



Third Special Master Report Filed in Farrell v. Hickman: Implementation of Remedial Plans Only Just Beginning

In December 2006, the Special Master in the court-ordered reform effort by California's Division on Juvenile Justice released her third report. To fix its failing youth prison system, the DJJ is now charged with implementing a series of remedial plans developed by experts to correct deficiencies identified by the parties in the case. The taxpayer lawsuit, filed in 2002, alleged severe constitutional violations in the former California Youth Authority. A Consent Decree followed a negotiated agreement that system reform was imperative to provide rehabilitation to California's delinquent youth. Based on early expert reports, the parties identified six key areas in need of reform: safety and welfare, education, medical care, mental health, sexual behavior treatment and access for wards with disabilities. The latest report notes that implementation of these plans is only just beginning.

Earlier this week, Governor Schwarzenegger released his 2007-2008 proposed budget, which included major policy reforms in the area of juvenile justice. While stakeholders are questioning the source of many of the proposals, which include the transfer of low-level, non-violent youth out of struggling DJJ institutions and into local juvenile facilities, the budget includes a hint that the slow implementation of the remedial plans may be part of the inspiration. In 2007-08, the overall costs of juvenile offender programs are lower than originally approved in DJJ remedial plans because of their sluggish implementation.

DJJ needs "Capacity to Change" before change will occur

In her third report, Special Master Diane Brorby announced a shift in the ongoing DJJ reform—from planning to implementation. The remedial plans thus become the substantive and legal guides for improvement in the DJJ institutions. And while each plan is intended to change a piece of the institutional operation, the breadth of reform needed makes it clear that a full system change is necessary. Indeed, the Special Master notes as much.

Describing the slow progress in rolling out the observation and watch policies for suicidal or in-crisis youth, Brorby restates the need to develop the DJJ's "capacity for change." Instead of providing adequate supervision and programs for youth at risk of suicide, she found that DJJ staff confined youth in isolation for most of the day. She points to deficiencies in "DJJ's management resources, policies and procedures,

training, management information systems and systems for holding staff accountable” as key problems to the full implementation of new policies.

Violence Increases in DJJ facilities

The reform item of greatest import in the Safety and Welfare Remedial Plan addresses the need to reduce the pervasive violence in the DJJ institutions. In the absence of a comprehensive system to report violence in DJJ institutions, a monitor working with the Special Master developed a method to count incidents of violence reported in daily logs.

Reviewing daily operational logs for the first halves of 2005 and 2006, the monitor counted 4,671 separate violent occurrences. Although the raw number of violent incidents fell between 2005 and 2006, the total population did as well. The DJJ population decreased by 12 percent between the observation periods. Thus, the rate of violence in DJJ facilities was 9.6 percent higher in the first six months of 2006.

The rate of violence fell at only two facilities: N.A. Chaderjian and O.H. Close. Both these facilities also saw significant decreases in their populations. Chaderjain lost 42 percent of its population, and experienced a 46 percent reduction in violent incidents. At Close, the population decreased by 9.7 percent and violent incidents were reduced by 22.7 percent. The remaining six facilities saw more violent incidents per capita in the first half of 2006 than in the first half of 2005, ranging from 37 percent more violent incidents at Paso Robles to 5 percent more at Southern Reception Center.

Table 1: Incidents of violence per 100 youth for 8 DJJ facilities: January - June 2005 & 2006 (Source: Table 4 in Appendix A, Office of the Special Master, Measuring Incidents of Violence: Report on Findings)

Facility	Population: January to June 2005	Population: January to June 2006	Violence per 100 youth: January to June 2005	Violence per 100 youth: January to June 2006	Percent Change: Population	Percent Change: Violence Rate
Chaderjian	544	315	51.1	27.6	-42.1%	-46.0%
Dewitt	414	374	17.1	20.8	-9.7%	+21.6%
Paso Robles	262	209	158.0	216.3	-20.2%	+36.9%
OH Close	280	254	77.9	60.2	-9.3%	-22.7%
Preston	459	428	115.3	140.9	-6.8%	+22.2%
Stark	781	803	70.9	75.0	+2.8%	+5.8%
Southern Clinic	276	271	89.9	94.1	-1.8%	+4.7%
Ventura	153	130	43.8	47.7	-15%	+8.9%
Total	3169	2784	75.1	82.3	-12%	+9.6%

The monitor categorized violent incidents as follows: one-on-one; two (or more)-on-one; three-or-more; group disturbances; staff battery; staff gassing; sexual assault; suicide attempts. The most frequent occurrence of violence in all the facilities is one-on-one fights, accounting for approximately 80 percent of all violent incidents in both years observed.

Staff use of force against wards more likely in 2006 than 2005

The monitor also reviewed uses of force by DJJ staff in response to incidents of violence. DJJ staff may use various types of force against wards, including chemical force, physical force, mechanical force or a combination of any of the three. Although the number of incidents of force used were slightly reduced in the first six months of 2006, because of the reduced population, youth were more likely to be exposed to uses of force in January through June 2006 than in January through June 2005. After accounting for the decline in ward population, the rate of use of force was 51 times per 100 youth in 2006, up from 47 in 2005. The most common type of force used by staff was chemical in both 2005 and 2006. Chemical uses of force were employed in 86 percent of reported incidents,

Because there is no policy requiring specific daily log reporting, the monitor found significant variation in data included in the daily logs of each facility. Pursuant to the Safety and Welfare Remedial Plan, a system for documenting violence in DJJ institutions should be implemented in early 2007.

Little progress on the long path to reform

As DJJ moves ahead with each plan, the Special Master and other experts will monitor the agency's performance. Standards and criteria to show substantial compliance with the broad Safety and Welfare Plan will be used to measure DJJ's outcomes under the plan.

As the Special Report makes clear, the DJJ is not far on the road to reform. In fact, it is only just beginning to attempt a change, and its ability to effectuate appropriate reform remains under question. The DJJ must develop its capacity to change for effective reform to occur. Until the capacity is created, many of the steps completed pursuant to remedial plans, such as hiring of new staff, completion of treatment curricula, and implementation of new protocol, may only create increased division and strife in the institutions. The Governor's proposed budget may signal the state's surrender to policies long advocated by CJCJ and other critics of California's failed juvenile institutions, by recognizing the lower cost and greater rehabilitative effect of housing youth in their communities.

The remedial plans may be better implemented, or more easily observed, if the population in the DJJ continues to shrink. It should not come as a surprise, however, if methods and procedures long used by DJJ staff are not easily transformed or supplanted by the positive reform package presented in the Farrell litigation even with

fewer wards under DJJ jurisdiction. Undoubtedly, the Governor's proposals will meet with opposition, and remain far from complete at this time. In this climate, the importance of seeking out and using alternative rehabilitative programs in place of DJJ becomes clear. The DJJ cannot yet provide a comprehensive program that ensures the rehabilitation of the youth under its control. With violence still high, despite the smallest population on record, the evidence shows that DJJ is a long way from its intended reform.

Sources and Notes:

Sources include remedial plans filed in the Farrell v. Hickman litigation, available at <http://www.cya.ca.gov/DivisionsBoards/DJJ/index.html>. The Special Master report and other filings in the case are available on the Prison Law Office website at <http://www.prisonlaw.com/cases.php#juvj>. The Governor's Proposed 2007-2008 Budget is available on the Department of Finance website at <http://govbud.dof.ca.gov>.

The Center on Juvenile and Criminal Justice is a nonprofit, nonpartisan organization that offers policy analysis, program development and technical assistance in the criminal justice field. For more information, please visit www.cjcj.org or contact Megan Corcoran at 415-621-5661, ext. 309.