Education Experts' analysis of the absence rate data at MBPHS indicates that a very small percentage of youth are responsible for the majority of absences. Twenty-nine students were responsible for 70% of school refusals.⁷⁷

⁷² As noted in OSM 25 p. 18, footnote 34, inquiry by the Special Master regarding how the rate in the remedial plan was determined has come up short. As is often the case in long class action cases, agreements made at one point, years later cannot be explained. There is no data that supports a seven percent absence rate to be either realistic or appropriate for incarcerated youth.

⁷³ See OSM 25, p. 18 for a discussion of this issue.

⁷⁴ The goal is stated as a range because typically some fluctuation in the rate will occur due to the nature of the correctional environment. If there is a group disturbance, it will typically result in some delay in school attendance.

⁷⁵ See School Attendance Comparisons March 2012 to April 2013 05-13-13. The April rate for NACHS bumped up to 22.6% without the alarm problem the rate is 12.4%.

⁷⁶ *Ibid.*

⁷⁷ In their last site visit to VYCF, the Education Experts discovered that "Further disaggregation of the data indicated that 29 students (14.5%) of the student population were responsible for 1176 (70%) of the student

As noted in the Twenty-Fifth Report of the Special Master:

JBHS having the youngest youth will likely always have the easiest time achieving compliance with school attendance. The more difficult challenge is for NACHS and MBPHS that have older youth.⁷⁸

The older youth are less amenable to traditional classroom settings. One of the challenges for DJJ will be to continue to develop alternative delivery methods and more vocational programs so that youth with negative experiences with traditional classrooms can develop a positive experience with education. A challenge faced by all correctional settings is the understandable but shortsighted view by the public and legislators that providing such services to youth who have committed crimes is not appropriate in a time when public schools for non-offenders are struggling for resources. Finding the resources to create relevant and meaningful educational experiences for youth who have typically been harshly rejected by traditional schools is not a small task. That said, Defendant should continue efforts to enhance vocational and college programs and to create incentives for older youth to meet their high school educational requirement.

Just like in any public school, the challenge of absenteeism lies not only with the education system but also with the student's support system. The family and, in the case of incarcerated youth, the staff are key to school engagement. As discussed in the Twenty-Fifth Report of the Special Master, the solution to absenteeism hinges largely on the quality of the relationship between the unit staff and the student.⁷⁹ The solution to this problem lies not with the *Education Services Remedial Plan* but with the *Mental Health Remedial Plan* where responsibility for monitoring the IBTM resides.

refusals to go to class. Less than 15% of the youth were responsible for more than 70% of the unexcused absences from school. MBPHS Education Audit February 2013, p.5.

⁷⁸ OSM 25, pp. 18-19

⁷⁹ OSM 25, pp. 19-20.

B. Special Education Services

As noted in the Twenty-Fifth Report of the Special Master, to be compliant with the Individuals with Disabilities Education Act (IDEA), Defendant facilities are to provide resource specialist program, psychology, speech and learning services, and special day classes at or above the 90% compliance rate. MBPHS and NACHS achieved the 90% compliance rate in three of the four areas but did not meet the special day class requirement. MBPHS also did not meet the required compensatory hours.⁸⁰ Subsequent to the OACC audit, Defendant on March 6, 2013 provided the Educational Experts data indicating that special day classes were being provided at NACHS above the 90% level for the month of February 2012 and at MBPHS for January and February 2013. The Education Experts recommended a partial compliance rating until a consistent pattern of exceeding the 90% level for special day classes is achieved. Defendant has not achieved this level.⁸¹

The special day requirement is even more difficult for Defendant to achieve than a public school in the community. This is a result of the Individualized Education Program (IEP) that is developed in the community. The IEP presents two challenges for Defendant. First, the plans typically arrive with a backlog of incomplete hours. The fact that there is a backlog suggests it is not always feasible to readily deliver such services in a public school setting. Moreover, this means Defendant is immediately out of compliance and must be very aggressive to complete compensatory hours. Second, the plan often needs to be revised because it is driven more by behavioral needs and problems than by education needs. The vast majority of youth in DJJ have behavioral

⁸⁰ OSM 25. pp. 20-24.

⁸¹ Tami-McKee Sani, Superintendent of Education, informed the Special Master that the level is at in the mid-80s at this time in a conversation on May 30, 2013.

disorders. In the public school, it is often the behavioral problems that result in the IEP. Defendant revises the plan to address the true education needs and uses the treatment strategies in the agency to address behavioral issues. While the changes are being made the clock is ticking and more compensatory hours are required. Still it is in the best interests of the youth to identify and to address the actual educational needs.

As noted under the Disability Section of this report, CDE conducts assessments of Defendant's special education programs to ensure compliance with state and federal requirements. CDE has already found the three high schools in Defendant's school system in compliance with state and federal requirements and has scheduled future audits of Defendant's schools. It has a program to monitor compliance on an ongoing basis. Furthermore, similar to the Education Experts' observation on the youth absence rate, this issue is not education-related. Thus, there is no need for further involvement by the Education Experts.

C. Conclusion

The Special Master continues to believe Defendant is ready to assume full monitoring from the Education Experts. The extremely high overall compliance ratings, the progress in reducing absence rates combined with the auditing by the CDE and OACC indicate both sufficient progress in the reform effort and mechanisms to address the few outstanding issues. The Special Master is willing to continue monitoring the MBPHS absence rate since this issue is fairly objective and quantifiable. In light of the ongoing monitoring effort of CDE, which is the oversight and funding agency, the Special Master questions the need for continuing monitoring of the special education special class day requirement.

Should such monitoring be deemed necessary, it should be transferred to the *Mental Health Remedial Plan*.

That said, the Court must ask the question if the requirement for compliance with the *Education Services Remedial Plan* is 100% compliance or substantial compliance. If it is the latter, Defendant has created the compliance mechanisms to remedy the two remaining issues and is in compliance with state education mandates. Defendant also has a proven track record of commitment to implementing the IBTM that the Special Master firmly believes is the ultimate solution to the absence rate issue.⁸² Finally, Defendant continues to try to do the right thing by youth in revising the IEP and should not be penalized for this effort. Defendant shows a high level of commitment for reaching the federal requirement of 90% compliance with the special education special class day requirement despite the fact that CDE who monitors this requirement has approved the current compliance rate.

The ultimate measure of compliance is whether there are systems in place to ensure on-going compliance and growth. Defendant has shown and continues to show a commitment to fully complying with the *Education Services Remedial Plan* absence rate mandate for which there is no evidence-based support. Similarly, Defendant has created compliance systems to measure the level of special day services and demonstrated a commitment to reaching the 90% service delivery mandate.

VI. USE OF FORCE

⁸² It should be noted absenteeism also impacts the special day class requirement so its reduction will only help with this special education requirement. Based on discussions with staff at the CDE and comparison of specific schools' attendance and enrollment data, it appears the absence rates of Defendant are better than those of the public schools.

Defendant continues to make a concerted effort to implement an effective use-of-force model to reduce violence in the facilities. In her twenty-fifth report, the Special Master discussed Defendant's initiative to standardize the facilities' monthly use-of-force reports to promote consistency among the facilities in what data to gather and how to analyze and present the data. Defendant is expanding this practice by developing a quarterly reporting process to enable comparison and analysis of trend and patterns beyond a one-month period. The Safety and Welfare Expert and the Deputy Special Master observed the development of the process and have regularly participated in DFRC meetings. They have observed continuous improvement in the process employed by the DFRC and the facilities' FRC. Meanwhile, Defendant is developing the facilities' quality assurance capability by having the facility's Quality Assurance Coordinator conduct audits of Crisis Intervention Plans (CIP) using the new CIP audit tool.

A. Quarterly Report and Analysis of Trends and Patterns

Under the direction of the Deputy Director, Defendant initiated a process under which each facility is to compile use-of-force data on a quarterly basis and perform analysis of trends and patterns. The facilities are to submit the quarterly report data and their trend analyses to an AGPA at the Central Office, who is to compile the facilities' data into a combined quarterly report for broader analysis by DFRC.

On May 16, 2013, DFRC held a special meeting to review the facilities' quarterly reports and analyses for the first quarter of 2013. The issue was again discussed during a DFRC meeting on May 24, 2013. The Safety and Welfare Expert and the Deputy Special Master attended both meetings as observers and provided comments and suggestions.

The DFRC committee did not find the facilitiesø reports and analyses particularly meaningful or conducive to broader analyses for the following reasons:

- The facilitiesø analyses primarily consist of summation of data in the quarterly report rather than thorough examination of trends and patterns to quantify possible causes and identify remedial actions.
- There is a lack of consistency among the facilities in the quarterly report formats and data in the reports. Although the differences appear to be minor and most relate to interpretation, they nevertheless caused comparability problems.

DFRC members devoted considerable efforts to revise the facilitiesø quarterly report format and to identify data to be included in the quarterly report. The Deputy Director and the Central Office AGPA plan to confer with the facilitiesø Use-of-Force Coordinator to explain the new reporting requirements and clarify any misconceptions. DFRC members also developed the templates of the quarterly report to be prepared by the AGPA at the Central Office. The DFRC also recognized that there is a definite need to provide the facility staff with additional coaching and mentoring regarding how to perform analysis of trend and patterns.

Although the quarterly report process is still a work-in-progress, the Special Master commends Defendantø initiative to continue to enhance its quality assurance system. It is also encouraging to note that Defendant has the internal capacity to self-assess its processes and identify ways to make improvements.

B. Quality Assurance of Youth Crisis Intervention Plans

The facilitiesø Quality Assurance Coordinators (QAC) have begun audits of the Youth Crisis Intervention Plans in March and April 2013 using the newly developed audit tool. The Use-of-Force Manager is to conduct the quarterly audit at each site. A review of the audits completed to date suggests there may be considerable disparity

among the QACs in breadth of the work performed. Defendant should determine whether additional mentoring and coaching is necessary and appropriate to ensure the quality of QAC audits are in line with expectation.

C. Weekly Multi-Disciplinary Staff Meetings

The Use-of-Force Project Manager continues to review the weekly living unit meeting minutes to ensure that meetings were in fact being held and that the discussions were meaningful and relevant to the objectives. The scope of her latest round of review includes November and December 2012 and January 2013. The Use-of-Force Project Manager reported that the content of meeting minutes continues to improve at all three facilities. Consistent with her previous findings, meetings continue to occur regularly at OHCYCF and at NACYCF, as over 90% of the required meetings have been held at each of these two facilities. At VYCF, the Use-of-Force Project Manager found improvement in the number of meetings held during January 2013. The percentage of required meetings held increased from 50% (22 of 44) in November 2012, to 55% (24 of 44) in December 2012, and 75% (40 of 54) in January 2013. Nevertheless, it is still far below an acceptable level.⁸³

D. Crisis Intervention and Conflict Resolution Training

The second phase of Crisis Intervention and Conflict Resolution Training developed by Law Enforcement Training and Research Associates (LETRA) is in progress and on target for completion by June 30, 2013. It is disappointing to note that, as of the end of April 2013, staff in custody classifications represent an overwhelming portion of individuals who have not yet completed the required training. At VYCF, 69%

⁸³ Defendant reported that VYCF's compliance rate has improved significantly to 85% in February 2013, 80% in March 2013, and 95% in April 2013.

of Youth Correctional Officers (YCO), 83% of Sergeants, and 66% of Lieutenants have not completed LETRA training. At the Northern California Youth Correctional Complex (NCYCC), 60% of YCOs, 33% of Sergeants, and 56% of Lieutenants have not completed the training.⁸⁴ Since staff members in these classifications are individuals heavily involved in force applications, hopefully force incidents will further decline after more custody staff have completed the required LETRA training. Defendant needs to prioritize custody staff for future training.

E. Expansion of Targeted Living Unit Methods to All Mental Health Units

In line with the Special Master's suggestion, Defendant expanded the practice of targeted living unit methods to all mental health units in March 2013. Defendant leadership targeted two living units, Sacramento Hall in NACYCF and Casa de Los Caballeros (CLC)⁸⁵ at VYCF, 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 was informed that they would be closely monitored regarding their force incidents. 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. There were increased group activities that entailed more participation from youth and staff was coached to increase communication and interaction with youth⁸⁶.

At Sacramento Hall and Casa de Los Caballeros the number of force incidents appears to remain low in comparison to the early phase of the project.⁸⁷ Although two

⁸⁴ Based on more recent data and training schedule, Defendant expects to deliver the training to all staff in custody classifications by June 30, 2013.

⁸⁵ CLC was closed on December 15, 2012 and youth in the unit were transferred to Casa de Colegio (CDC).

⁸⁶ See OSM 23, p.38.

⁸⁷ The Special Master and the Deputy Special Master visited CDC (previously CLC) on May 8, 2013 and found conditions in the living unit to be dismal. There was little, if any, communication or interaction between staff and youth in the unit. Youth uniformly complained of lack of incentives and inadequate

months of data is insufficient to establish a trend or pattern at the expanded mental health units (Merced, Alborado, and Buena Ventura), there appears to be significant variations between mental health units in VYCF and NACYCF in terms of number of force incidents and use of chemical agents. Defendant should direct further attention to analyze the practices at the mental health halls at VYCF and take further actions when deemed necessary.

Sacramento Hall

	Security Response Without Force Use	Force Incidents⁸⁸	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
November	18	10	9	1
December	8	4	1	3
January	8	1	1	0
February	10	3	2	1
March	5	1	0	1
April	13	4	4	0

programs, treatment and services. The Deputy Special Master visited CDC again on June 14, 2013 and found that conditions remained the same. While the number of use-of-force incidents remains relatively low in comparison with prior periods, there are systemic issues that need to be addressed. Defendant should closely monitor the conditions at CDC and take appropriate action.

⁸⁸ Some incidents involve both chemical and physical use of force.

Casa de Los Caballeros (Transferred to Casa de Colegio)

	Security Response Without Force Use	Force Incidents⁸⁹	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
November	13	8	6	3
December	7	8	7	3
January	9	3	1	2
February	7	3	2	1
March	10	3 ⁹⁰	1	2

Merced

	Security Response Without Force Use	Force Incidents	Chemical Force	Physical Force
March	6	1	0	1
April	3	1	0	1

⁸⁹ *Ibid.*

⁹⁰ VYCF's monthly report identified two incidents whereas the TTS reported three incidents for the month. Difference may be due to timing as one of the incidents reported by the TTS occurred on March 30, 2013.

Alborado

	Security Response Without Force Use	Force Incidents ⁹¹	Chemical Force	Physical Force
March	5	4	3	2
April	16	9	6	7

Buena Ventura

	Security Response Without Force Use	Force Incidents ⁹²	Chemical Force	Physical Force
March	14	7	3	6
April	9	5	2	4

F. Force Review Committees (DFRC and FRC)

Through his participation at the DFRC, the Deputy Special Master has observed steady improvement in the quality of reviews at the FRC level. For the two facilities at the NCYCC, the DFRC seldom identifies deficiencies in the FRC's review of individual use-of-force incident cases. More of the comments relating to the cases reviewed by the FRC have been to prevent future incidents through process or procedural changes. While improvements have been observed at VYCF's review process, the Special Master believes it is still a work in progress and the staff could benefit from further mentoring and coaching by the Use-of-Force Project Manager's continued participation in the FRC process through video conferencing.

When the Deputy Special Master started to participate in the DFRC at the beginning of the calendar year, he observed that few of the force incident packages

⁹¹ Some incidents involved both chemical and physical use of force.

⁹² *Ibid.*

contained evidence of youth interviews through case counseling notes. In the cases recently reviewed by DFRC, it is very rare that a force incident package does not contain evidence of youth interviews. While there are significant disparities in the quality of the counseling notes as some, particularly at VYCF, appear to be very perfunctory, this nevertheless provides a solid foundation for future improvements.

G. Outstanding Issues

In her twenty-fifth report, the Special Master identified two key areas of focus for force incident reduction: single youth incidents and use of chemical agents on youth with mental health designation. She also noted that the issue of chemical agents on youth with a mental health designation is complicated by the fact that Defendant's mental health youth population is not well classified at this time. Since this issue is also of significant consideration under the *Mental Health Remedial Plan*, the parties may wish to consider eventually transferring monitoring of this issue to the Mental Health Experts.

The Special Master found in her last report that the percentage of single youth incidents and NACYCF and VYCF appears to be excessive, especially in comparison to OHCYCF. During February and March 2013, the percentage of single youth incidents increased at OHCYCF as well. Given the low number of incidents that occur at OHCYCF, the higher percentages for the two months could be anomalies. However, system-wide, the percentage of single youth incidents for February and March 2013 was 38% (26 of 69) and 32% (21 of 65), respectively. These percentages are consistent with the overall percentages of single youth incidents for November and December 2012 and January 2013.⁹³

⁹³ The overall percentage for November and December 2012 and January 2013 was 46%, 36%, and 22%, respectively.

Single Youth Incidents – February and March 2013⁹⁴

February 2013	OHCYCF	NACYCF	VYCF	Total
Total Security Responses ⁹⁵	26	91	102	219
Security Responses Without Force Used	16	66	68	150
Total Use-of-Force Incidents	10	25	34	69
Single Youth Use-of-Force Incidents	3	15	8	26

March 2013	OHCYCF	NACYCF	VYCF	Total
Total Security Responses ⁹⁶	28	67	118	213
Security Responses Without Force Used	22	56	70	148
Total Use-of-Force Incidents	6	11	48	65
Single Youth Use-of-Force Incidents	2	4	15	21

The Special Master recognizes that this issue will be a subject that will be closely examined as Defendant continues to develop and refine its review process, particularly the analyses of trends and patterns. As a part of the process, Defendant may wish to review the following provision in the Crisis Prevention and Management Policy related to use of force against a single youth to assess whether additional adjustments or refinements are necessary.

Force shall not be used against youth for refusing to follow staff instruction except in the following situations:

- Youth repeatedly and intentionally ignored staff instructions over significant period of time; and
- Staff's efforts of intervention and de-escalation to include consulting with the youth's Crisis Intervention Plan and utilizing the principles of

⁹⁴ Compiled by OSM using the facilities' monthly reports.

⁹⁵ Number of times security staff had to respond to alarm codes.

⁹⁶ *Ibid.*

Core Correctional Practices have proven unsuccessful and ineffective, and

- Further continuance of the situation would immediately and directly preclude other youth from receiving their mandated programs and/or services."

VII. VENTURA YOUTH CORRECTIONAL FACILITY

A. Current Progress

The Special Master found that the conditions have significantly improved at El Mirosol Living Unit (EM) -- VYCF's BTP unit. As reported in the Twenty-Fifth Report of the Special Master, VYCF's two BTP units were merged into one in January 2013 because of the decline in BTP youth population, which caused significant challenges. On May 8, 2013, the Special Master and the Deputy Special Master visited VYCF, and one of the areas visited was EM. On the day of their visit, EM had a total of 21 youth segregated into eight program groups, including three youth on program solo status. Despite the logistical problem of having to provide treatment and services to so many program groups, the Special Master and the Deputy Special Master observed a number of positive developments, which suggest VYCF staff are more proactive in identifying means to interact with this highly challenging youth population.

Reinforcement System

The Special Master believes successful implementation of RS is the key to the recent improvements. Review of EM's "BTP Team Development Meeting" minutes identified increasing acceptance among youth and staff in the BTP unit of RS even as it is continuously undergoing refinement. For the week ending May 23, 2013, EM's RS tracking sheets reflect that youths averaged earning a Daily Reinforcer on about 4.6 days

during the week (66%) and eight youths achieved their weekly incentive.⁹⁷ Youth must achieve their daily incentive requirement in six of seven days to qualify for the weekly incentive. It is also noteworthy that as increasing number of youths are moving into and off the BTP, staff have been promptly meeting with each new youth individually to familiarize them with RS and to prepare a tracking sheet for RS. During the week ending May 23, 2013, all tracking sheets were prepared on the first day upon a youth's arrival.⁹⁸ This suggests strong staff commitment and support for RS.

One issue that Defendant should be cognizant of is the possibility of BTP's RS providing incentives that may ultimately discourage BTP youth from transitioning out of the unit. Defendant should review the incentive programs at other units, particularly the high core units, and make plans to address this issue. The issue should be addressed by increasing the incentives to surpass those offered in the BTP, not by decreasing the incentives currently offered in the BTP.

Education Services

The Special Master also found it encouraging that youth apparently are more interested in attending classes. On May 8, 2013, the Deputy Special Master visited EM during the first class period that, based on past history, has been poorly attended. Often, the teachers and the classroom YCCs would either congregate by the YCC station or sit in the classroom alone during this class period. During the Deputy Special Master's visit, which lasted the first three class periods, he observed the youth in groups were attending classes in four classroom settings ó one in dayroom, one in kitchen, and two in the

⁹⁷ See minutes of BTP Team Development meeting of May 23, 2013 by Dr. Gordon Rose.

⁹⁸ *Ibid.*

portable classrooms. Another youth was attending class by himself from a teacher in the Psychologist's office.

Resource Groups

In April 2013, VYCF developed a tracking system to monitor its weekly resource group activities. Previously, particularly after the merger of the two BTP units, scheduled resource groups often were cancelled due to logistical problems or for other unknown reasons. Prior to cancelling a group, the group facilitator is supposed to seek management approval and schedule a make-up group session. Prior to April 2013, this procedure has not been observed and there has been little management oversight to ensure that scheduled groups are held.

Under the new tracking system, each group facilitator is to submit evidence that the group session was held (with youth signatures) to the unit supervisor for review. On an interim basis while the system is being developed, the documents are forwarded to a Parole Agent in VYCF headquarters who validates it against the Ward Information Network (WIN) System for accuracy. Eventually, the unit supervisor will be responsible for this function and a separate checklist has been developed for weekly and monthly tasks to be performed by the Senior Youth Correctional Counselor (SYCC) and the TTS for the unit. The checklist includes monitoring and tracking of resource group activities.⁹⁹

The data on resource groups held and youth attendance of the groups are reviewed and discussed during the weekly BTP Team Development meetings. Monthly reports are prepared summarizing the number of groups scheduled. The monthly reports

⁹⁹ Based on discussion between Program Administrator Ray Galaviz and Deputy Special Master John Chen on May 8, 2013.

also identify the number of groups held as scheduled. For the first two weeks of May 2013, 40 of the 40 scheduled groups (100%) have been held.¹⁰⁰ Of the 40 scheduled groups, 33 were held on scheduled day and seven through make-up sessions.¹⁰¹

In addition, to ensure program fidelity, VYCF has developed a process to conduct observations and assessments of the skilled modules resource groups. The Program Administrator, TTS, SYCC, Parole Agent, and Psychologists will make the observations. Assessment forms and procedures have been developed and mentoring will be provided to the observers during the initial observation sessions.¹⁰²

The Special Master believes the approach outlined above is very sound and, if properly executed, will significantly improve the operations of EM by providing greater accountability and oversight and identify areas where management intervention is necessary and appropriate.

BTP Team Development Meetings

Review of the minutes of the BTP Team Development Meetings revealed improvement in the scope and breadth of discussions. Initially, the meetings apparently were limited to the implementation status of RS and the level system summation of the weekly RS data. More recent meeting minutes reflect broader focus on ways to improve program fidelity such as monitoring of resource group activities. At the Special Master's suggestion, first-line staff members (YCCs) have been included to participate in the weekly BTP Team Development Meetings. Based on the following comment during the team meeting on May 23, 2013, the unit staff is gaining understanding of RS and is

¹⁰⁰ See Resource Group Mid-Month Report for May 2013,

¹⁰¹ *Ibid.*

¹⁰² See minutes of BTP Team Development meeting of May 23, 2013 by Dr. Gordon Rose.

learning to be more proficient in observing and interacting with youth in the unit and youth are responding positively:

On a rather encouraging note, for the Daily Reinforcer, SYCC Carrillo noted that some of the staff have said that while the incentives themselves appear to be items the youths like (e.g., candy, chips, drinks, popcorn, hygiene items, and batteries), recently many of the youths (particularly the ones who have been with us longer) appear to be responding more now to the acknowledgement and recognition of having done well and thus earned a reinforcer rather than just to receiving a particular reinforcer item itself. SYCC Carrillo also felt that recently more of the youths are talking out their differences with each other in a somewhat more respectful manner.

Unit Appearance

During their visit, both the Special Master and the Deputy Special Master noted improvements in the cleanliness and tidiness of the living unit. In addition, youth appear to be calmer during this visit in comparison to their previous visits.

Program Groups

As previously mentioned, EM had a total of 21 youth segregated into eight program groups as of the Special Master's visit on May 8, 2013. As of May 17, 2013, while the youth population increased by one to 22, the number of program groups declined to six. Moreover, the number of youth on program solo status declined from three to zero. One youth, who refused to program with any other youth and had been on program solo status for extended period, is now programming with another youth. This demonstrates that staff is making concerted efforts to integrate youth. Less segregation and program groups enable staff to deliver more treatment and services to youth in the unit.

Length of Stay

In her twenty-fifth report, the Special Master cautioned that there is little prospect for drastic reduction in average length of stay (LOS) and that the average LOS is likely to increase in the immediate future. Her supposition was based on the fact that VYCF's BTP youth population consists of long-entrenched placements and the facility's demonstrated inability to transition out this group of youth with high average LOS numbers.

The LOS for VYCF's BTP youth population remains consistently high -- from 309 days in February 2013, 298 days in March 2013, and ballooned to 387 days in April 2013. As previously noted, this trend is not unexpected and the Special Master believes it is not particularly meaningful by itself in VYCF's current BTP setting. To place the matter into perspective, the Special Master believes one should also take into account youth who exited from the BTP. The following table provides a comparison of the average LOS of youth who exited the three facilities' BTP units during the first four months of 2013:

Comparison of Average LOS of Youth Exits – January through April 2013¹⁰³

	VYCF	NACYCF	OHCYCF
January 2013	38 days (3 youth)	82 days (4 youth)	69 days (3 youth)
February 2013	154 days (1 youth)	52 days (3 youth)	41 days (4 youth)
March 2013	216 days (5 youth)	66 days (6 youth)	47 days (7 youth)
April 2013	30 days (1 youth)	166 days (3 youth)	67 days (3 youth)

The above numbers suggest youth newly assigned to VYCF's BTP are exiting at a reasonable pace. Because of the limited number of youth who exited from the BTPs, the

¹⁰³ Calculated by OSM using data produced by Mark Blaser, Program Administrator.

average LOS could have easily been skewed by a youth with a high LOS number. For example, during March 2013, one youth who exited from VYCF's BTP had a LOS of 805 days, which accounted for the high average for the month.

BTP Operational Plan

In her previous quarterly reports, the Special Master wrote about the need for an Operations Plan that is consistent with the RS, defines a level system, and describes the method of communication, case management and documentation. The development of such a plan supposedly started in May 2012 but has not yet been finalized after several attempts. Since significant time has lapsed, many of the components, especially RS, have already been implemented. However, the Special Master still believes that such a plan is useful by providing an overall roadmap to assign responsibility delineating the remaining tasks to be performed and to prescribe timeframe for completion. Such a plan could be completed expeditiously without extraordinary efforts and the Special Master is willing to assist in this effort.

B. Casa De Colegio

The Special Master and the Deputy Special Master also visited Casa De Colegio (CDC), one of the two high core units in VYCF. They found the conditions at the living unit to be rather dismal, as the unit was on partial lockdown after a fight involving a group of Hispanic youth and two African American youth five days prior on May 3, 2013. The living unit was unclean and tension was high. Youth were very agitated and complained about the length of the limited lockdown. The two African American youth also complained about being placed on lockdown status even though they were just defending themselves after been attacked by the Hispanic youth.

The Special Master has discussed this matter with VYCF management. CDC is scheduled to be the next living unit to implement IBTM.¹⁰⁴

C. Youth Construction and Renovation Program

In her twenty-fifth report, the Special Master identified the Youth Construction and Renovation Program as a program particularly well received by youth. This program allows Level A and Level B youth with high school diplomas to participate in the renovation project. The Office of Inmate Ward Labor (IWL) oversees the project and youth work side by side with the union workers and state tradesmen in renovating the living units. During her site visit on May 8, 2013, the Special Master encountered and interviewed a group of youth working on the Monte Vista unit renovation project and again youth feedback was overwhelmingly favorable. The Special Master understands that 30 youth slots have been allocated to this project but less than 20 slots have been filled. As there is very little downside to more youth participation, Defendant should consider exploring means to expand the program or, at the minimum, fill all 30 slots.

D. Other Accomplishments

Partnership with California State University Channel Islands

A course has been developed through the California State University Channel Islands whereby youth can earn college credits. The project is funded by a two-year, \$75,000 grant from the California Wellness Foundation, secured by a community-based organization called Women of Substance, Men of Honor. The course is entitled "Juvenile Justice System Service Learning" and is designed to develop students' skills in

¹⁰⁴ Based on her interview of a limited number of youth in the unit, the Special Master believes the problem stemmed from youth perception of lack of consistency in delivery of program, services, and incentives. Youth complained about receiving three hours of program time one day and half hour the next day for no apparent reason. While anecdotal, the living unit has had a history of similar problems and thus is a logical candidate for IBTM.

presentation, teaching, public speaking, and address issues impacting community. Eight weekly teaching sessions are scheduled at VYCF and each student is required to submit a weekly session report and complete four reflective journal assignments. Nine female youth participated in this program that started in January 2013. A session celebrating the completion of the course was held on May 9, 2013.

Foster Grandparent Program

VYCF staff completed an orientation course for the Foster Grandparents Program. A total of 6 community volunteers completed this program. A Volunteer Program Manual, updated on February 20, 2013, was distributed to the volunteers.

E. Next Steps

Based on the above observations, the Special Master believes VYCF is close to bringing its BTP operations in line with the operations of the facilities in the NCYCC. During the next three months, the Special Master intends to closely monitor the facilities' QA implementation effort and analyze and compare all of the BTP units in all facilities. Providing the implementation effort is progressing as expected and that practices with the VYCF BTP are aligned with other facilities, the Special Master intends to cease focused reporting of Ventura-specific problems, and allow such information to be reported instead through the normal remedial plan reports.

VIII. CONCLUSION

Significant progress was made in the IBTM implementation at all sites this round. Where appropriate, the Central Office IBTM audit team worked with all sites to create uniform approaches to programs and services as well as quality assurance measures. The

volume of work completed by the Central Office IBTM unit is commendable and especially in light of its limited staffing.

Coaching and mentoring efforts to support refinement and understanding of facilitation and delivery of interventions, assessing risk and needs and developing concrete and behaviorally driven case plans continued at OHCYCF. NACYCF is solidifying processes in the two initial pilot sites and preparing for two more sites. VYCF has had an excellent start with implementation at the girls unit. Both sites are actively engaging in learning about quality assurance strategies. All sites have continued with training efforts.

The new curriculum of the Sexual Behavior Treatment Program has been implemented in all units. The curriculum does a better job of focusing on not just the treatment needs specific to the offense committed but also of addressing the developmental needs of the whole youth. It is more developmentally appropriate and both youth and staff are responding well to it. With the exception of some staffing issues with the Psychologists, the implementation has gone well with compliance ratings ranging from 94% to 97%. All sites have achieved two rounds of substantial compliance. If Defendant can demonstrate stable staffing of skilled Psychologists, the Sexual Behavior Treatment Expert supports transfer of monitoring.

Defendant is now in substantial compliance with all elements of the 2012 Court Order for Disabilities. Thus, all requirements for the remedial plan have been achieved or where there are crossover items with the other remedial plans, there is a plan for transfer of monitoring. The Special Master recommends transfer of monitoring to Defendant of the *Wards with Disability Remedial Plan*. Items that should be transferred to other

experts for monitoring include: use of medications to the Mental Health Expert and use of force to the Safety and Welfare Expert. If further monitoring of special education services is deemed necessary, it should be transferred to the Mental Health Experts.

Defendant continues to demonstrate progress in reducing the absence rate in the schools. The Special Master could monitor this remaining item since it is fairly objective and quantifiable. The Special Master recommends monitoring for the *Educational Services Remedial Plan* should be returned to Defendant.

Defendant continues to actively engage the Safety and Welfare Expert and the Special Master in the monitoring of the implementation of the new force review process. The impact of this process and other reform efforts will be assessed in the next report after the Safety and Welfare Expert's next audit.

Finally, the steady and consistent improvement in the VYCF BTP suggests that the Special Master no longer needs to provide a special report on VYCF each quarter in her report to the Court. It appears that reporting on VYCF can be addressed within the context of the normal remedial plan reports.

The Special Master respectfully submits this report.

Dated: July 5, 2013

Nancy M. Campbell
Special Master

California Department of Criminal Justice
Division of Juvenile Justice
Sexual Behavior Treatment Program
Administrative Audit

Conducted by Barbara Schwartz Ph.D.,
Farrell SBTP Expert
With assistance from
Nancy M. Campbell, Special Master
March 18-20th, 2013

On March 18-20th, 2013, I conducted the 2013 Administrative Audit of the Division of Juvenile Justice's Sexual Behavior Treatment Program (SBTP). Special Master, Nancy Campbell assisted me. Pamela Dion and Annette Herring from the Office of Audits and Court Compliance (OACC) and Dr. Heather Bowlds, SBTP Program Coordinator, answered our inquiries and provided all necessary documentation. Significant progress has been noted on a number of the Remedial Plan standards resulting in the high percentage of audit items found to be in substantial compliance at the Division of Juvenile Justice's (DJJ) Central Office and at the two facilities – OH Close Youth Correctional Facility (OHCYCF) and NA Chaderjian Youth Correctional Facility (NACYCF).

Facility	Substantial Compliance	Partial Compliance	Non-Compliant
Central Office	97% (33/34 items)	3% (1/34 items)	0% (0/34 items)
OHCYCF	96% (25/26 items)	4% (1/26 items)	0% (0/26 items)
NACYCF	94% (31/33 items) ¹	6% (2/33 items)	0% (0/33 items)

Standard 1: Organization Structure.

A review of the organizational charts indicates no structural changes from the last audit round. Dr. Bowlds continues to oversee the program but has taken on expanded responsibilities with the Integrated Behavioral Treatment Program (IBTM) team. While this ensures full integration of the SBTP into the IBTM, it has resulted in Dr. Bowlds having less time for direct supervision of the SBTP. It has however afforded her clerical support in addition to the use of a research assistant. Dr. Bowlds is actively engaged in supervising the psychologists and has developed a peer review process in addition to routine training. The peer review process is not in the SBTP remedial plan. The inclusion of such a process is indicative of the commitment of the SBTP Coordinator to ensure high quality services will be delivered by the psychologists. The standard remains in substantial compliance (SC). Unfortunately due to the demands on her time and the staff turnover, the two new psychologists I observed were not sufficiently familiar with how to present the curriculum or how to run a successful group.

Standard 2: Staff Qualifications

All staff meets or exceeds the minimum qualifications for their positions. One problem that if not corrected may result in a change in the audit rating of audit item 1.2 from substantial compliance (SC) to partial compliance (PC) is the issue of instability in the psychologist staffing. The layoffs in adult corrections have resulted in reliance on contract psychologists who can only serve in a position for six months. This has resulted in lack of consistency in the psychologists who deliver services and not an adequate number of psychologists to deliver individual and group treatment. Psychologists with little to no experience working with adolescents and/or have no experience with a cognitive behavioral sexual behavior treatment program are not qualified to deliver the SBTP services and are certainly not qualified to mentor and coach youth correctional counselors (YCCs).

Since assuming the position on the Farrell case, I have pointed out that there are more cost-effective ways to deliver SBTP services without compromising quality by utilizing different types and/or ratios of mental health professionals and/or changing job descriptions. Apparently as this would require amendment of personnel policies, it has never been explored. Defendant should consider either a different

¹ Two of the audit items received Substantial Compliance ratings contingent upon DJJ producing additional documentation to demonstrate compliance in April, May, and June 2013.

classification of staff to deliver individual and group services or create a classification of adolescent psychologist.

The standard will remain in substantial compliance if Defendant can provide documentation that demonstrates stability in staffing of psychologists who are qualified to deliver SBTP services to adolescents. The standard remains in substantial compliance pending documentation of qualified consisting psychologist staffing.

Standard 3: Training

Dr. Bowlds continues to provide training to staff members. Documentation supports compliance with orientation to the program for all staff. Due to the new curriculum self-study was not used this year. It is planned for next year and will be noted in staff training records by the lieutenant in charge of training at the Stockton Training Center. With the exception of the new psychologists, the unit staffs have been received the eight hours of team building mandated by the Remedial Plan. Dr. Bowlds has attended a national conference on sex offender treatment and has observed a program in Maine. The new Secretary of the California Department of Corrections and Rehabilitation (CDCR) and the Under Secretary have both indicated support for continuing to send staff to outside training opportunities.²

Standard 4: Program Adequacy

The requirements of this section have been previously received substantial compliance ratings, but downgraded to partial compliance during this audit round. The required number of treatment hours is noted in Standards 4.4.1 and 4.6.1. In January the required numbers of resource hours were not provided but this improved significantly in February and March. The clinical hours were woefully deficient in January due to changes in staff, and injuries. In February the youth at OHCYCF received the required number of clinical hours. The clinical hours at NACYCF continued to be deficient. However, significant improvement was noted in March. Unfortunately that represents only one third of the audit period and thus earns a Partial Compliance rating.

Standard 5: Curriculum

The requirements of this section have been previously received substantial compliance ratings, and they remain in substantial compliance. Dr. Nancy Calleja, the curriculum author, provided a final of the curriculum and its implementation in January of 2013. All curriculum components were reviewed.

This is an excellent curriculum and it is to be expected that it will take some time to adequately implement it. While DJJ has purchased the curriculum and many components have been fully implemented, I have concerns that some components are not fully implemented. Concerns include the following:

1.) The two groups I observed were not implementing the curriculum as was intended. Every group member should be required to present some aspect of their stage work at each group. This would require each member to participate and would prevent other members from rushing through assignments. I was told by both youths and by casework specialists that they have a great deal of trouble reviewing the

² The Secretary of CDCR has regained authority for travel outside of California. He and Under Secretary Martin Hoshino have expressed their support of staff attending training in other states and engaging with colleagues in other states by authorizing travel requests.

assignments that this job classification is required to do. 2.) I recommend that the questions associated with each stage be placed on laminated cards so that they are readily available to the group leader,

3.) I was also surprised that many of the youth who felt that insufficient attention was being paid to helping youth empathize with their victims. This was expressed both by youth who had experienced the old curriculum and new participants. The curriculum should be analyzed to see if activities designed to deal with the consequences of sexual abuse can receive added emphasis.

4.) Another byproduct of the unstable psychological staff is that youth are being asked to repeat old assignments. This practice should be ended.

I have given these suggestions to Dr. Bowlds..

Standard 6: Ethics

The requirements of this section have been previously received substantial compliance ratings, and they remain in substantial compliance.

Standard 7: Physical Facilities

This item is audited at the individual facilities. The physical plant issues are being addressed through the Safety and Welfare plan. Staff of the SBTP units is being creative in how they are adapting space that is punitive and not therapeutic in design. For example, staff in one OHCYCF unit cleaned out cells that were serving as storage units and have turned the cells into honor rooms. Youth who do well can be rewarded with a private room. Staff members in NACYCF have turned cells into a library, the butterfly house, storage and check out for games, etc.

Standard 8: Quality Management

The Task Force has met nine times to deal with a variety of issues. Dr. Bowlds continues to devise corrective action plans to address issues raised by past OACC and expert audits. However, based on my observations of the two core curriculum groups, one at OHCYCF and one at NACYCF, I am changing one of the standards (Audit Item 8.1.1) from Substantial Compliance to Partial Compliance. I am willing to upgrade this rating to Substantial Compliance if DJJ provides documentation to demonstrate there is stabilization in staffing, particularly for the psychologists, and QA measures are effective to improve the quality of core curriculum groups.

The quality assurance measures (QA) in the SBTP program are a model for other units. QA occurs at several levels and engages many people. As with the IBTM, there is a monthly group report that tracks groups and individual programs. This information is sent to the research division where it is tracked. There are multiple other systems to provide immediate feedback regarding service delivery. The SBTP unit file review checklist is used to ensure that files are current and activities have occurred and been recorded. The TTS Supervisor Report focuses primarily on casework and case conference compliance as well as group and activity trends. The psychologists engage in a peer review process that can serve as model for all programs. Finally, youth and family surveys ensure input from those served. Finally there is a research blueprint that outlines the outcome evaluation process for the program. The plan appears to be a thoughtful and well-reasoned evaluation plan.

However, I was disappointed by the poor quality of the core curriculum groups, which I observed during my site visits to OHCYCF and NACYCF. I attended two such groups and in both instances I found the facilitators not adequately trained, unfamiliar with the new curriculum, and there was little interest among youth attending those groups. Although the two core curriculum groups I observed represent only two of twenty-four such groups³ held at the two facilities each week, I am concerned about the effectiveness of DJJ's QA to timely identify and address issues that impact the quality of services and treatment to youth because of high staff turnover.

I recognize a certain level of learning curve and anxiety is expected given the infancy of the new curriculum. However, high staff turnover, particularly among the psychologists, has caused instability in the units and posed further challenges in assembling a team of staff with the knowledge and experience to interact with youth on a constant basis. In January 2013, two of the contract psychologists' contracts had expired and their position remained unfilled until two months later in March 2013. Another psychologist in a permanent position was on extended sick leave and no staff was available to assume her duties. Thus, although QA is well-designed, its effectiveness is unproven in light of the rapid staff turnover.

Follow-Up of Issues Identified in the Previous Report

In my last report, I identified six specific concerns for consideration by DJJ management. All except one have been fully addressed:

Concern	Status
Psychologist unable to provide the mandated minutes of treatment.	This issue has been addressed at OHCYCF but still outstanding at NACYCF.
The form used by psychologists to record notes is redundant, cumbersome, and not based on a medical model.	A new form was adopted and became effective in October 2012.
There needs to be more attention in case conceptualization to the offense itself.	Commitment offense is considered and documented in every case conceptualization.
Homework assignments are not documented	This audit item has found to be in compliance at OHCYCF and NACYCF.
Excess counseling hours recorded at the Smith Hall.	This was caused by lack of understanding by staff and has been corrected.
Peer review form is outdated.	A well-designed peer review form has been developed and is being used.

Remaining Issues at the Facilities

At OHCYCF, I found Audit Item 4.13.2 to be in partial compliance because the El Dorado Hall did not have any SBTP Community Committee activities at the time of my site visit. Every SBTP unit is supposed to have a minimum of two such community activities that are youth driven. According to Dr. Bowlds, the El Dorado Hall now has three Community Committees (Peer Mentoring, Plant Care, and

³ According to Dr. Bowlds, each of the three SBTP units (excluding the Smith Hall) conducts eight core curriculum group sessions each week.

Community Projects) in place. The SBTP Task Force should monitor the activities of the SBTP units to ensure at least two such community activities occur at the units and that they are fully youth driven.

At NACYCF, I found Audit Items 4.4.4 and 4.6.4 to be in partial compliance because the psychologists at the Smith Hall and the American Hall continue to be unable to provide ½ hour of clinical counseling to youth in the units. According to Dr. Bowlds, the problem stemmed from shortage of psychologists at the units, which has been rectified.

One of the youth interviewed is experiencing deviant arousal and needs specialized treatment. I have notified Dr. Bowlds, who indicated that actions have been taken.

In addition, although certain assignments in the new SBTP curriculum call for youth and staff participation in completion of the assignments, I have noticed few indications of such interactions in the sample of case notes reviewed. Dr. Bowlds indicated that such interactions do exist. However, the quality of such interactions and the extent of which these activities were documented may vary from staff to staff, which is understandable as the curriculum is new. Dr. Bowlds also indicated that this is a QA issue that the SBTP Task Force will address to ensure consistency in quality and documentation as implementation of the new curriculum continues to progress.

Conclusion

I am highly pleased with the result of this audit. The only real deficits reflect the on-going challenge of having changes in adult corrections negatively impact DJJ. The deficit of psychologists is a direct result of an inability to hire due to layoffs in adult corrections. The transfer of psychologists who have worked only with adult offenders presents significant training challenges and possible lack of fidelity to the program.

Dr. Bowlds does an outstanding job of administering this program especially in the face of constant change, which has caused major disruptions in the delivery of services. With the exception of adequate staffing of psychologists, the implementation of the new curriculum has gone well, there is evidence of good training but constant staff turnover has impeded these efforts. The monitoring process can be transferred to Defendant if remedial plans are made and implemented regarding obtaining stable psychologist staffing and delivery of their individual and group services.

Prior to full transfer of monitoring, I recommend a return engagement by me during the summer of 2013. The scope of the engagement will be limited to observation of the core curriculum groups.

DJJ 2013 AUDIT APPENDIX

Youth Interviews

15 youths interviewed.

When asked whether they preferred the old model or the new one, the responses included

- 4 youths were in Orientation and had no opinion
- 4 unequivocally like the new one. "New one is better as far as knowing self and victim." "Old one sees person as a sex offender." "Likes doing different kinds of stuff." "Like the new one better but felt that the old one focused more on the commitment of the offense and was frustrated by having to have different staff sign off on assignments."
- 5 unequivocally liked the old one better---"Old one focused on victim. Need more victim work." "No treatment for deviant fantasies." (This youth clearly identified himself as a pedophile and indicated that he is not receiving any treatment addressing this.) "Its really easy. Liked the old one because it was more challenging." "Old one---more in depth. New one is easier." "Old was deeper, red flags, triggers."

All of youth agreed that their confidentiality was respected.

When asked what they would to see changed, the following results were recorded:

- 6 either had no recommendations or had suggestions about the institution in general such as "Better food." Another complaint was that youth in general population can easily identify the sex offenders by the number on their ID and this leads to harassment.
- Other suggestions included:
 - Different books in bibliotherapy
 - Shorten the Orientation phase as he was frustrated by being on a waiting list.
 - Stop punishing everyone for one person's behavior.
 - Groups too old
 - Would like to see more incentives such as activities, prizes, movie night, game night and would like to see different treatment movies as he has seen all of the current ones.
 - Need behavioral treatment
 - Would like to see more mandatory classes. Check system is very confusing and negatives always outweigh the positives.
 - Less groups

Staff Interviews

Staff #1---indicated that he likes the new program. He feels that there is more positive reinforcement and more administrative support. He like the fact that different staff have a role in the treatment. Felt that the program is more varied and more humane.

Staff #2---stated that she "loves the new curriculum." It is more experiential. She is noticing that the culture is changing and that security is buying into a more positive approach and there are fewer disciplinary problems. She did feel that staff stability is a major program and pointed out that two casework specialists on her unit are being bumped.

Staff #3---this staff member's contract is expiring in two days. Although she likes the new curriculum, she would like more trauma work. I got the feeling that this staff member who worked primarily on the Orientation Unit felt unconstrained by the program model and basically "did her own thing."

Staff #4---is enthusiastic about the program and feels very supported by the administration. He repeatedly mentioned that there is a waiting list for youth to move out of Orientation and youths cannot be moved to other units quickly enough. He mentioned that the staff is responsive to the positive reinforcement that is being encouraged.

Staff #5---this is a very creative individual who created a special program which combined inspirational poetry, physical fitness and social relations. He stated that behavioral contracts are not available to all staff and if these plans could be placed on the WIN system and made available to all staff including the teachers, they would be more effective.

Staff #6---this staff member pointed out that every time there is a change in psychologists, the youth have to redo all of their major assignments. This staff member voiced her concern that staff has been cut while being given more responsibilities.

Staff #7---this is another very creative staff member who has found a way to deliver clinical services despite her job description. This staff member is very enthusiastic about the experiential activities and is excited about seeing the progress the youth are making.

Staff #8---this staff member likes the fact that the new curriculum is more skills based than the old one. This staff member stated that it is frustrating that Education is not more flexible and has apparently **eliminated the therapy hour**. The need for more family contact was discussed.

Staff #9---this staff member stated that the new curriculum is "catching on." However, there are **problems with it being understood by the Parole Board and Probation**. This staff member indicated that **"there are huge problems with contractors."**

Staff #10---this staff member stated that he does not have the time to complete the part of the curriculum assigned to him and that instead of working with the youth individually, he does it as a group. He also voiced his concern that the high school graduates have few constructive activities.

Staff #11---this staff member is enthusiastic about the program as "it makes the youth look at themselves." Feels that the staff and youth are getting along better.

Staff #12---this staff member is very enthusiastic and has brought her musical talent into the program. This staff member has also recruited a volunteer artist to come into the Program. At the time of the interview she was hoping to be able to be hired into a permanent position. (It is my understanding that this has happened.)

Group Observations

3/19/13 N. A. Chaderjian

This group was conducted by a new psychologist and a YCC with 8 youths. One youth presented a journal assignment dealing with the Good Lives model. His progress was acknowledged by the group. At the same time another youth was allowed to sit outside the group, make noises, wonder around the room looking out of the window. Another youth presented on the Good Lives model but there was a good deal of side talking during his presentation. Another member stated that he was not going to redo an assignment for the new psychologist. More resistance was demonstrated by a deaf youth who had been in a physical fight at school but refused to discuss it. This young man has a portable microphone to facilitate his hearing but the rest of the group members were not consistent in using it. Several youths presented extended assignments. Youth were obviously bored. The group ran for 45 minutes. Everyone was confused about when the group would meet again. Psychologist tried to stimulate some discussion but the questions were not provocative. Opportunities to discuss interesting issues such as male stereotyping were missed. The curriculum includes relevant questions for each stage but they were not utilized. The YCC was active in the group but the psychologist was new and unfamiliar with program. This is more a systems issue than a reflection on individual staff members.

3/19/2013---O.H. Close

This group began at 4:00 and was scheduled to run for 150 minutes. One group member began reading from the Stage Two assignments. He had written all of questions out and just read them off for over an hour and a half with occasional comments from the psychologist. After reading off the answers, the psychologist stated that she would sign off on Stage 2. Meanwhile the rest of the group members were sorting papers, reading, resting with their eyes closed, passing around a children's activity book. There was some brief discussion about making moral decisions. The members appeared to be very bored but the group was scheduled to go on for another hour when I left. This was obviously a situation where experiential exercises could be used. Again this is a new psychologist who did not appear to be experienced in running groups and the YCC took notes but rarely spoke.

3/20/2013---O.H. Close

This was the resource group, Mood Matters. It was run by a YCC who was standing in for the regular leader. He had the group members read from the curriculum that was appropriate and had them write responses on a white board which kept them active and moving. The group leader was very encouraging. This was the best group I observed despite being presented by a substitute, line staff leader.