

SUMMARY OF FIRST REPORT OF SPECIAL MASTER (APRIL 5, 2006)

Problems with DJJ's Remedial Plans:

In December 2005, the DJJ field a proposed Ward Safety and Welfare Remedial Plan. The special master found that the DJJ worked hard, but that the "draft of the plan that defendant filed on December 1, 2005 was not fully adequate and complete, particularly in its lack of implementation and resource details." The experts and the plaintiff did not accept the plan. (Pp. 5-6).

In December 2005, DJJ proposed a Mental Health Remedial Plan that the mental health expert did not approve, in part because it lacked staffing and other resource and implementation details. The Plan also suffered from insufficient clinical input because DJJ's Chief Psychiatrist position was not filled until September 2005, and the Chief Psychologist position was still unfilled as of April, 2006. (p. 6)

The final remedial plans were due June 30, 2006. (P. 7)

Lack of Compliance with Interim Plans:

As part of the November 2004 Consent Decree, DJJ agreed to developed a classification system to separate wards based on their risk of harm to others. DJJ developed a proposal that plaintiff accepted, but then failed to fulfill its legal obligation to implement the proposal. In November 2005, both parties stipulated that DJJ failed to implement the housing plan. Responsibility for housing classification was delegated to outside experts. (Pp. 8-10).

Ward Incentives Program:

Despite the implementation of new programs designed to give Wards more behavior incentives, a "significant" number of wards spent 21 or 22 hours a day in their cells throughout 2005. (P.16)

High Rates of Violence and Lack of System to Track Violence:

The experts found a "stunning amount of violence" in 2003; the special master found that violence did not appear to have decreased since then except at the Chaderjian facility. The special master also noted DJJ's for failure to develop an accurate system to measure violence at its facilities. This makes it difficult to determine whether violence has increased or decreased. (P. 17-18)

"The constant and pervasive violence in DJJ remains stunning...DJJ administrators and all of the numerous experts who have been engaged to assist with reform planning since

2003 agree that the high level of violence undermines DJJ control of its facilities and impedes any rehabilitative programming.” (P. 20)

The high level of violence results from overpopulation, high staff-to-youth ratios, insufficient programs to occupy youth, insufficient treatment and rehabilitation resources, and insufficient monitoring. (P. 20).

Gang culture and gang violence continue to pervade the lives of most DJJ wards. (Pp. 20-21) DJJ has responded with tactics such as “gang segregation, lock-up, and quick and frequent use of chemical agents.” At Chaderjian, youth affiliated with certain gangs receive only a half day of school so that they do not interact with rival gang members. At Stark, some youth are racially segregated because of fear of gang violence. (P. 21)

Staff seem to misunderstand the nature of gang violence. Many staff believed that the wards felt and were safe, despite the fact that many youth described fear of being assaulted, and almost all described fights and melees that they had been involved in or had witnessed. Staff believed that those who participated in fights chose to do so; youth claimed that they did not like gang culture but had no choice but to conform. (P. 22)

DJJ officials seriously underestimate the need for systemic change, and seem to believe that simple measures such as a few extra hours of staff training will result in a safe environment for youth. (P. 23)

Noncompliance with Mental Health Interim Plan:

In December 2004, the DJJ proposed written policies and procedures that were approved by the mental health experts. In April 2005, DJJ filed an interim plan extending the deadline for implementation to July 1, 2005. As of mid-July, the DJJ had not implemented the policies or sought a second extension. DJJ made “steady if slow” progress toward implementation over the next six months. (P. 32)

Special Management Program

Special management program (SMP) housing is housing for dangerous/disruptive youth. Prior to the Consent Decree, SMP youth were confined to cells for 23 hours a day for an average of 50-60 days. In November 2002, defendant presented a report setting a goal of 8 hours/day of structured programming, including education, recreation, and treatment. By early 2005, defendant represented that it intended to set a minimum of 3 hours of out-of-cell programming. The special master’s report indicates that most youth in SMP were not offered even 3 hours of programming on any other day. (Pp. 34-36)

Temporary Detention:

DJJ has not succeeded in enforcing the departmental policy limiting temporary detention to youth who pose a danger to themselves or others or who require protection.

Temporary detention is still used as punishment and punitive conditions remain in temporary detention units. A reviewing group described conditions in one temporary detention facility as “simply unacceptable; an expert said that conditions in that cellblock were so decrepit that even using the cellblock constituted punishment. (Pp. 39-40)

Most youth confined in temporary detention at Inyo did not meet the criteria for such confinement. (P. 41)

Youth on temporary detention at Inyo were deprived of trousers and shoes in their cells, and were kept uncomfortably cold in boxer shorts and T-shirts. (The DJJ has sought to end this practice.) (P. 41)

Lockdowns:

The Chaderjian facility was in crisis in for much of 2005. Youth considered by staff to be incorrigibly violent were on prolonged lockdown during this period. (P. 42)

Noncompliance with Project Manager Plan:

The DJJ currently has appointed a new project manager to track DJJ’s obligations under the Consent Decree and other remedial plans. However, the special master notes that defendant has previously represented that there would be a new project manager and support staff; however, the project manager and compliance team did not materialize at that point. (P. 46)

Conclusion:

“DJJ is beset by urgent systemic problems. These problems cannot be denied or wished away; they must be directly addressed. The progress over the past year has been disappointing, but not negligible.”