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# CRIMINAL JUSTICE: THE LONG AND WINDING ROAD: JUVENILE CORRECTIONS REFORM IN CALIFORNIA\*

by Dr. Barry Krisberg, Research and Policy Director

## Background

Over 70 years ago California enacted its Youth Authority Act with the bold purpose of replacing punishment of younger offenders with a focus on treatment and training. This noble objective was more often honored in the breach. However, in the late 1960's and early 1970's the California Youth Authority (CYA), now known as the Division of Juvenile Justice (DJJ) became a national and international leader in innovative juvenile corrections practices.<sup>1</sup>

Under the outstanding leadership of Allen Breed, the CYA pioneered work on offender classification, expanded vocational and educational programs, virtually created the enterprise of reentry, prevention, and embarked on a major program to subsidize communities to treat youthful offenders at the local level. While none of these efforts were perfect, professionals from around the world came to California to learn about these innovations.

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<sup>1</sup> For this paper I will utilize the names CYA and DJJ interchangeably to refer to current state juvenile corrections programs.

Then things fell apart. Allen Breed left in 1978 to head the federal National Institute of Corrections, and the CYA had a procession of directors who were often retired law enforcement officials or strictly political cronies. A very strong union of corrections workers increased its power and victims groups lobbied for tougher responses to youth crime. Laws were enacted stiffening penalties for juvenile offenders. The facilities became increasingly crowded, jamming over 10,000 youth into aging facilities that were designed to hold about half as many youth. The CYA embraced a “tough on offenders” attitude. Recidivism rates soared and the conditions in CYA deteriorated. Over the objections of most juvenile court judges and youth advocates, in 2005 the CYA was placed under the management of the California Department of Corrections and Rehabilitation (CDCR).

In 2003 the California Attorney General asked me to lead a team to investigate conditions in the CYA. We found extreme and widespread violations of state and federal laws, as well as serious problems in terms of prohibitions against cruel and unusual punishment. Our report led Governor Schwarzenegger to agree to a settlement in 2004 of an extensive law suit brought against the CYA, now know as *Farrell versus Cate*. I was appointed by the judge supervising the agreement to monitor improvements in the safety and welfare of CYA residents. The DJJ agreed to implement very specific reforms in a series of remedial plans in all of the *Farrell versus Cate* areas.

There have been many changes in CYA since the consent agreement was signed. But, for many the changes have not come fast enough. This year California Governor Jerry Brown has proposed the complete closing of the CYA with funding going to the localities to manage the remaining youthful offender population. California is on track to be the first U.S. state to close all of its state juvenile facilities.

This paper offers some general observations on successes and challenges faced in implementing the reforms of the CYA during the year 2010, nearly six years after the consent decree. This analysis contains data that was provided by Division of Juvenile Justice and assembled with the assistance of the Office of Special Master (OSM) who oversees the entire agreement including reforms in medical care, mental health and education.<sup>2</sup>

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<sup>2</sup> Assistance in compiling data was provided by Zack Schwartz, Cathleen Beltz and John Chen of the OSM. The OSM Nancy Campbell was generous in her time to discuss many of the issues raised in this report. In addition, I want to extend my appreciation to Michael Brady, Tammy Maguire, Judy Nahigian and Doug Ugarkovitz who coordinated the assembling of information from the Division of Juvenile Justice. Many other DJJ staff contributed to the information that I used for this paper. The opinions expressed in this paper are solely my own.

## Research Methods and Data Sources

Data for this paper come from a series of site visits to DJJ facilities during 2010. In addition, I conducted a comprehensive audit of DJJ headquarters requirements to meet the mandates of the Safety and Welfare Remedial Plan (S&W Plan). The results of those site visits were reported separately to the OSM and the parties and followed the agreed-upon format of the S&W Plan. This reporting included an assessment of the extent of compliance with the specific requirements of the S&W Remedial Plan and some general observations based on the site visits. DJJ staff compiled thousands of pages of documentation to assist me in rating the compliance in most areas.

I visited every open DJJ facility with the exception of the Pine Grove Camp, a camp in the Sierra Nevada Mountains in which CYA residents are trained in fire fighting skills. These visits would generally last between 2-3 full days. During these visits, I would tour the facility, with special attention to the restricted housing units, conduct interviews with DJJ managers and staff, and interview approximately 10 youth who were selected at random from the daily facility roster. Youth interviews were conducted in private and confidential settings. After the site visit, I offered an informal debriefing to DJJ staff both at headquarters and at the facility. I also reviewed reports produced by the OSM and other Court Experts in areas in which there was overlap with my responsibilities in the S&W Remedial Plan.

I had complete and open access to any and all information that I requested from DJJ. There was a range of research and management reports produced by DJJ. Periodically, I received information from the plaintiff's counsel and other interested advocates who expressed concern about the treatment of youth in DJJ. For example, if there were reports about group disturbances, suicide attempts, and extended restrictions on youth programming, I generally discussed these matters with DJJ top managers and received any supplemental reports that I needed to help me evaluate these situations. I also received regular updates on data for every facility and reports from the Performance-based Standards data collection. I was regularly invited to DJJ meetings that involved reviews of the Use of Force (UOF), as well as regular DJJ meetings to update all managers on the progress of the *Farrell* remedial plans.

In this paper, I have not attempted to cover all of the items in the S&W Plan. I have, instead, chosen to focus on critical aspects of the Remedial Plan in which great progress has been made, and to highlight those areas that remain the greatest challenges for DJJ. I will offer some quantitative indicators of success and supplement those data with my observations based on site visits and hundreds of hours of interviews with staff and youth.

## The Difficult Context of Reform

The OSM has detailed a number of profound contextual factors that impacted whether DJJ could meet the requirements of the various *Farrell v. Cate* remedial plans. These powerful forces included the budget crisis of both state and local government, changes in top leadership at DJJ, and expected changes at CCDR, the Governor's Office and the Office of the Attorney General. There have been retirements and impending changes in management at several remaining DJJ facilities such as OH Close, the Chadgerian facility and the Southern California Youth Receptions and Corrections Center (SCYRCC).

DJJ closed the Heman G. Stark (HGS) institution in 2010 and has announced the planned closure of the Preston Youth Corrections Facility and the Camp program for females at Ventura. The population of DJJ continued to decline. During the first six months of 2010, the average resident population was 1279 --- it had averaged 1501 during a comparable period in 2009, which equates to a 15 percent decrease in one year. The 2010 population size is even more remarkable when contrasted with the over 10,000 residents in CYA facilities in 1997. This is the largest decline in the population of a state youth corrections system in American history.

Declines in the DJJ population were partially due to changes in state laws that required that non-violent and non-sex offenders be kept in county programs (SB 81) and that parole violators not be sent back to DJJ. In the past year, the legislature also required that youth be paroled at least 90 days in advance of their "max out" dates. The most recent California budget resolution, enacted in 2010, transferred responsibility for managing all DJJ parolees and revocation cases to county authority. Localities have been given funding to provide supervision for youth who had been previously managed by DJJ in its facilities or on parole. These changes suggest that the DJJ caseload will continue to decline and that more living unit and facility closures are in the offing. Some advocates, editorial boards, and members of the legislature have called for the complete closure of DJJ, with transfer of its remaining clients to the counties.

These changes and the insecurity for staff, facing uncertain employment situations, were corrosive to staff morale. Although the numbers may be difficult to obtain at this point, it is widely believed that retirements among DJJ staff are increasing and that other DJJ personnel are seeking positions in adult prison and parole agencies in CDCR and elsewhere. Morale issues were worsened by decisions by the Governor to use staff furlough days to help balance the enormous budget problems. DJJ faced a freeze on travel reimbursements without approval from CDCR Headquarters, planned hiring decisions were deferred, and other expenditures were either denied or postponed. Several contractors to CDCR did not receive payments for months in 2010.

None of these developments were especially helpful in pushing forward the key elements of the *Farrell v. Cate* remedial plans. The budget limitations faced by CDCR created real problems with DJJ's ability to monitor

developments at its facilities. Some promised reforms, such as the acquisition of additional program space at some facilities, were delayed. Other reform steps that involved hiring outside consultants were likewise put on hold. The remaining DJJ leadership showed creativity and solid resolve to keep the reform process moving ahead, but these fiscal and organizational challenges were huge.

## **Reducing Fear and Violence**

Reducing the levels of violence and fear among staff and youth in DJJ facilities has always been at the heart of the *Farrell* case. Besides improving the overall quality of life in DJJ, a commitment to safer facilities can exert positive influences with regard to schooling, access to treatment services, reducing institutional stays through less time added for disciplinary problems and more time reductions for good behavior, as well as attenuating the need for using force and isolation programs. The S&W Remedial Plan contains many components designed to reduce fear and violence such as violence reduction committees at each facility, smaller living units, improved staff training in communication and de-escalation techniques, clearer policies and procedures, a revamped disciplinary system, new behavioral treatment programs, the use of Crisis Resolution teams, and the collection of systematic data to monitor trends in violence in DJJ facilities. Two key elements of this violence reduction strategy, the Integrated Behavior Treatment Program and a Comprehensive Gang Integration Strategy, will be discussed later. These are all part of a multi-pronged effort to reduce violence in DJJ facilities. The December 1, 2010 DJJ Quarterly Compliance Report suggested that DJJ was in substantial compliance with 70% of all the S&W standards and criteria, with another 24% of the standards and criteria in partial compliance. The *Farrell* agreements have given DJJ many areas to work on and there has been progress in several of these reform topics. While this report focuses on areas in which more work needs to be done, it is clear that DJJ has been moving in the right direction.

DJJ has made some progress in obtaining more accurate data on violence in its facilities. This effort is a “work in progress” and there are still significant limitations in the completeness and accuracy of these data. Moreover, despite efforts at staff training, the definition of violent incidents continues to vary among DJJ facilities, and trends over time in rates of violence must be interpreted with great caution.

Data on violent incidents based on monthly reports shows the absolute number of violent incidents dropped by more than half (2348 to 1128) comparing the first six months of 2005 to the first six months of 2010.<sup>3</sup> However the average population of DJJ facilities also declined by more than half during that same period. Thus,

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

the rate of violent incidents per 100 youth actually increased from 74 per 100 to 88 per 100, comparing the first half of 2005 to the first six months of 2010. The number and rate of violent incidents actually spiked in the first six months of 2007 and has been mostly declining ever since. The good news is that the smaller population in DJJ is engaged in fewer occurrences of violence and thus fewer youth and staff were exposed to violent events; the bad news is the rate of violence for those who remained in DJJ confinement has not gone down substantially. Many factors may have contributed to these trends in violent incidents, including better and more accurate reporting by DJJ staff and the changing nature of the resident youth population – i.e. a higher percentage of youth with histories of serious and chronic violent behavior. As noted earlier, DJJ has closed some living units and transferred youth to other facilities. These movements of youth to other facilities may have also contributed to temporary increases in violent incidents.

Looking at individual DJJ facilities, it appears that the highest numbers and rates of violent incidents for the first half of 2010 occurred at Preston (428 incidents) and Ventura (311 incidents) or rates of 133.8 per 100 and 114.7 per 100, respectively. The rates per 100 youth of violent incidents during this same time period at the other facilities were OH Close (96.7), Chadgerian (88.9), and South California Youth Reception and Corrections Center (SCYRCC) (62.3). It is worth noting that each of these facilities served different sorts of youth. For example, OH Close handled the younger DJJ residents and Chadgerian is now mostly a mental health facility. With the closures of El Paso de Robles and HG Stark, both Preston and Ventura had to accommodate very troubled youth from facilities that had been the most violent and abused in DJJ. As noted earlier, there was uneven quality in the reporting of violent episodes at each facility.

Inter-facility transfers were often not well orchestrated and the unsettling nature of moving youth to different locations (often very far from their families) led to increased tensions among youth and between staff. This situation was most dramatic at Ventura – a traditionally small all-female facility that had to integrate a large number of older and gang-entrenched DJJ male youth from HG Stark. Youth who were at Paso de Robles and HG Stark had experienced traditionally high levels of violence, lockdowns, and harsh disciplinary methods. Moreover, these inter-facility movements were not always handled well. Staff at the receiving facilities were given minimal or no extra training to manage the more difficult clients. DJJ found it difficult to transfer staff between facilities due to cumbersome state personnel rules. The additional and needed program resources were not in place until several weeks after the transfers occurred. Thus, the extra youth showed up before there were increases in staff. Staff at DJJ facilities needed to integrate and work collaboratively with personnel from other institutions that possessed distinctive organizational cultures and decidedly different methods of managing youth.

A different sort of data on violence in DJJ facilities is available from the disciplinary data system. Looking at the most serious cases filed (Level 3 that includes violent behavior and serious violations of other DJJ rules), the overall rate per 100 youth was 152.2 in the first six months of 2006 compared to 171.0 in the first half of 2010. Over the period from 2006 and 2010 these rates fluctuated slightly, but have been increasing somewhat in recent years. With respect to level 3 DDMS cases filed, Ventura, Preston, SYCRCC, and Chadjerian emerge as the most troubled facilities. For example, of the 4379 level 3 cases filed in all of DJJ in the first six months of 2010, fully 39 percent of these were from Ventura. There were also a number of significant group disturbances at DJJ facilities in the past year. These include major events at Ventura, SYCRCC and Preston. During the first six months of 2010 there were a total of 31 group disturbances in DJJ. By comparison, there were 20 group disturbances in DJJ for a comparable six month period in 2009.

Of the 2010 group disturbances, 13 occurred at Ventura, eight at Preston, five at OH Close, three at Chadjerian and two at SYCRCC. These events included many youth (generally more than 10), some injuries to staff and youth and some property destruction. These disturbances often led to restricted programs for the impacted living units for hours and sometimes days. The frequency of group disturbances further added to a climate of anxiety and fear faced by youth and staff.

These data are generally consistent with observations and interviews that I conducted at DJJ facilities during 2010.<sup>4</sup> The problems at Ventura were clear during my site visit. One example was that a large number of youth were not attending the regular school at Ventura do to staff and youth concerns about violence.

Previous site visits to Ventura suggested real improvements in the treatment of the young women there based on my interviews with a random sample of female residents of Ventura. However, the large influx of male residents seemed to consume much staff attention. The young women expressed concerns for their safety and they complained about spending more time in their rooms as the Ventura staff dealt with disruptions in the male living units.

Chadjerian continued to experience problems, especially involving the use of force in mental health units. SYCRCC was also negatively impacted by the influx of youth from other facilities. In particular, the Drake Living Unit was plagued with a number of violent incidents and group disturbances, and staff were urgently requesting training and support in managing aggressive mentally ill youth.<sup>5</sup> Staffing issues at SYCRCC also

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<sup>4</sup> For example, I interviewed 8 young women during my last site visit to Ventura. These were chosen at random from the daily roster. The responses of those that I interviewed were very consistent with one another.

<sup>5</sup> During my site visit, the management and staff at SYCRCC reported on a number of violent incidents at the Drake living unit. I requested and received behavior reports, UOF reviews, and DDMS information that were connected with these events.

contributed to problems at that facility. Preston started out 2010 with similar challenges, but by the time of my site visit later in the year, it appeared that staff had restored substantial calm to the facility. The use of handcuffs and waist and leg shackles, especially in the Preston Behavioral Treatment Program units had been greatly reduced. The youth and staff interviews that I conducted while I was onsite suggested to me that OH Close remained one of the safest and best managed DJJ facilities in 2010.

### **Use of Force (UOF)**

There were 868 UOF incidents in DJJ during the first six months of 2010 or a rate of 68 per 100 youth. These UOF rates have declined very slightly since the first six months of 2008 (72 per 100). Comparisons of UOF rates to earlier years are imprecise due to incomplete reporting, and there is some evidence that this under-reporting problem continues at certain DJJ facilities. During this most recent six month period, the highest UOF rates occurred at Ventura (97 per 100) and Chadjerian (84 per 100 youth) with the lowest UOF rate at OH Close (44 per 100 youth). Rates of UOF were 62 per 100 and 60 per 100 at SYCRCC and Preston, respectively.

It is worth noting that UOF rates are partially a function of the levels of violence in each facility as well as the staff response to these incidents. The prevalent kinds of force use are chemical and mechanical restraints as opposed to physical restraints. However, there remains great ambiguity within DJJ on how to count instances of physical and mechanical restraints, and a general lack of consistency in these data across facilities. The data on UOF in DJJ needs to be substantially improved and there needs to be far more consistency in training on this issue by DJJ management. For example, staff explained they were not always clear whether to count the use of mechanical restraints in connection with escorting some youth in restricted programs. A very preliminary analysis by the Court Experts suggested that there was a disproportionate use of force in the DJJ specialized mental health units.<sup>6</sup> This finding has been examined by a DJJ working group based on a sample of UOF cases from the past fiscal year. While the study is ongoing, it appears that the vast majority of UOF is used with DJJ youth who are classified by DJJ as mentally ill or disabled. Further, it appears that most force incidents originate not from group disturbances or attacks on staff but from youth “defying staff orders” or one-on-one fights among youth with no weapons. It is hoped that the implementation of a more consistent treatment model in DJJ will be helpful, as it is the case that frequently resorting to chemical, mechanical, and physical restraints by staff to manage youth conduct is not consistent with the best evidence-based treatment

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<sup>6</sup> This was reported in the memo on UOF in Mental Health Units that was drafted by Barry Krisberg with the review and approval of Logan Hopper, Eric Trupin and Terry Lee, “Use of Force in DJJ Facilities and Mental Health Youth” prepared in 2009. This report compared aggregate DJJ data on the use of force in regular living units and special mental health units from 2007-2009. With the help of the OSM, we also examined a random sample of 80 UOF reports in mental health units.



approaches. Indeed, the extensive use of force can undermine efforts to move towards a model treatment approach.<sup>7</sup>

It is my opinion that the UOF in DJJ is still too high and that top management needs to publicly commit to a goal of reducing the use of chemical, mechanical and physical restraints. There has been some effort by DJJ managers to justify the current levels of UOF that should be better directed at steady reductions in its use to manage youth. This will require revisiting existing UOF policies that need further refinements. The current UOF review processes at the facility and headquarters level must be tightened up. Training on alternatives to UOF had been offered but the reach and intensity of this training must be ramped up.

### **Progress in Reducing Fear and Violence**

There are several areas in which progress towards the goals of the S&W remedial plan to reduce fear and violence has been observed. The DJJ has quite successfully implemented the security classification system. There were virtually no high risk youth housed in dormitory settings. The exception was at OH Close, but the numbers have been minimal and the safety issues involving youth in dorms have been carefully monitored by DJJ. DJJ headquarters staff are helping manage the classification process and assessing any unintended consequences of housing high risk youth together in certain living units. In general, the data suggests that there has been a diminution of violence incidents in living units. Violence and UOF remains an ongoing problem in the schools and during movements to school or other programs.<sup>8</sup>

The largest predictable reduction in violence probably has to do with smaller living unit sizes and increased numbers of staff compared to the number of youth. The lower living unit sizes and enriched staffing patterns have also enabled DJJ to offer more activities for the youth, cutting down on idleness and engaging the youth in positive and pro-social activities. However, the state budget crisis will require significant staff reductions in the next year and thus, increase the ratio of youth to staff. Further, additional facility and living unit closures that are mandated by CDCR may drive up the number of youth who are confined in the remaining open units. As more units close, the ability of DJJ to manage special youth populations in separate units will become a significant challenge.

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<sup>7</sup> Michal E. Tigar, "What Are We Doing to our Children?" **Ohio State University Journal of Criminal Law**, Volume 7:849-866. 2010.

<sup>8</sup> I looked at six months of minutes from the Violence Reduction Committees at each facility in DJJ and interviewed the chief of security at each locale. My observations of the location of violence on schools and during movements were confirmed by these two data sources.

DJJ facilities are holding regular meetings to discuss patterns of violence and to brainstorm ideas to reduce violence levels. These are generally inter-disciplinary groups that offer multiple perspectives to violence reduction. Staff take these review sessions very seriously and some facilities have invited youth to participate in these discussions. The content and results of these sessions could be improved if headquarters provided more guidance to the facility committees. It would be helpful for headquarters to provide consistent trend data on violence to assist these localized discussions. Further, while there has been some training on crisis resolution and de-escalation of violence, there should be more evidence-based training on how to make DJJ facilities safer.

There could be more effort by DJJ headquarter staff to share examples of effective violence reduction strategies within DJJ such as the Peace and Unity Campaign at SYCRCC and from other jurisdictions. One such example is the experience of Santa Clara County's Enhanced Camp Program, based on the Missouri DYS model that produced significant reductions in serious incidents among youth.<sup>9</sup>

DJJ has placed a major emphasis on interventions aimed at individual youth such as Anger Replacement Therapy (ART). It is less clear if these youth-focused approaches are well targeted. The case management system in DJJ is still evolving, and so it is not easy to determine if the most aggressive and assaultive youth in DJJ are receiving ART. It is likewise unclear that what role anger management plays in reducing institutional violence that is gang-related. For example, the US DOJ report on Chadjerian suggested that the DJJ response to violence was often reactive and did not address underlying causes of the violence. There is also a lack of clarity on the proper mix of incentives and sanctions to reduce violence in DJJ facilities. DJJ has been delivering a lot of training to staff that is related to violence reduction and in reducing the UOF. The quality and reach of these trainings have been uneven. DJJ managers continue to rely heavily on anecdotes, not data, to drive their responses to the violence problem.

The implementation of the Crisis Resolution Teams (CRTs) is viewed by many staff and managers as being helpful in making DJJ facilities safer. The data to support this impression is not easy to obtain. Staff that are assigned to these teams have received the most training among DJJ personnel in violence reduction strategies and they model the peaceful resolution of youth and staff confrontations. The implementation of the CRTs has been somewhat uneven across the various DJJ facilities and there have been several staffing changes in these teams that have required additional training of the CRTs. Also, DJJ should provide more guidance to CRT staff on the levels of documentation of their activities that can assist managers to assess the effectiveness of these teams.

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<sup>9</sup> See for example Arifuku, Davis and Linda, *Assessing the Enhanced Ranch Program of the Santa Clara County Probation Department, Oakland: NCCD, 2010*

DJJ has made substantial headway in completing policies and temporary departmental orders designed to better respond to violence in its facilities. In particular, there has been a good deal of work on policies relating to UOF, the disciplinary and Conflict Resolution strategies. These policies will require further refinement and there will be a need to revisit them in connection with requirements the expanded treatment programs. There are already some issues surrounding the appropriate use of force, the effectiveness of the force review process, and the definition of controlled vs. emergency force in these new policies that will require further adjustments. For example, there continues to be staff confusion of the definition of incidents requiring immediate vs. controlled use of force. My examination of a large sample of UOF reviews suggests that very few incidents are classified as requiring controlled use of force. DJJ has been diligent in the roll-out of new policies and the provision of staff training in the new policies. The next steps should include evaluating the effectiveness of that training to improve skills, planning for additional refresher training, and integrating the new policies into routine supervision and personnel reviews of all staff.

The major population decline has produced an absolute drop in the number of violence incidents in DJJ. Based on my onsite interviews with staff, it appears that the line staff believe that things are getting better in terms of decreased need for incident reports, investigations of events, and DDMS charges. Further, surveys of organizational climate report high percentages of staff feeling safe.

DJJ has made a good faith effort to reduce violence in its institutions. In the main, DJJ has embraced an “incentive or reward” approach and relies less on isolation and sanctions to manage institutional violence. In the recent past, facility closures and large scale movement of youth has created short-term increases in institutional violence that are very difficult to manage. Moreover, DJJ headquarters staff could play a bigger role in coaching and supporting facility managers to defuse potential problems and to encourage more tranquil institutional climates.

### **Reducing Restricted Housing Programs**

One of the major goals of the S&W Remedial Plan was to reduce the unnecessary use of restricted housing programs, both Special Management Programs (SMPs) and Temporary Detention (TD). These are programs in which the youths spend 21 hours in their rooms and get three hours of outside activity. In 2003, youth were allowed only one hour out of their rooms. It was felt that too many youth were languishing in these restricted programs for very long periods of time, subjected to at least 21 hours in cell confinement with minimal educational, recreational and counseling services.

The reduction of the use of the SMPs and the TD units has been one of the clear successes of the *Farrell* reforms. For example, in 2001 there were between 300-400 youth housed in SMPs on any given day. By 2009, the number had dropped to an average of 30 youth. The last SMP unit was actually closed with the closure of the HGS facility. For TD units, the average daily youth population went from over 200 in 2001 to less than 20 youth during most of 2009. During some months in 2009, there were only 5 youth housed in TD status. Even with the dramatic decline in the overall DJJ population, the rates of use of TD and SMP dropped by more than half.

The length of stay for youth assigned to TD or SMP units also went down. For example, in the first half of 2007, the average stay in TD was 74 hours; in the first six months of 2009 the average TD stay was 31.5 hours. For SMPs, the average stays declined from roughly 66 days in the first half of 2008 to 36 days in the first two quarters of 2009.

A number of actions influenced this drop in the use of restricted housing programs. First, there were policy statements and temporary departmental orders that attempted to limit the use of restricted programs. For example, it was no longer acceptable to place youth in TD for “their own protection”. Staff were challenged to solve the problems of these youth without resorting to isolation. Staff were also encouraged to use rooms on the living units for purposes of TD. The DJJ stopped using restricted programs as the automatic response to fights and other disturbances.

Headquarters staff began close monitoring of the reasons why youth were being sent to restricted housing, and how long they stayed. DJJ managers pressed facility staff to use restricted programs only in emergency situations and to substitute shorter counseling interventions for longer stays in TD or SMPs. DJJ developed two new programs: the Temporary Intervention Program (TIP) and the Behavioral Treatment Program (BTP) that are intended to reduce or eliminate the use of more traditional restricted programs. The S&W Court expert was actively involved with DJJ working groups that designed these new programs, and reviewed and approved the draft program descriptions and related policies.

In 2010, DJJ began pilot testing of both TIP and the BTP at one or two DJJ facilities. As with most new programs, the field tests identified major necessary refinements to guide the implementation process. While both TIP and the BTP models are being revised and strengthened, it is clear that these programs may have helped reduce the number of youth and lengths of stay in TD and have effectively replaced the SMPs. Further, the TIP and BTP programs are intended to maximize treatment and educational services for the most troubled youth in DJJ. It appears that these reforms are not simply the renaming of old practices, but that DJJ has

attempted to fundamentally change how it deals with short term violent situations and seeks to return youth safely to regular living units in the shortest time period possible.

### **Implementing an Integrated Behavior Treatment Model**

The parties, the OSM and several Court Experts have been working on the design and implementation of an Integrated Behavioral Treatment Program (IBTM) for several years. Hundreds of thousands of dollars have been spent on a variety of consultants to assist DJJ and many hours of DJJ staff time have been devoted to conversations of the contours of an IBTM. For a period of nine months, the development of the IBTM was led by several of the Court Experts and consultants who were brought in to help the Court Experts. These efforts did not result in an agreed-upon plan between the Court Experts and DJJ on the specifics of how to move forward. A stipulated agreement among the parties has returned the lead role in developing the IBTM to DJJ with input and support from the Court Experts.

There is still no well-developed written program model and no program manuals for staff. The details of funding the new IBTM are still being determined. Also to be defined are the specifics of implementation in terms of the qualifications and training of staff needed to deliver a meaningful IBTM, the issues of treatment “dosage”, and the organizational climate needed to really support a treatment philosophy and approach.

DJJ has recently retained nationally prominent juvenile treatment expert, Dr. Ed Latessa to assist in the planning and implementation process. The current plan is to pilot a version of the IBTM at two living units at OH Close. The idea of a pilot test makes sense, but I wonder about the patience of the legislators and the Governor to support a multi-year pilot and gradual roll-out of the new DJJ treatment model given the enormity of the state budget crisis. What is already clear from Dr. Latessa’s review of existing DJJ efforts is that the implementation of existing risk and needs assessments, case management systems, motivational interviewing and other staff training needs improvement.<sup>10</sup>

There are other challenges to implementing an IBTM within DJJ. First, there does not exist a national professional consensus on what actually constitutes a “model treatment program”.<sup>11</sup> While there has been substantial national attention around the model developed by the Missouri Division of Youth Services, there has been reluctance in DJJ to adopt this approach.<sup>12</sup> Research on the effectiveness of juvenile corrections

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<sup>10</sup> Phone conference with Dr. Latessa and Court Experts

<sup>11</sup> Barry Krisberg, “The Future of Juvenile Corrections” in Donna Bishop and Barry Feld, **The Handbook on Juvenile Justice**, New York: Oxford University Press, in press.

<sup>12</sup> Richard A. Mendel, **The Missouri Model**, Baltimore, MD: The Annie E. Casey Foundation, 2010.

programs is very limited, and is mostly focused on community-based treatments. There is virtually no rigorous research on the most effective treatment model for institutionalized juvenile offenders, particularly older adolescents. There is even less solid information on what works with serious and violent young offenders – who constitute the vast majority of the remaining DJJ clientele. It is an “act of faith” that programs that have been evaluated with probationers, minor offenders, or in private therapy settings can be easily adapted to DJJ. Further, the transformation of DJJ to a system in which the IBTM is the core will require substantial organizational and culture change. Many current DJJ policies and procedures will have to be substantially revised. Current facilities are completely inadequate to support a model treatment program due to lack of treatment and counseling space and the deplorable state of rooms, recreation facilities and living units. In states in which juvenile corrections rehabilitation has been expanded and strengthened, the implementing agency was managed under the leadership of Health and Human Services, Mental Health, Child Welfare, or as a free-standing agency. States such as Illinois, Arizona, Ohio, Texas, among others, that moved juvenile corrections under the auspices of adult Department of Corrections have recognized this as a blunder and reversed this decision.

Creative thinking is also needed as to how related gang-intervention strategies, behavioral treatment programs, the disciplinary system, education programs, and medical and mental health services will be articulated with and consistent with the IBTM. Moreover, with the recent handoff of parole and aftercare to the counties, DJJ will need to develop a comprehensive program of coordinating its efforts with the aftercare planning and services provided at the county level. “Treatment behind razor wire” is not an evidenced-based model. Effective and well developed aftercare services are needed or treatment gains in secure confinement will quickly dissipate in the community.

All of the major challenges to implementing the IBTM are real but do not suggest giving up on providing high quality treatment and care to the very troubled youth now under DJJ care. Movement towards enriched rehabilitative services can help reduce abusive practices and promote more equity and fairness in all aspects of DJJ operations. But actually achieving the formidable goal of turning the DJJ into a model treatment system requires a data-driven assessment of the risks and needs of current DJJ clients and some reasonable forecasts of the likely policy changes that will be considered by the Governor and the Legislature in the next several years. More emphasis will be needed to better integrate the work at DJJ with programs and services at the local level.

## **Towards a DJJ Comprehensive Gang Strategy**

Several previous reports on the S&W Remedial Plan have stressed the need for DJJ to vastly improve its response to gangs within DJJ facilities. There is currently no coherent gang reduction strategy in place and gang-related tensions and violence continue to dominate the daily life in DJJ facilities. Staff, especially the CRTs have attempted informal approaches to negotiate around the gang affiliations. DJJ has also introduced some limited voluntary groups and living units for youth looking to reduce their gang involvement. In several of my confidential interviews with youth they indicated a strong willingness to end their gang activities, but they expressed fears that they would be viewed as disloyal or worse (snitches) by other gang members. I spoke to at least a dozen youth during my site visits in 2010 who told me that they do not believe that DJJ staff can ensure their safety if one leaves the gang world.

DJJ commissioned a literature review on effective gang reduction approaches in juvenile facilities but the literature is meager. After a long process, DJJ hired Dr. Cheryl Maxson of UC Irvine as a consultant. Dr. Maxson is a nationally renowned expert on gangs in California. She will be conducting an analysis of gangs in DJJ and will produce a report and recommendations by June, 2011. DJJ also created a working group to design a comprehensive gang strategy, and the S&W Court expert was invited to participate in several of the working groups meetings. To date, the working group has not come up with a gang-specific strategy – they have opted for treating gang membership as one “criminogenic factor” in the risk and needs assessment process and overall generic case management process. At the request of the S&W Court Expert, DJJ managers held a series of meeting with highly regarded individuals who do street outreach with gang members in several communities. Several of these community people were formerly incarcerated in DJJ or CDCR facilities. The purposes of the meetings were to learn about the most effective community-based gang intervention methods and to determine if these individuals or organizations could help DJJ reduce its serious gang problems. These meetings were candid, respectful (on both sides) and yielded a number of suggestions for next steps. However, DJJ has been unable to find the financial resources to hire community-based groups, beyond Project Impact<sup>13</sup>, to commence counseling and education programs with gang-involved youth in DJJ.

It also appears that the gang working group has not been sufficiently included in the design of the IBTM, or the development of other DJJ initiatives that might impact gang behavior. The group working on the IBTM was apparently unaware of the Maxson study until quite recently. Some in DJJ recently presented a draft “gang integration” policy that had many serious flaws and seems to not reflect the work or participation of the staff

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<sup>13</sup> This is a weekly program delivered by former prison inmates.

working group on gangs. DJJ has agreed to place the development of a gang policy on hold pending the results and recommendations of the Maxson study.

### **The Failure to Provide Gender Responsive Programming**

After several unsuccessful efforts by DJJ to provide alternative programs for the young women in its care, DJJ asked to revise the S&W Remedial plan in 2009 to allow them to continue to operate programs for young women with the proviso that DJJ hire a team of nationally respected experts in gender-responsive programs to provide staff training and mentoring and to assist in the implementation of evidence-based programs for young women. The parties agreed to this proposal, since there seemed little hope that CDCR could remedy the problems it had experienced with prior efforts designed to contract out the services for adult women.

A draft proposal was received from nationally recognized experts Dr. Barbara Bloom, Dr. Barbara Owen, Dr. Lawanda Ravoira and Dr. Stephanie Covington, but no consulting contract was ever executed. CDCR reported that it had failed to get budgetary approval for this fairly modest expenditure. The terrible budget problems at CDCR, which experienced unprecedented operating budget deficits, were used as a rationale for failing to issue this contract. While the budget situation was very serious, it is worth noting that DJJ did agree to and complete large consulting agreements with the University of California Irvine to perform a multi-year validation of a new risk and needs assessment tool and to conduct a study of DJJ gangs. While the gang study is related to S&W Remedial plan requirements to bring in a national expert on gangs, the validation of risk and needs tool seems tangential to the Farrell S&W Remedial Plan. Funds were found to accomplish some important tasks, but the implementation of gender-responsive programs was apparently not viewed as a high priority by DJJ or CDCR.

As noted earlier, my site visit to Ventura suggested that some of the earlier problems facing the girls there were returning. Several young women expressed concerns for their safety. There were complaints that staff was not accessible to talk with them and that programming options were becoming more limited. The forestry camp program for girls was closed this year due to budget constraints. My audit last year reported improvements in the treatment of the women at Ventura, but this year's site visit raised concerns on a number of fronts. It is clear that no systematic gender-responsive training of staff has taken place and that some of the new programs that were claimed as "evidence-based and gender responsive" had little research to back up these claims.

Ventura is the most troubled DJJ facility due to the sudden influx of males from HGS. Further, the issue of excessive and unnecessary UOF remains a significant issue among the young women at Ventura. Data coming



out of the current review of UOF being conducted by DJJ staff supports this view. An earlier DJJ task force in 2009 led by DJJ management staff expressed the need for a series of reforms to reduce the UOF with girls at Ventura. Some DJJ managers have raised the issue moving the girls to another DJJ facility such as SYCRCC which is, at best, at short term step but perhaps necessary. The gender responsive training is the immediate intervention that might help the treatment of the young women in DJJ, no matter where they are housed.

### **Improving DJJ Facilities**

The outmoded and deteriorating DJJ facilities remain a major problem for achieving success under the *Farrell* consent decree. Space limitations and “prison-like” environments are likely to continue to frustrate efforts to improve the quality of care with DJJ. The CDCR continues to pursue renovation projects at DJJ through the lens of CDCR adult prisons. A good example is the new exercise facilities that were introduced at Preston that are essentially cages. Staff at Preston did not want these cages and were reluctant to use them. Ironically, when Preston began a program of youth caring for rescue dogs, the Preston exercise cages were utilized as “dog runs” that better suited their design. Budget decisions by CDCR have placed a priority on building and renovating adult prisons, but juvenile facilities have received minimum attention from top CDCR leadership. The more global state budget crisis and the transfer of youth to counties has made matters worse in terms of securing decent housing and program space for the youth remaining at DJJ.

To their credit, DJJ top managers have put in place a good system of reporting maintenance problems and following through on routine repairs. DJJ has requested financial support for large repairs but these requests have generally been turned down by CDCR. There have been some modest renovations of classrooms at some facilities and DJJ is trying to upgrade those units which house the more difficult youth, such as the BTPs. Based on several “off line” conversations that I have had with CDCR facility construction staff, it is clear that their preference is for DJJ to disappear and not have to confront the challenges of new construction or the needed massive renovation of existing DJJ facilities. For example, it was the view of some at CDCR that Preston could not remain functional for more than a few years due to electrical, sewage, and plumbing problems. The proposal to close Preston was seen as a solution, not a problem for CDCR.

The continued reduction of the DJJ youth population suggests that future facility plans must be radically revised. The questions are (1) how many youth will DJJ need to house in the future; (2) what are the treatment needs of these youth; (3) what programs must be supported by DJJ facilities and (4) what facility design is best suited for the DJJ population in the future? These questions await data-driven answers that should also be informed by the better facilities across the nation and in CA counties. It is worth noting that many counties

received tens of millions of funds from the legislature to renovate or build local detention centers and camps, while no funding was allocated to DJJ. DJJ has commissioned a prototype design for a new facility and has “value engineered” the design to lower its potential construction costs. At present it seems unlikely that funds will be made available via the regular budget process to construct this prototype. The DJJ has embraced a more modest approach and is exploring the replacement of individual living units, if additional funding becomes available. This piecemeal approach may bring some relief to the worst facilities, but does not seem sustainable as a longer term strategy.

The Court and the parties will need to examine this facility dilemma in more detail. It is by no means clear how DJJ can ever meet its current obligations to provide adequate facilities under the *Farrell* consent decree.

### **Other S&W Remedial Plan Areas**

DJJ has made great strides in the development of needed new policies and procedures. There has been steady expansion and consolidation of reforms in the disciplinary process and in the Youth Grievance System. These efforts of ensuring fairness and access for youth to express their concerns have moved forward, generally being supported by youth and staff. The documentation of these processes and the use of the Ward Information System to monitor compliance have moved ahead. Likewise, the provision of religious services is well within the promised *Farrell* reforms. There have been some challenges in finding religious advisers for Muslim youth, especially in DJJ rural settings but DJJ has been creative in rounding up community volunteers. DJJ staff are doing a good job of ensuring that youth who wish access to religious services, in fact, get them. Documentation of youth access to religious services is very complete and well done. As always, the chaplains play a critical role in helping many young people deal with difficult personal or family issues. The chaplains work very well with other DJJ staff and are generally recognized as critical members of the treatment teams. The chaplains also are key to recruiting community volunteers who come to DJJ facilities and work with the youth in several areas such as literacy and educational tutoring in addition to the religious programming. Headquarters training and mentoring of the religious services staff is excellent.

DJJ has also shown significant progress in expanding the use of positive incentives to manage youth conduct. For example, the percentage of youth who are Phase A, youth who qualify for time reductions, has more than doubled from 2007 to 2009. It is also the case that DJJ has carefully monitored the time extensions given by staff that postponed parole consideration dates. The number of time extensions has steadily dropped over the past year and reductions in time due to good behavior are much more common. In the past, there was concern that youth were spending too much time in DJJ due to the prevalent use of time extensions by staff. This

problem is being reversed and average stays in DJJ are starting to be reduced.<sup>14</sup> My facility interviews suggest that staff is more focused on helping youth overcome disciplinary charges via positive plans and activities. Youth are learning that they can earn back credit in the reasonable period of time.

### **Concluding Observations**

Since the *Farrell* consent decree was finalized in 2004, the population of DJJ has declined dramatically. Several DJJ facilities and camp programs have been closed. There have also been significant law changes that effect who gets sent to DJJ and how long they stay. The DJJ population is now mostly comprised of violent offenders and serious sex offenders. Beginning in 2011, DJJ will transfer the entire parole function to the counties.

Other powerful forces are buffeting DJJ. There was a change in top leadership in 2010 and more changes can be expected. Both the new Governor and prominent legislators have proposed the closing of DJJ and transfer of its clients to the counties. However, there are few if any, specifics on how this major change in California juvenile sentencing practices would be accomplished. Despite the declining youth population, DJJ costs have continued to rise due to inflexible state personnel rules. There are tremendous pressures on DJJ to find significant cost savings. All of these factors have led to an assault on the morale of DJJ staff and have created uncertainty and anxiety on the part of DJJ youth and their families. DJJ staff have continued to make progress in several areas relating to the S&W Remedial Plan. There has been little sustained resistance within DJJ to Farrell reforms. Indeed, many staff seem eager to understand and embrace the new approaches. Much in the way of new policy, programs, and training has been introduced, although the quality of the new programs and training is unknown. There is more data available to DJJ managers, but it is not necessarily utilized in improve operations or to plan for the future.

The very limited role of research in helping top DJJ managers define new directions must be increased. It is my opinion that there are many areas, such as the IBTM, in which the in-house knowledge about evidence-based practices in other jurisdictions and research capacity of DJJ staff needs to be augmented. There also must be candid discussions with state leadership to find ways to not frustrate Farrell reforms through cumbersome and ineffective CDCR contracting and other bureaucratic processes.

Going forward, DJJ must forge a closer working alliance with county officials. With parole going to the counties and with increased interest in “realignment” in all aspects of government services, CYA needs more than

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<sup>14</sup> Monthly tracking of DDMS and Projected Board Dates for First Admissions and Parole Violators to DJJ Facilities, DJJ, February 2010 and November 2010.

another statewide task force that draft a report that is never adopted by CDCR. Honest conversations between the state and county officials are needed to define a real juvenile justice master plan for the future. Much closer cooperation is needed now as youth leaving DJJ care are picked up by “yet to be defined” aftercare services operated by local probation agencies.

Lastly, the future reforms of DJJ must be guided by real research data, not just the rhetoric of “evidence-based” programs. The actual list of tested and proven programs for the current DJJ population is pretty meager. Further, DJJ has invested a tremendous amount of public funds in training, curriculum, risk assessment tools without carefully measuring the results of these new investments. The hard work and creativity that DJJ staff have brought to current reforms should be acknowledged and applauded, but the immediate the focus must be on critical outcomes – safer facilities, educational achievements, lower recidivism rates and improved employment prospects for DJJ clients. Youth advocates should be viewed as valued allies in the reform process.

The fiscal problems of state and local governments are among the greatest challenges facing DJJ as it tries to meet the requirements of the Farrell consent decree. The very existence of CYA is unknown at this writing.

The paper suggests that one of the best juvenile justice agencies in the U.S. declined to be become one of the worst. Litigation and adverse media and political attention forced changes. The changes have mostly meant far fewer youth confined in state juvenile facilities and adult prisons. Crime rates and juvenile arrests have declined during this dramatic downsizing of CYA. Counties have, so far, managed to handle the nonviolent youth that have been diverted from state facilities. Whether they can continue that success is an open question and there are serious questions about how the conditions in local facilities will be monitored with no state oversight.<sup>15</sup> Moreover, there is the problem of further disparities in treating juvenile offenders as counties get to decide how much money to spend and what sorts of programs that they are willing to support. There is some preliminary data that prosecutors are more willing to try juveniles in criminal courts and to support sentences to prison for adolescents.

I have also attempted to lay out the “good, bad and ugly” of the reform process. The message is that reforming large public bureaucracies is complicated but possible. The further downsizing of the California state youth prison system remains a viable option.

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<sup>15</sup> Barry Krisberg, Linh Vuong, Christopher Hartney and Susan Marchionna, **A New Era in California Juvenile Justice**, Berkeley, CA: Warren Institute on Law and Social Policy, 2010

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