



# OFA ♦ OLR RESEARCH REPORT

January 8, 2007

2007-R-0031

## **STATE OBLIGATIONS UNDER EMILY J. DECISION**

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You asked about the Judicial Branch's and the Department of Children and Families' (DCF) obligations under the Emily J. consent decree, including their cost.

We are waiting for expenditure information from the Judicial Branch, which we will forward to you when we receive it.

### **SUMMARY**

The Emily J. decree applies to both the Judicial Branch's Court Support Services Division and DCF. The plaintiffs brought the case on behalf of children placed in juvenile detention centers. They sought to remedy overcrowding and housing conditions; lengthy stays; and inadequate medical, mental health, and educational services.

The case history is complex. It was filed in 1993. In March 1997, the court approved a consent agreement whose requirements applied primarily to the Judicial Branch. These included requirements for detention centers concerning living conditions; recreation and programming; staffing and staff training; behavior management and discipline; family support; communication privileges; and medical, mental health, and education services. The agreement required the Judicial Branch to establish minimum numbers of residential and nonresidential community placements as alternatives to incarceration and pretrial community support services. It required DCF caseworkers to visit detained youth on their caseloads at least once a month. And it required that a monitor be appointed to make sure the parties complied with its terms.

The plaintiffs returned to court arguing that the Judicial Branch and DCF had not provided adequate services, particularly mental health services. In June 2002, the court approved a stipulated agreement and a corrective action plan the departments had developed. The agreement and plan ordered the departments to concentrate on improving four main areas for children with mental health needs: screening, assessment, planning, and services. The agreement and plan were to be in effect for three years.

A third court-ordered agreement, this one approved in June 2005, replaced the 2002 agreement and corrective action plan. It targeted DCF and established the agency's current obligations. It ends September 30, 2007 unless the court finds DCF has not complied with its terms. The agreement calls for DCF to increase the number of children diverted from residential placement, giving preference to those in detention.

## **JUDICIAL BRANCH OBLIGATIONS**

### ***1997 Consent Decree***

The 1997 consent decree primarily affected the Judicial Branch, which is responsible for operating the juvenile detention centers. The obligations it imposed affected most aspects of detention center operations and treatment of the children in them. These included requirements concerning living conditions; housing; recreation and programming; staffing and staff training; behavior management and discipline; family support; communication privileges; and medical, mental health, and education services. Table 1 outlines some of the principal obligations that decree imposed on the Judicial Branch, particularly those that might require funding.

**Table 1: Judicial Branch Obligations under 1997 Emily J. Consent Decree**

<b><i>Service Area</i></b>	<b><i>Provisions</i></b>
Living Conditions	<ul style="list-style-type: none"> <li>• Correct health, fire, building code violations</li> <li>• Provide a bunk or bed for each youth so that no one sleeps on floors</li> <li>• Maintain sufficient hot water for each detainee to take a 10-minute shower daily</li> <li>• Maintain sufficient lavatories to assure access without undue delay</li> </ul>
Housing	<ul style="list-style-type: none"> <li>• Close Jennings Rd (Hdfd.) center by 1/1/96</li> <li>• Make best efforts to meet census goals the decree sets for each center (Bpt.=22, Hdfd.=36, N.H.=38)</li> </ul>

Table 1 (continued)

<b>Service Area</b>	<b>Provisions</b>
Recreation & Programming	<ul style="list-style-type: none"> <li>• Designate recreation and program coordinators for system to design and implement programs</li> <li>• Allocate sufficient numbers of appropriately trained staff, space, and resources</li> <li>• Provide at least one hour daily for large muscle activity (2 hrs. daily on weekends)</li> </ul>
Staff & Staff Training	<ul style="list-style-type: none"> <li>• Staff day and evening shifts with at least one juvenile detention (JDO) or classification program officer (CPO) for every 8 youth</li> <li>• Establish a training program for all JDOs and CPOs that encompasses 21 specified components</li> <li>• Train all current staff within 2 months of consent decree's effective date; train all new staff before assigning them to independent direct care duty</li> <li>• Designate a training coordinator</li> </ul>
Behavior Management, Discipline, Grievance	<ul style="list-style-type: none"> <li>• Implement a behavior management program for each detention center; train staff in behavior management policy</li> <li>• Establish a consistent disciplinary code for all centers</li> <li>• Establish a grievance procedure for youth to resolve issues relating to their care and treatment</li> </ul>
Family Support & Interaction	<ul style="list-style-type: none"> <li>• Provide adequate space for family, attorney, and other visits</li> <li>• Inspect all incoming correspondence for contraband and money</li> </ul>
Medical & Mental Health Services	<ul style="list-style-type: none"> <li>• Assure medical team for each center includes a physician on site at least 3 hours a week and physician assistant or nurse practitioner on-site at least 3 hours a day, 3 days a week</li> <li>• Complete a health assessment, including dental and vision, for each youth within 3 business days of admission</li> <li>• Assure a mental health team for each center includes a psychiatrist on site at least 3 hours a week and a master's level mental health clinician on site 3 hours a day, 5 days a week</li> <li>• Conduct mental health assessments and evaluations, address immediate issues identified during screening and crisis intervention as needed, begin and monitor psychotropic medication; conduct individual and group interventions as needed</li> <li>• Assure trained staff available to perform health and mental health screening at intake</li> <li>• Adequately train health staff regarding screening and recognizing medical problems</li> <li>• Train JDOs in medication administration and recognizing mental health problems</li> <li>• Establish statewide oversight team to recommend and review policies, monitor services</li> </ul>
Education	<ul style="list-style-type: none"> <li>• Provide 3 classrooms in Hartford and New Haven centers, 2 in Bridgeport and try to provide space for related services</li> <li>• Provide at least 4 hours daily instructional time for each youth within 10 days of admission</li> </ul>
Intake, Assessment, Classification	<ul style="list-style-type: none"> <li>• Complete classification review for each youth as soon as reasonably possible after admission</li> <li>• Provide appropriate care to any youth identified at screening as at risk of suicide, self-injury, or drug or alcohol withdrawal</li> <li>• Provide a daily list to DCF of all youth admitted</li> </ul>
Alternative Placement	<ul style="list-style-type: none"> <li>• Establish at least 90 community placements, evenly divided between residential and nonresidential and evenly distributed among Bridgeport, Hartford, and New Haven; requirement ends 6/30/97</li> <li>• Establish a pilot program to provide in-home support services for 15 pretrial delinquent youth and their families pending case disposition; slots evenly divided among Bridgeport, Hartford, and New Haven; requirement ends 6/30/97</li> <li>• Establish at least 30 additional residential or nonresidential community slots to expedite adjudication and placement of pretrial detainees not deemed appropriate for commitment to DCF; requirement ends 6/30/97</li> <li>• Make good faith effort to obtain sufficient appropriations to continue these placement or other pretrial alternatives when the above requirements end through March 2002</li> </ul>
Quality Assurance	<ul style="list-style-type: none"> <li>• Establish uniform and consistent monitoring system</li> </ul>

Table 1 (continued)

<b>Service Area</b>	<b>Provisions</b>
Monitoring	<ul style="list-style-type: none"> <li>• Pay up to \$14,000 annually for expenses of court-appointed monitor and medical and mental health experts with whom the monitor consults</li> <li>• Pay any other monitoring costs and fees the court orders</li> </ul>
Costs and Attorneys Fees	<ul style="list-style-type: none"> <li>• Pay \$195,000</li> </ul>

The decree contained two exhibits in which the parties agreed to the funding needed to implement the decree. The first listed the annual cost for staff, equipment, program and maintenance supplies, contractual services, and overtime. These totaled \$5,290,102. The second listed annual estimated costs after the first year. These totaled \$1,430,202. These exhibits are contained in Attachment 1.

**2002 Stipulated Agreement and Joint Corrective Action Plan**

The 2002 agreement and corrective action plan replaced the 1997 decree. Table 2 outlines some of the principal obligations that these imposed on the Judicial Branch, particularly those that might require funding.

**Table 2: Judicial Branch Obligations Under 2002 Emily J. Stipulated Agreement and Corrective Action Plan**

<b>Service Area</b>	<b>Provision</b>
Recreation and Programming	<ul style="list-style-type: none"> <li>• Provide varied activities appropriate to the ages and interests of youth and activities for youth with special medical or mental health needs in accordance with national standards</li> <li>• Provide 1 hour of recreation for "special management youth" (i.e., those with disciplinary problems)</li> </ul>
Housing	<ul style="list-style-type: none"> <li>• Make reasonable efforts to meet new, higher census goals (Bpt. = 24, Htfd. = 38, N.H. = 38)</li> <li>• Review census daily; convene team when any center reaches 125% of census to determine who could be released within 24 to 48 hours and prepare recommendations for court action</li> <li>• Meet quarterly with plaintiffs to review census trends, discuss strategies when goals are exceeded, and discuss best practices</li> <li>• Establish a system to monitor return rates from alternative and community detention programs to detention centers</li> </ul>
Discipline	<ul style="list-style-type: none"> <li>• Adopt new discipline policy consistent with national standards within 90 days of agreement's approval</li> </ul>
Education	<ul style="list-style-type: none"> <li>• Arrange for a correctional education evaluation of each center at a cost up to \$2,000 per center</li> <li>• Make space available for additional classrooms as needed</li> </ul>

Table 2 (continued)

<b><i>Service Area</i></b>	<b><i>Provision</i></b>
Mental Health Services	<ul style="list-style-type: none"> <li>• Screen each youth upon admission, using a multidisciplinary team, to assess risk, mental health issues, family and community supports, and educational issues</li> <li>• Provide treatment for every youth in detention with serious mental health needs</li> <li>• Make screening findings and recommendations available to Superior Court at initial detention release hearing</li> <li>• Based on screening, recommend comprehensive evaluation of any youth whose mental health needs require one and determine whether youth should be confined, returned to community, or hospitalized for evaluation</li> <li>• Provide court-based assessment or multidisciplinary outpatient assessment if court decides at initial detention release hearing this is needed</li> <li>• Arrange for comprehensive, two-week, multidisciplinary outpatient evaluations, including a home visit, for each youth ordered to have such an evaluation; if evaluation results in determination that youth has serious mental health needs, develop an individualized service plan that includes placement options</li> <li>• Upgrade alternative detention program facilities' services so they are substantially similar to detention centers' services</li> </ul>
Staffing and Staff Training	<ul style="list-style-type: none"> <li>• Maintain training program that complies with national standards</li> <li>• Provide annually appropriate training for all line staff</li> <li>• Train multidisciplinary teams conducting admission screenings</li> </ul>
Quality Assurance	<ul style="list-style-type: none"> <li>• Continue quality improvement contract for medical and mental health services with UConn Health Center or other vendor</li> <li>• Provide procedural, practice standard, and documentation audits for 3 community-based secure detention centers; conduct quality assurance monitoring of alternative detention programs</li> <li>• Complete medical and mental health policies and procedures that comply with national standards</li> <li>• Continue to contract for on-going training for detention center staff, including crisis intervention training</li> </ul>
Consultant	<ul style="list-style-type: none"> <li>• Contract with consult to provide services pertaining to agreement, as the defendants deem appropriate</li> <li>• Compensate consultant up to \$25,000 per year plus reasonable expenses</li> </ul>
Costs and Attorneys Fees	<ul style="list-style-type: none"> <li>• Pay \$23,575 in costs and attorneys fees</li> </ul>

**DCF OBLIGATIONS**

***1997 Consent Decree***

The 1997 decree required DCF to:

promptly determine whether any newly admitted youth had been committed to the agency's care or were subject to a petition to do this,

establish procedures to insure its caseworkers visit any committed youth at least once a month, and

work closely with the youth's attorney and probation officer to assist in placement decisions that involve alternative placement.

## **2002 Stipulated Agreement and Joint Corrective Action Plan**

See 2002 Joint Obligations, below.

## **2005 Settlement Agreement**

The 2005 agreement applied solely to DCF. Its object was to provide supplemental services to increase the number of youth diverted from residential placement. It required the agency to provide the following mental health services:

1. at least 10 to 15 multidimensional treatment foster care slots;
2. at least 14 to 20 multidimensional treatment foster care slots for Hartford youth;
3. therapeutic group home slots for four to six Hartford youth;
4. outpatient substance abuse services for approximately 25 Hartford youth;
5. \$200,000 in flexible funds to purchase services to help Hartford youth stay out of residential treatment (at least \$100,000 for education-related services);
6. at least 12 months of support and treatment services to approximately 30 families of Hartford youth that have completed multisystemic therapy;
7. wraparound home-based behavioral health treatment services for Hartford youth, including trauma-focused, gender-specific treatment;
8. therapeutic mentors for at least 25 Hartford youth; and
9. a special pre-adjudication case review protocol for DCF- involved youth.

The decree required DCF, by October 1, 2006, to provide a similar array of services statewide to children in the detention system who would otherwise be placed in residential treatment facilities. It limited the cost for this service extension to \$3.5 million above the cost of providing the services in the first year.

## **JOINT OBLIGATIONS**

### ***2002 Agreement and Joint Plan***

The 2002 Joint Corrective Action Plan assigned obligations that the Judicial Department and DCF were apparently to carry out jointly. These included:

reviewing the intake screening process within 60 days of the action plan's approval and making recommendations to replace or continue the use of screening instruments,

appointing a coordination team to match treatment recommendations resulting from multidisciplinary evaluations (see Table 2) with appropriate and timely community-based and residential treatment services,

making available the array of services and placements generally available to youth with mental health needs in order to implement the treatment recommendations and services in the individualized service plans developed through the evaluation process,

implementing 130 multisystemic therapy slots for youth returning to their communities and outpatient services for up to 40 youth through adolescent community treatment,

contracting for community psychiatric time for up to 100 youth released to the community to ensure medication and other treatments are available, and

paying reasonable fees, costs, and expenses of the court-appointed monitor and mental health consultant.

### ***2005 Settlement Agreement***

The agreement required DCF and the Judicial Branch, by October 1, 2005, to provide specialized training on care coordination and applying "wraparound care coordination principles and practices" for all DCF workers and parole and probation officers assigned to Hartford youth who had not already been trained. It specified which staff would act as case managers in different situations and prescribed responsibilities to other staff depending on the youth's situation. It required DCF to extend this training statewide by October 1, 2006.

## DCF COSTS

DCF has spent nearly \$15 million since FY 03 to meet its Emily J. obligations. Table 3 displays its DCF's expenditures obligations.

**Table 3: DCF Spending on Emily J., FY 03 to FY 07**

<b>Services</b>	<b>FY 03</b>	<b>FY 04</b>	<b>FY 05</b>	<b>FY 06</b>	<b>FY 07 (est.)</b>
<b>Community-Based Services<sup>1</sup></b>					
Flexible Funds Pool				\$325,000	\$400,000
Therapeutic Mentoring				56,250	76,126
Outpatient Substance Abuse Treatment				187,500	253,750
Multi-Dimensional Treatment Foster Care				287,282	998,460
Group Homes				347,359	964,250
Multisystemic Therapy (MST) Aftercare Pilot				172,500	233,450
Statewide Expansion of Community Based Services (outside Hartford)					3,500,000
<b>Community Based Services - Total</b>				<b>1,375,891</b>	<b>6,426,036</b>
<b>Intermediate Forensic Evaluations</b>	<b>\$427,404</b>	<b>\$1,572,549</b>	<b>\$1,381,418</b>	<b>1,449,051</b>	<b>1,674,811</b>
<b>HomeCare Program (DCF/UHC)</b>					

Table 3 (continued)

<b>Services</b>	<b>FY 03</b>	<b>FY 04</b>	<b>FY 05</b>	<b>FY 06</b>	<b>FY 07 (est.)</b>
Aggregate Program Cost (DCF)		155,000	227,564	306,054	404,000
CSSD's Share of Program Cost			(113,782)	(167,027)	(202,000)
<b>HomeCare Program - Final DCF Cost</b>		<b>155,000</b>	<b>113,782</b>	<b>139,027</b>	<b>202,000</b>
<b>Total DCF Cost -- Emily J.</b>	<b>427,404</b>	<b>1,727,549</b>	<b>1,495,200</b>	<b>2,963,969</b>	<b>8,302,847</b>

1. See Attachment 2 for definitions of community-based services  
Sources: OFA, DCF

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