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9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

10 **COUNTY OF ALAMEDA**

11
12
13 MARGARET FARRELL,

14 Plaintiff,

15 v.

16 MATTHEW CATE,

17 Defendant.

Case No. RG 03079344

**CORRECTED DECLARATION OF
SARA NORMAN IN SUPPORT OF
PLAINTIFFS' MOTION TO ENFORCE
COURT-ORDERED REMEDIAL
PLANS AND TO ISSUE ORDER TO
SHOW CAUSE ON CONTEMPT**

Date: July 7, 2011
Time: 1:30 p.m.
Place: Department 15
The Hon. Jon S. Tigar
Action Filed: January 16, 2003

18
19 I, Sara Norman, declare as follows:

- 20 1. I am an attorney admitted to practice in this state and before this Court. I am a staff
21 attorney at the Prison Law Office, and one of the attorneys for the plaintiff in this action.
22
23 2. Attached hereto as Exhibit A is a true and correct copy of a letter from Nancy Campbell
24 to Sara Norman dated May 20, 2011.
25
26 3. Attached hereto as Exhibit B is a true and correct copy of the Office of Audits and Court
27 Compliance's Review of the Office of Special Master's Identified Concerns: Ventura Youth
28 Correctional Facility, March 25, 2011. The name of an individual youth housed in the Division
of Juvenile Justice has been redacted to protect her privacy and because her name is not relevant

1 to the purpose for which the document is cited in plaintiff's motion.

2 4. According to information I received from the Court's education experts on April 22,
3 2011, nearly 12% of all Ventura's classes in February 2011 were cancelled, nearly all due to the
4 unavailability of substitutes.

5 5. DJJ staff informed plaintiffs' counsel on May 4, 2011, that they have sought an
6 exemption from the Governor's hiring freeze to hire teachers at Ventura, but had not yet been
7 told whether the exemption would be granted.

8
9 I declare under penalty of perjury that the forgoing is true and correct and that this declaration
10 was executed on June 1, 2011, at Berkeley, California.


11 
12 Sara Norman

EXHIBIT A

Nancy M. Campbell
Special Master, *Farrell v. Cate*
56 East Road, Tacoma, WA 98406
E-mail: nancy@nmcampbell.com
Tel (253) 503-0684

May 20, 2011

Sara Norman
Managing Attorney, Prison Law Office
1917 Fifth Street
Berkeley, CA 94710-1916

VIA EMAIL ONLY

Dear Sara,

I am writing in response to your letter dated May 4, 2011 in which you request information regarding certain "high priority" issues that are impacting DJJ youth. I too have concerns about the issues you raise and, consequently, arranged for meetings or teleconferences with knowledgeable DJJ staff in each area. On May 12 and 13, 2011, Cathleen Beltz and I met or teleconferenced with the following DJJ staff persons: Dorene Nylund, Tammy McGuire, Mark Blaser, Alicia Ginn, Mary Wandschneider, Eleanor Silva, Sharie Wise, Mike Minor, David Finley and Art Westerfield. On short notice, DJJ nonetheless made available to us information and documentation requested, which I reference here in response to your questions.

Issue #1: Education Services

You are correct that some youth at DJJ are not receiving the full 240 minutes of required education per school day. The number of students not receiving services would require a more in-depth analysis. The most significant deficits are occurring with special education students at Joanna Boss High School, N.A. Chaderjian High School, and Mary B. Perry High School and youth in restricted housing and high core units at the Ventura Correctional Facility.

Education experts, O'Rourke and Gordon noted in their recent audit reports¹ that youth in the three high schools listed above do not receive the full continuum of segments and services that are required in their Individual Educational Programs (IEP). Failure to provide the required credentialed personnel to provide services to special education students has resulted in an inability to achieve substantial compliance in these audit

¹ See Section V Special Education of the audit reports for Chad, Joanna Boss and Mary B. Perry.

requirements.² Hiring freezes have made it difficult for the schools to hire needed special education staff.

A failure to provide required education requirements is also occurring at the Ventura Youth Correctional Facility behavioral treatment programs and for some youth in the high core units who are in temporary detention. There are several reasons for this failure.

First and foremost are the significant staffing challenges at Mary B. Perry High School. Despite the consistent and relentless efforts on the part of the Principal, Art Westerfield, the school does not have the level or type of staff required to address the unique and challenging needs of the special education or behaviorally challenging youth. The education experts noted that during their audit the high school had 20 vacancies and that impending retirements and resignations indicated the situation would only get worse. At the time of the audit, the Principal had managed to fill vacancies with 19 substitute teachers. On May 16, 2011, there were ten substitute teachers with long term assignments and seven with short term assignments.³ Out of 32.5 teaching and specialist positions (FTE), vacancies of 20 positions are equivalent to a 62% vacancy rate.⁴

The hiring freezes combined with organizational downsizing have made it almost impossible for Principal Westerfield to hire teachers despite the favorable market conditions. A hiring freeze required Principal Westerfield to use substitutes to replace retired teachers and to address the increase in the youth population.⁵ In December of 2010 an exemption from the hiring freeze resulted in approval to fill three positions. If exempted from the hiring freeze, Principal Westerfield could hire from lay off lists within CDCR as well as hire any qualified substitute teachers for full time positions.

While the efforts of Principal Westerfield to find substitute teachers are commendable, the impact on the youth at Ventura of not having a stable and consistent teaching staff is detrimental. Substitute teachers are often not equipped to work with such a challenging population.⁶ The ability of substitute teachers to provide *effective* services with highly compliant students is challenging and more so with behaviorally challenged and anti-social youth. At the heart of the reform model is the ability of all staff to send consistent messages to youth regarding how to effectively manage their behavior. Educators are a key part of this process. They can be effective role models for youth. With staff shortages resulting in constant staff turn over, there is little chance for youth to bond with educators or for educators to effectively be part of the interdisciplinary treatment team which is at the heart of the reform model.⁷

² See audit requirements, 2.8, 5.6-5.8, 5.19, and 5.22 in Chad, Joanna Boss and Mary B. Perry audits.

³ Conversation on May 16, 2011 between Special Master Campbell and Principal Westerfield. Short term substitutes can only serve in their position for thirty days.

⁴ Id. The 32.5 FTE was provided by Principal Westerfield to Special Master Campbell in the interview noted above.

⁵ Id.

⁶ Exacerbating the staffing shortages is the time spent replacing the substitute teachers who quit because they are not able to work with the delinquent population.

⁷ See Order re: Integrated Behavioral Treatment Model Report Summary and Implementation Outline, May 2, 2010.

Another impediment to providing the required 240 minutes of education to non-high school graduates is the lack of educational classroom space for the behaviorally challenging youth. The Ventura Youth Correctional Facility is operating at almost maximum capacity. The facility lacks adequate classroom space⁸ in several regards but the most challenging has been in the provision of education to those youth who are in temporary intervention programs (TIP) on the high core units or who are in behavioral treatment units (BTP). Because these youth are restricted from attending classes in the school complex, the education services are provided on the unit.

The rapidly changing demand for services delivered on the units creates unique and challenging demands for education and custodial staff.⁹ The number of youth and type of educational services needed can and often does change every day. Services can sometimes be delivered in groups and other times must be individual. Without any classroom space on the units, facility staff members have been extremely creative in their attempts to deliver educational services. Closets, showers, store rooms, kitchen and dining spaces have all been used to deliver services. Clearly some of these spaces are inappropriate and create education and security staffing challenges for the facility.

At the present time kitchen and dining spaces are being used to provide education services in the BTPs. There is no space in a BTP that is fully resourced for education services. On the high core units there are no spaces to provide education services. Spaces where education services are currently delivered do not allow for efficient use of staff nor do they allow for effective teaching strategies. In a classroom, students can engage in different activities at one time. One can work individually while others work in a group. In the BTP this is somewhat possible in the dining room space but not in all areas. This means provision of education and custodial services must be provided serially and thus takes longer. In a time of fiscal constraint, this does not seem to be a wise use of resources. Typical educational tools that are available in a true classroom space are not available in the unit settings.

An issue that is of concern is the lack of technology support for Mary B. Perry High School. This is the only youth correctional facility without a half time technology manager. The school pays from its budget for this position but it is used as a regional coordinator that has many other responsibilities and as such, provides nominal support to the high school. The result of this is that there is no staff to perform the following critical technology functions:

- Identify and order needed software
- Maintain the student network
- Maintain distance learning equipment
- Install SMART boards that sit in storage unused

⁸ An agreement was reached by the parties to provide modular units to the Ventura Youth Correctional Facility (VYCF) to remedy this situation. The projected date for delivery of the units is June 2012. See April 2011 Parties Meeting minutes.

⁹ The number of non-graduates fluctuates. If this number gets too high (over 15) there is not adequate custody staffing.

- Project school technology needs
- Support teachers to incorporate technology into classroom teaching strategies

Educational staffing shortages combined with lack of classroom space and technology support have combined to create a situation where students with special needs are not receiving their full complement of educational services and those services received are sometimes sub-standard. Finally, the severe staffing shortages at one high school compromise the ability of the entire facility to develop an integrated behavioral treatment model in the future.

Issues #2 and #4: Program Deficits/Extended Room Confinement and Accountability

Some DJJ youth do not receive the minimum required 180 minutes out-of-room time each day. The youth most impacted by DJJ's failure to provide services outside of youths' assigned rooms for *at least* three hours per day are those assigned to closed room (as opposed to open dormitory) facilities and/or those on Temporary Detention ("TD") or Temporary Intervention Plans ("TIP"). DJJ provided documentation generated from the Ward Information Network ("WIN") for 14 one-week periods between January 16 and April 30, 2011. The WIN charts deficiencies in the provision of required out-of-room time as percentages of total TD or TIP youth placements during which youth were provided fewer than the required 180 minutes out-of-room time daily.

WIN documentation shows that the most frequent failure to meet out-of-room requirements has occurred at Ventura Youth Correctional Facility. In the 14 weeks documented, there were 173 out of 1453 incidents during which youth on TD or TIP spent more than 21 of 24 hours confined to his or her rooms. Other DJJ facilities struggle to meet mandated services requirements as well: OH Close Youth Correctional Facility (43 out of 588 incidents); Preston Youth Correctional Facility (15 of 245 incidents); Southern Youth Correctional Reception Center and Clinic (10 of 198 incidents); and NA Chaderjian Youth Correctional Facility (8 of 761 incidents).

In addition to documented deficiencies described above, questions persist about the accuracy of mandated services documentation and, in some instances, whether failure to provide mandated services is documented at all. In one instance, a youth reported to the OSM during an interview that he had been confined to his room for more than 24 hours prior to the interview. The OSM reviewed the mandated services records for the same youth, which showed the youth had been out of his room for one hour in the 24-hours prior to the interview. In itself, one hour falls short of DJJ's out-of-room requirements; however, when the OSM cross-referenced the mandated services documentation with the detailed "Unit Log Book," it was revealed that the youth had, in fact, been confined to his room for more than 24 hours and had not received the one hour noted in WIN. The OSM shared this finding with the facility Superintendent who immediately launched an investigation into the frequency of over-reporting provision of mandated services. The Superintendent and DJJ Central Office report that disciplinary action has been initiated against staff persons involved. In addition, Superintendent Finley has issued a memorandum requiring each program manager to assess daily whether youth will be

provided mandatory out-of-room time. In the event that managers anticipate being unable to provide services, they are instructed to inform Superintendent Finley immediately that he may redirect staff resources to ensure youth receive all required services daily.

To the extent that WIN reporting is accurate, the mandates services function is a valuable management tool both for facility administrators as well as DJJ's Director of Facilities. Prior to April 2011, DJJ Central Office staff reviewed on a monthly basis WIN mandated services reports from each DJJ facility. Based on this data, DJJ's Director of Facilities issued memoranda to facility superintendents advising them of deficiencies in the provision of services as compared to other DJJ facilities and reminding facility staff to document the reason(s) for each failure to provide youth fully three hours of out-of-room time. Unfortunately, CDCR's Office of Audits and Court Compliance, following a review and investigation, determined that DJJ Central Office failed to properly monitor to ensure the facilities' provision of out-of-room time for youth on TD and TIP by, for example, failing to issue "Corrective Action Plans" to support struggling facilities and remedy substantial deficiencies.¹⁰

The reasons for deficiencies in the provision of services system wide must be identified and the problem must be resolved immediately. At Ventura, specifically, administrators report that staff vacancies and lack of physical space require daily redirection of staff resources. Regarding physical space, in addition to lack of sufficient space to provide education services (discussed above) Ventura's youth assigned to the Behavior Treatment Program are unable to recreate outside of the building because the large outdoor recreation area is not equipped with sufficient safeguards against escape. Consequently, facility staff are forced to utilize such space as the shower and a converted laundry room to provide education and recreation services. An upgrade of the current BTP yards, and the provision of the planned modular buildings, if accompanied by sufficient staff to operate and monitor them, would help Ventura recover from some of the deficits addressed above.

The facility staffing shortage of 12-15 Youth Correctional Counselors requires the "inversing" (forced overtime) of at least 15 shifts per day for an average overtime rate of \$250,000, as well as an exhausted youth correctional team. The staffing shortage and lack of physical space also result in the insufficient provision of services and to youth being confined to their rooms for extended periods of time. The level and consistency of depriving youth the minimum requirements for time out of their rooms should have served as an indicator to CDCR-DJJ that there were problems at the Ventura facility that required investigation. DJJ has created a valuable information tool that if properly utilized by facility and Central Office administrators could help to avoid the type of disturbances and violence experienced in recent months.

Issue #3: Medical Services

The medical experts report that high levels of institutional violence has resulted in the

¹⁰ Report, March 25, 2011

cancellation of medical appointments and the failure to reschedule youth for medical treatment on a timely basis. The medical experts have noted multiple incidents of cancelled medical appointments that required several months and multiple appointment rescheduling. Custody staffing shortages exacerbate the problem, limiting facilities' ability to move youth to and from medical appointments and treatment.

Please feel free to call with any questions.

Sincerely,
Nancy Campbell

EXHIBIT B

**California
Department of
Corrections and
Rehabilitation**

Office of Audits and
Court Compliance

Juvenile Court
Compliance Branch



**REVIEW OF IDENTIFIED CONCERNS
VENTURA YOUTH
CORRECTIONAL FACILITY**

Executive Summary

On March 1, 2011, the Office of the Special Master (OSM) identified four concerns to the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ), regarding Ventura Youth Correctional Facility (VYCF). Specifically, the OSM's four concerns include:

1. The occurrence of 23 & 1 Programs;
2. Treatment services provided to a female Mental Health (MH) youth, [REDACTED]
3. Uninvolved youth placed on restricted programs resulting from the actions of youth on different living units; and
4. Disparities between male and female athletic/recreational programs.

On March 1, 2011, Michael K. Brady, Assistant Secretary, Office of Audits and Court Compliance, directed John Blackwell, Captain, and Eric Fransham, Parole Agent III, to review the concerns and report findings thereof. On March 3 and 4, 2011, Captain Blackwell and PA-III Fransham conducted an on-site review at VYCF.

Summary of Findings

23 & 1 Programs

- Male youth in low core, high core, and behavior treatment programs (BTPs) and female youth do not receive 180 minutes of out-of-room time while placed in Temporary Detention (TD), Treatment Intervention Programs (TIP), and Program Change Protocols (PCPs). Out-of-room time averages 40 minutes daily for each respective restrictive program.
- In one instance, a living unit supervisor made a log notation directing staff not to program TD youth.
- The living unit dining area, shower area, and laundry room are utilized to program youth on restricted program.
- VYCF lacks adequate program space to provide out-of-room program to restricted program youth without disrupting regular programs.
- Youth on restricted programs are prohibited from outdoor recreation.
- TIP encompasses less than 10% of restricted programs. On the BTP, "Solo Program" is used in lieu of TIP. Youth on "Solo Program" are not entered into the Ward Information Network's (WIN) Mandated Services section.
- The number of youth placed on PCP is not accurately reported to DJJ Headquarters.
- Youth are placed on PCP without being entered into WIN's Mandated Services section.
- Educational services are not provided to youth placed on TD, TIP, or PCP after the first 72 hours of placement into low core, high core, BTP and female living units.
- DJJ Headquarters does not monitor mandated services provided to youth placed on PCP.
- DJJ Headquarters' oversight of TD and TIP mandated services does not incorporate a Corrective Action Plan (CAP) process to resolve deficiencies.

Youth [REDACTED] appropriateness for placement

- Youth [REDACTED] is appropriately placed at VYCF.
- Youth [REDACTED] is refusing to attend regular education classes, fearing assaults from peers.
- Current strategies to reintegrate youth [REDACTED] into general education, including counseling and DDMS, have been, to date, ineffective.
- No alternative educational programs are provided to youth [REDACTED].

Uninvolved youth placed on restricted programs resulting from the actions of youth on different living units

- During emergency Code-3 security operations, all youth are placed on a limited program until the security response is complete and order restored. Average duration of program restrictions ranged from one to three hours and is based on institutional need. No significant findings were noted.

Disparities between male and female athletic and recreational programs

- Limited structured intramural sports programs are available to VYCF youth in addition to school physical education classes and living unit recreational activities. No significant disparities were identified between male and female programs.

23 & 1 Programs

A review of male low core, high core, BTP, and female living units was conducted. TD, TIPs and PCPs were reviewed from each of these four living unit types.

The documents reviewed include:

- California Code of Regulations, Title 15, Division 4, Juvenile Facilities; WIN Alternative Program palette; WIN Mandated Services palette; living unit Program Service Day (PSD) schedules; living unit logs; Temporary Departmental Order (TDO) 07-83, "Delivery of Mandated Services"; TDO 07-84, "Program Change Protocol"; TDO 07-85, "Temporary Detention"; Institutions and Camps (I&C) Manual, Sections 7200-7260, "Restricted Program, Procedures for Treatment Intervention Plan"; Memoranda from Sandra K. Youngen, Director of Facilities, dated January 3, 2011 and January 31, 2011, entitled, "Temporary Detention Program Reporting" (Attachment 01);
- Mandated Services Out of Room Minutes for the week of February 13, 2011, to February 19, 2011 (Attachment 02);
- Memorandum from David Finley, Superintendent, dated March 3, 2011 entitled, "Treatment Intervention Plan Reporting" (Attachment 03);
- "Weekly Out of Room Program Deficiencies by Percentage" report (Attachment 04); and
- Local memoranda and correspondence.

In addition, interviews with facility administration, management, Senior Youth Correctional Counselors (SYCCs), Youth Correctional Counselors (YCCs) and youth were conducted.

Male low core, high core, and BTP units and female living units

Services provided in the sampling of male low core, high core, and BTP units as well as female programs indicated that youth meet or exceed three hours of out-of-room time. A review of living unit PSD schedules in comparison to observations of living unit operations confirmed that an excess of the minimum required 180 minutes of out-of-room time is provided to youth.

Restricted Programs (TD, TIP, PCP)

A review of the California Code of Regulations, Title 15, Division 4, Juvenile Facilities, Section 1371, Recreation and Exercise, subsections d-f (Attachment 05), was completed. This section states:

(d) The exercise program shall include the opportunity for at least one hour of outdoor physical activity each day, weather permitting. In the event weather does not permit outdoor physical activity, at least one hour each day of exercise involving large muscle activities shall be provided.

(e) Juvenile facilities shall provide the opportunity for recreation and exercise a minimum of three hours a day during the week and five hours a day each Saturday, Sunday or other non-school days, of which one hour shall be large muscle exercise, as noted in item (d) above. Such recreation and exercise schedule shall be posted in the living units.

(f) The administrator/manager may suspend for a period not to extend 24 hours, access to recreation. However, minors on disciplinary status shall continue to have an opportunity for a minimum of one hour of large muscle exercise. That one hour of exercise may be suspended only upon a written finding by the administrator/manager that the minor represents a threat to the safety and security of the facility.

Youth at VYCF remain on their assigned living unit when placed on restricted program. Although restricted programs are included in living unit PSD schedules (see Attachment 06), actual program times vary significantly from the times scheduled. Out-of-room services for restricted program youth generally occur when regular program youth are not engaged in activities. Restricted program youth are routinely provided multiple short program periods as opposed to a single block of time.

Deficits exist in providing the minimum out-of-room time (180 minutes daily) for youth placed on TD and TIP in male low core, high core, BTP and female programs. A review of WIN records from February 1, 2011, to February 28, 2011, indicated 93 youth were on restricted program. Of those, 16 youth were placed on restricted program more than three days, totaling 110 days. The first and last day of each youth's restricted program placement was omitted from review, as youth may have received unrecorded services prior to or after the conclusion of their placement. The remaining 78 records were reviewed. Of those 78 records, 5,770 out-of-room minutes were provided, averaging 74 minutes per day, or 41% of the minimum requirement of 180 minutes daily. Ten of the 78 records reflect a youth's refusal to participate in all or part of their out-of-room services, totaling 1,035 minutes. Given credit for refused minutes, an additional seven minutes can be added to the average 74 minutes per day, for a daily average of 87 (48%) out-of-room minutes. 12 of 78 (15%) records met the 180 minute minimum daily standard (see Attachment 07).

Number of Youth on Restricted Program (TD or TIP)	Number of Youth on Restricted Program 3 Days or More	Total Number of Restricted Program Days for Youth Placed 3 or More Days (after omitting first and last day)
93	16	78
Number of Out-of-Room Minutes Received	Average Daily Out-of-Room Minutes	Percentage of Out-of-Room Minutes Provided
5,770	74	41%

Temporary Detention Findings

A review of TD and TIP placements from January 1, 2011, to January 31, 2011, indicate 184 youth were placed on TD or TIP (Attachment 08). Although requirements for TD placement are significantly more stringent than that of TIP, 168 of the 184 (91%) youth were placed on TD as opposed to TIP. The remaining 16 youth (9%) were placed on TIP.

A review of TD programs for male low core, high core, BTP, and female programs indicated significant deficits in meeting minimum standards for out-of-room time in each program category.

Youth in all program groups consistently reported receiving less than the mandated 180 minutes of out-of-room time while placed on restricted program. Youth reports of out-of-room time range from 30 minutes to three hours; one hour daily was most commonly reported. The primary factors impacting the amount of program time allotted were reported to be the amount of youth on TD, scheduled living unit activities, whether or not staff liked the individual youth, and the day of the week. More program time is generally provided on weekends than weekdays.

When asked how much out-of-room time youth should be provided while on TD, living unit staff consistently stated, "Three hours. One hour of program, one hour of education and one hour of counseling." The consistent theme reported by living unit staff regarding the inability to provide mandated services included inadequate facilities to accommodate TD programs, stringent mandates for youth participating in the regular program, lack of time, and lack of staff resources. Living unit staff consistently reported that priority is given to providing services to youth participating in the regular program. Youth on TD are accommodated when time permits.

In one instance, a Monte Vista log entry by the SYCC, dated February 28, 2011, informed staff that four youth had been extended on TD, then directed staff not to program them. A March 1, 2011, log notation on the same unit stated youth TD programs were restricted to 40 minutes due to time constraints.

In fairness to facility staff, attempts to meet out-of-room time mandates were noted. Repeated log notations indicated youth were brought out of their rooms multiple times during the same day in 30 minute to one hour increments. However, in most incidents, out-of-room time failed to meet the three hour minimum.

Treatment Intervention Program (TIP) Findings

Out-of-room time provided to youth placed on TIP status is consistent with that of youth placed on TD. Services provided to both groups are synonymous. Out-of-room time averages 40 minutes daily.

Placement on TIP comprises less than ten percent of youth placed on restricted program and is not utilized by all living units. For example, the Monte Vista BTP utilizes "solo program" and TD but does not utilize the TIP program. Of the 40 Monte Vista youth placed on restricted program from January 1, 2011, to February 28, 2011, there were no instances of youth placed on TIP. Monte Vista living unit staff report that TIP is not a program they prefer to use.

Program Change Protocol Findings

A review of TDO 07-84, "Program Change Protocol; WIN Alternative Program records; WIN Mandated Service Records; Program Status Reports, dated December 23, 2010, to December 30, 2010; January 8, 2011 to January 13, 2011; January 8, 2011, to January 27, 2011; February 14, 2011, to February 18, 2011; February 14, 2011, to February 22, 2011; February 26, 2011, to February 28, 2011 (Attachment 09); and living unit logs was completed. In addition, interviews with facility administration, management, SYCCs, YCCs, and youth were conducted.

PCP is the most restrictive Alternative Program, in comparison to TD and TIP, and can incorporate uninvolved youth. In one instance, Casa de Alma youth were placed on restricted program from January 8, 2011, to January 28, 2011 (20 days). Restrictions as identified on Program Status Reports include: no educational services, no recreational time out-of-room, no visiting and no phone calls.

Of the six PCPs reviewed, inconsistencies were identified in the number of youth placed in the WIN Alternative Programs palette versus the number reported to DJJ Headquarters in Program Status Reports. In February 2011, VYCF reported 13 impacted youth in three separate incidents, while 21 youth were placed on PCP status according to WIN Alternative Program records. 62% of the youth placed on PCP in February were not reported as affected youth in Program Status Reports.

Educational Services Provided to Restricted Program Youth

TDO 07-83, "Delivery of Mandated Services, Education," states: "A youth shall be provided education services by the third day after placement on a restricted program." A review of educational services provided to TD, TIP, and PCP youth on male low core, high core, BTP, and female units was conducted.

Interviews with youth indicate educational services are not available or are infrequently provided while youth are on a restricted program. One youth reported he was offered educational services on one occasion during a two-week restricted program. Other youth consistently reported that educational services were not provided or that they were offered a recreational book in lieu of educational services.

Living unit staff consistently reported educational services are not routinely available to youth on restricted program for all program types reviewed.

The school Principal confirmed the accounts reported by youth and living unit staff. As a result of significant teacher vacancies, the school administration expressed that there were difficulties in providing educational services to programming youth. Resources are not currently available to provide educational services to youth on restricted programs without negatively impacting existing class schedules.

A review of WIN Alternative Program records was conducted. 91 youth were placed on PCP, TD, or TIP for a minimum of four or more days from January 1, 2011, to February 28, 2011 (Attachment 10). As defined in the PCP definition, youth placed on PCP can incur restrictions of mandated services and therefore have been excluded from this review: "The suspension of any operation, procedure, service or function to prevent, isolate, contain, or control a disruption of orderly operations caused by a youth initiated disturbance, natural disaster or external stimulus has provisions for the restriction of mandated services." Of the 22 remaining youth placed on TD and TIP, 10 (45%) records were randomly selected for review (Attachment 11). Of the ten records reviewed, zero (0%) documented the required provision of educational services.

Mandated Services Accurately Recorded in WIN

Mandated services recorded in WIN, in comparison with the same services documented in the living unit logs (Attachment 12), indicate out-of-room hours in WIN are consistent with the services recorded in living unit log notations. The percentage of out-of-room time recorded in the living unit logs averaged 94 minutes per day per youth in comparison to 99 minutes per day per youth as recorded in WIN.

Program Space

Program areas for restricted program youth include the dayroom when available, living unit dining area, and in some instances, the shower room and laundry room.

After an incident in January 2011 involving a restricted program youth jumping the back patio fence and instigating a group disturbance, the back patios are no longer offered to restricted program youth. The dayroom is used when available, but the kitchen is also commonly utilized.

Both living unit staff and youth have reported the shower room is used as a program area on infrequent occasions. A February 26, 2011, Casa de Alma log notation states in part, "1830 program in shower to 1930. Shower room while cleaning kitchen."

DJJ Headquarters' Oversight of Restricted Programs

DJJ Headquarters personnel conduct monthly reviews of a randomly selected week from each facility's previous month's TD and TIP mandated service records to monitor compliance. Deficits are identified, and facilities are required to submit a written explanation within three weeks of receipt. The inquiry for December 2010 was submitted to VYCF on January 3, 2011. The facility's response was received by DJJ Headquarters two months later, on March 2, 2011, after OACC requested the documents. Although the process requires a justification for deficits identified in the sampling, corrective actions are not incorporated into the process to prevent repeated occurrences of deficits.

In one case reviewed, youth [REDACTED] continues to be alternated back and forth between TIP and TD programs, permitting the restricted program approval process to restart at the lowest level, subsequently delaying the Director of Facilities' review. To date, the youth has been on restricted program since February 20, 2011, without approval beyond the facility level:

02/20/11	Placed on TD
02/23/11	Released from TD and placed on TIP
02/24/11	Released from TIP and placed on TD
03/02/11	Released from TD and placed on TIP
03/16/11	Released from TIP and placed on TD
03/18/11	Released from TD and placed on TD
03/21/11	Released from TD and placed on TD

Although DJJ Headquarters staff monitor mandated services for youth placed on TD and TIP, there is no Headquarters review of mandated services provided to PCP youth. This lack of oversight may be problematic considering the restrictive nature of PCP.

As recorded in an Initial Program Status Report dated January 11, 2011, 38 Casa de Alma youth were placed on PCP status and identified as affected youth. Although the program restriction initiated on January 11, 2011, youth were not entered into the WIN Mandated Services palette until a week later on January, 18, 2011.

Treatment Services Provided to [REDACTED]

[REDACTED] is an 18 year old female committed to the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) on September 16, 2010, from Los Angeles County for WIC602/777 change of order PC245 (a) (1) assault with force likely to produce great bodily injury. [REDACTED] arrived at VYCF on September 14, 2010, and was subsequently assigned to Buenaventura (BV) Mental Health (MH) living unit, where she remains to date.

The OSM requested a review of youth [REDACTED] program, appropriateness for placement and services provided by DJJ. To assess the above request, a review of WIN records encompassed an examination of General Education, Disciplinary Decision Making System (DDMS), Alternative Program, Mandated Services, MH Chronos, Testing History, Suicide Risk Screening Questionnaire (SRSQ) Activity, Case Conference, Use of Force and Grievances, living unit log notations and School Consultation Team (SCT) referrals was completed. Interviews with facility administration; Supervising Casework Specialist (SCWS) Carla Viazcan; Treating Psychologist Dr. Amanda Wolf; Mary B. Perry High School Principal Art Westerfield; SCT Coordinator Cynthia McCue; living unit staff and youth [REDACTED] were conducted.

Since youth [REDACTED] arrival to VYCF on September 14, 2010, she has posed unique challenges to treatment staff. [REDACTED] is a MH youth diagnosed with severe anxiety disorder. Since her DJJ commitment, [REDACTED] has been placed on Suicide Risk Reduction (SRR) status on three occasions (October 29, 2010, January 12, 2011 and February 24, 2011) for a total of 80 days. Additionally, [REDACTED] has been placed on TD as a danger to others on five occasions (September 14, 2010, September 22, 2010, November 22, 2010, December 9, 2010 and January 10, 2011) for a total of 70 days (Attachment 13). Youth [REDACTED] MH deficits coupled with entrenchment into the gang sub-culture (MS-13), a lack of appropriate social skills, and verbal disrespect to peers have proven problematic in her adjustment at VYCF.

MH Chronos (Attachment 14) records 99 contacts with a mental health professional since youth [REDACTED] arrival to VYCF on September 14, 2010. A review of grievance records and staff misconduct complaints filed by VYCF youth indicate [REDACTED] has not filed a grievance or staff misconduct complaint during her placement. Use of Force records indicate seven incidents in which force was deployed, to include: Mechanical 7, Chemical 4 and Physical 2 incidents (Attachment 15).

Youth [REDACTED] has been assaulted six times since her placement. The first incident occurred within hours of her arrival and the last incident occurred Thursday, February 24, while attending a religious program. [REDACTED] reports being fearful for her safety and has refused to attend school since January 7, 2011. Living unit staff respond to the absenteeism in accordance with the Educational Remedial Plan, documenting the trancies via DDMS. From January 7, 2011, to March 18, 2011, [REDACTED] has acquired 23 Level-2 behavior reports for truancy and 12 Level-2 behavior reports for program failure (Attachment 16). Dispositions range from verbal counseling to restricting out-of-room time. As of the conclusion of the on-site review, March 4, 2011, alternative educational services have not been provided.

On February 10, 2011, an SCT consultation was requested by Phillip Ramirez, Teacher (Attachment 17). On February 24, 2011, a treatment team case conference convened, also recommending an SCT referral (Attachment 18). The second SCT referral was completed by Girad Conn, Teacher, and submitted the same day, February 24, 2011 (Attachment 19). At the conclusion of the on-site review, the SCT consultation had not occurred.

Youth [REDACTED] expressed an interest in attending school and was concerned about how the behavior reports for truancy and program failure would negatively impact her program. However, concerns for her safety outweigh program concerns. [REDACTED] indicated she would be willing to attend class if she would be escorted by staff before or after the scheduled class change and if she could attend Classroom A-6, Special Day Class (SDC).

Youth [REDACTED] explained Classroom A-6 is the only classroom where she feels safe as the teacher is "all about peace" and non-violence is emphasized as the classroom theme. [REDACTED] believes none of the youth attending Classroom A-6 would attack her. Because youth [REDACTED] is not identified as a special education student, it is prohibitive by the California Education Code for her to participate in what is considered a more restrictive educational environment.

Youth [REDACTED] indicated she felt safe on the living unit in the presence of the staff, whom she described as, alert and attentive. [REDACTED] articulated if she is attacked on the living unit, staff will intervene quickly. Youth [REDACTED] rationale for not wanting to attend school is if she is attacked in a classroom, the teacher has to activate an alarm to initiate a security response that will take several minutes.

The treating Psychologist, Dr. Wolf, indicated that, despite the challenges posed by youth [REDACTED] she is appropriately placed at VYCF. Dr. Wolf described youth [REDACTED]'s issues as "peer-conflict related" as opposed to gang-related and believes [REDACTED] is not endangered. Dr. Wolf indicated [REDACTED] pounds her hands against the wall when upset or acting out but does not believe [REDACTED] is suicidal. When encountered with social adversity, [REDACTED] reports hearing voices that subside when her interactions with peers improve. Dr. Wolf reported [REDACTED] is enrolled in Dialectical Behavior Therapy (DBT) and is making personal growth.

SCWS Viazcan reported Youth [REDACTED] lack of appropriate social skills is the most significant factor prohibiting positive relationships with peers. In a recent incident, [REDACTED] was "playing with the feelings of another girl" that resulted in the majority of the youth on the living unit starting to dislike [REDACTED]. These types of interactions keep [REDACTED] outside the social circles of her peers. SCWS Viazcan acknowledged being aware of Youth [REDACTED] school refusal. Plans discussed at the February 24, 2011, case conference included enrollment in SDC, staff escorts to and from school, encouragement of positive interactions with other youth, and continued participation in DBT to develop social skills and self-confidence.

Mary B. Perry High School Principal Art Westerfield, acknowledged receipt of the two SCT referrals submitted on February 10 and 24, 2011. Principal Westerfield indicated he would ensure a SCT consultation occurred the following week and furthermore see that homework is provided to [REDACTED] in the interim. Principal Westerfield stated he is prohibited from placing a general education student in a special education classroom; however, if deemed warranted, he would ensure an expeditious Individual Education Plan (IEP) process.

In the case of youth [REDACTED], a lack of cooperation and cohesiveness was observed between academic and treatment management teams. School administrators stated it is the responsibility of the treatment team to get youth to school and expressed frustration in regards to the lack of participation in treatment team decisions. The treatment team expressed their own feelings of frustration in regards to the lack of intervention and assistance from the school. In the interim, youth [REDACTED] continues to receive DDMS, and no educational services are being provided.

Uninvolved Youth Placed on Restricted Programs Resulting From the Actions of Youth on Different Living Units

VYCF youth reported concerns to the Deputy Special Master of the OSM regarding program restrictions implemented as a result of the actions of other youth. Specifically, low core programs placed on restricted program ensuing group disturbances occurring on high core living units.

The methodology utilized to ascertain the information regarding the above included evaluation of male low core, high core, BTP, and female living units. Interviews with facility administration, management, SYCCs, and YCCs were conducted. Review of WIN as well as youth on each of the identified living units were interviewed.

There were several instances in the months of January and February in which the Facility was placed on emergency security operations. These incidences occurred on January 8, 2011, January 11, 2011, and February 14, 2011. Emergency Security Operation is generally the result of a Code-3 response in which multiple youth are involved in a group disturbance or there has been an escape or escape attempt. VYCF has three levels of security responses to include: code-1, code-2 and code-3. Code-1 is the least serious security response and code-3 is the most serious response.

Facility administrators state that normal operations are modified to accommodate the security response and ensure the safety and accountability of youth. Documentation and interviews indicate that youth who were not on a living unit in which a group disturbance occurred, are returned to normal program upon the conclusion of security operations and after the receipt of administrative approval.

Youth consistently reported they were placed in their rooms for periods ranging from one to three hours, then resumed normal program. Female youth are less impacted by the security operations. Additionally, all youth interviewed indicated restrictions were brief and intermittent. A review of living unit logs indicate that youth returned to normal program within hours of an emergency security operation.

Multiple staff were interviewed regarding the length of time needed to return the facility to normal operations after an emergency security operation. VYCF staff stated that the use of emergency security operations is infrequent and generally lasts approximately an hour before the facility is returned to normal program.

The slowest reintegration of youth, not involved in a security incident, occurred after the January 8, 2011, and January 11, 2011, incidents on the Casa de Alma living unit. These incidents were the result of two group disturbances. The latter incident resulted in a security operation that lasted about three hours before the security operation was resolved.

Administrative staff reported that several hours were needed on the Casa de Alma living unit to ensure that all youth, who were involved in the emergency security operation, were correctly identified.

Disparities between Male and Female Athletic and Recreational Programs

VYCF female youth reported concerns to the Deputy Special Master regarding athletic and recreational program disparities offered to female youth versus like activities provided male youth. Specifically, athletic programs were reported to be available disproportionately to male and female youth. California Code of Regulations, Title 15, Division 4, Section 1371, (a), states: "Equivalent programming for both female and male minors shall exist for all recreation programs."

Document reviews include: living unit log notations, PSD schedules, recreational schedules, memorandums and correspondence were completed. Interviews with facility administration, school Principal, living unit managers, living unit staff and female youth were completed.

As of March 21, 2011, VYCF is comprised of 229 male youth and 51 female youth for a total population of 280 youth. Male youth comprise 82% of the total facility population while female youth make up the remaining 18%. Female youth are housed in two living units, Mira Loma and Buena Ventura.

Currently, football is the only intramural sports program at VYCF for both male and female youth. Female youth made the request to play in a girl's football league. This request was approved by the facility administration. Shortly thereafter, youth on one of the two female living units (Mira Loma), lost interest and declined to play. This resulted in the end of the football activity for the female youth. Female youth have expressed interest in several other recreation programs such as cheerleading, drill team, basketball, and soccer. However, these programs are not available.

Athletic equipment is provided to youth on both male and female living units. Field recreational activities, the gym, and the swimming pool are scheduled for both male and female youth. An increased emphasis may be placed on male youth athletics during football season, as a result of increased interest from the male youth.

Living unit staff indicate that female youth are more likely to decline outdoor activities in winter months in comparison to male youth. Staff also report that female youth are provided more opportunities to utilize the swimming pool in the summer months and are afforded activities not offered to male youth, such as shopping in the community.