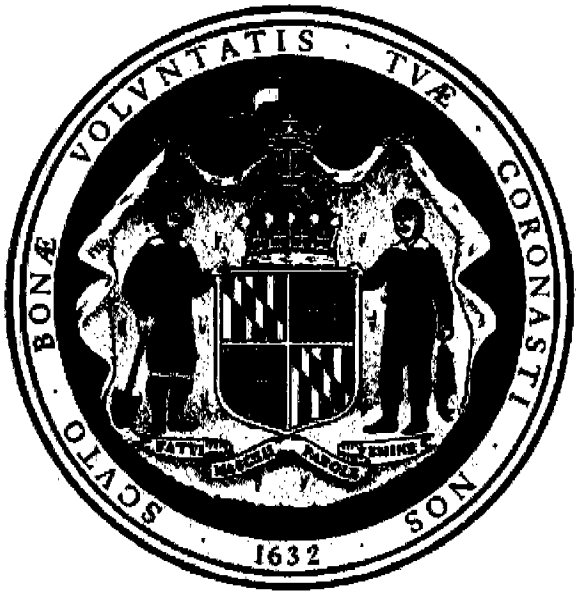
# *ANNUAL REPORT*

## *JULY 1, 2003 – JUNE 30, 2004*

## *THE OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR*




*Robert L. Ehrlich, Jr. – Governor*
*Michael S. Steele – Lt. Governor*
*M. Teresa Garland, Esq. – Special Secretary,*
*Governor's Office for Children, Youth, & Families*

# *INTRODUCTION*

In accordance with my statutory responsibility as the Executive Director of the Office of the Independent Juvenile Justice Monitor, I respectfully submit this annual report, the second since the codification of the Office of the Independent Juvenile Justice Monitor in October 2002. Although three new secure juvenile detention facilities opened this past year, detention facilities continue to experience a high incidence of serious issues, including life, health, and safety concerns. The newly constructed facilities, Baltimore City Juvenile Justice Center, Lower Eastern Shore Children's Center, and Western Maryland Children's Center, all have significant physical plant deficiencies that pose life, health, and safety concerns for both youth and staff. In addition, the Baltimore Juvenile Justice Center, staffed for only 48 youth, had in excess of 100 youth in residence on a regular basis at the end of fiscal year 2004. The lack of sufficient staffing impacts the ability of this facility to provide adequate programming and youth do not have a reasonable expectation of safety.

Cheltenham's population has been reduced since the opening of the Baltimore Juvenile Justice Center, but this facility remains understaffed and is in need of continued program enhancements. Further, the pattern of under-reporting incidents persists in this facility. The administration of the Charles H. Hickey School was transferred from a private vendor to the Department of Juvenile Services on April 1, 2004. Many physical plant problems at Hickey are now being addressed by the Department of Juvenile Services. However, the replacement of air vents in the youths' bedrooms that pose a potential suicide hazard remain unabated in spite of this issue being repeatedly cited by this Office since 2000. At the time of this writing, Hickey still experiences a similar pattern of assaults and violence as was the case when this facility was privately operated.

In order to address allegations of abuse and neglect within Hickey, this Office facilitated the development and ratification of a multi-agency child abuse protocol agreement establishing and clarifying responsibilities of all involved agencies. The Baltimore County Department of Social Services has allocated significant personnel resources to this initiative resulting in enhanced investigations and timely multidisciplinary reviews of alleged cases of abuse and neglect. It is hoped that other jurisdictions in Maryland will benefit from this initiative and establish their own protocol agreements to appropriately address allegations of institutional abuse in facilities.

This Office also initiated, in partnership with the Department of Juvenile Services, a staff training needs assessment and curriculum of training for staff at Cheltenham and Hickey conducted by the National Juvenile Detention Association (NJDA). On site training for staff at Cheltenham is scheduled to commence this fall. NJDA's intervention of this nature in several other states has resulted in a positive change of culture within juvenile detention facilities improving quality of programming and safety. Additional funding has been secured for the expansion of this project to some of the other detention facilities throughout Maryland.

The issues confronting Maryland's juvenile justice system are numerous and serious. These issues are long standing, not the product of any one administration, and must first be openly acknowledged in order to be properly addressed and eventually overcome. The voices of concern regarding Maryland's juvenile justice system have also been numerous and are from a diverse perspective. Those voicing dispair over these conditions are stakeholders who have a vital role to play in the transformation of Maryland's juvenile justice system. Lacking, though, has been the opportunity to move ahead with a unified plan, or at least a consenus, involving all appropriate parties.

Maryland has the capacity to make such a transformation and has a wealth of concerned and knowledgable citizens. It is the recommendation of this Office that a juvenile justice summit be summoned, commissioned by the Governor, and charged with reporting on a comprehensive approach to remedy the issues confronting Maryland's juvenile justice system.

Our Office looks forward to continuing in our work to assist in the transformation of Maryland's juvenile justice system.

Ralph B. Thomas
Executive Director
Office of the Independent Juvenile Justice Monitor

# *MISSION STATEMENT*

***To promote the positive transformation of the juvenile justice system to meet the needs of Maryland's youth, families, and communities.***

***This mission is accomplished by:***

- ***Collaborating with all who are involved with the juvenile justice system;***
- ***Collecting and evaluating all information;***
- ***Reporting findings and recommendations; and,***
- ***Monitoring actions taken.***

# *HISTORY OF THE OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR*

During the winter of 1999, the former Maryland Department of Juvenile Justice received national media coverage concerning the treatment of youth in their boot camp facilities. A thorough task force investigation of the Department was ordered. One of the outstanding findings of this task force was that there was no oversight of the Department.

Recognizing the need for external review of the Department's residential facilities, the establishment of an Independent Juvenile Justice Monitor was proposed within the Subcabinet for Children, Youth, and Families. As a result, in February of 2000, the Department of Juvenile Justice and the Subcabinet for Children, Youth, and Families signed a Memorandum of Agreement (MOA) establishing the Office of the Independent Juvenile Justice Monitor within the Governor's Office for Children, Youth, and Families.

The responsibilities of the Independent Monitor, per the MOA, included reviewing and evaluating the child advocacy-grievance process in the Department of Juvenile Justice; the operation of the Department's Inspector General; the treatment of and services to youth; and the physical plant conditions in facilities.

In September of 2000, the Office of the Independent Juvenile Justice Monitor became operational with the hiring of two monitors. However, it became apparent that the Office of the Independent Monitor required additional staffing in order to adequately maintain a level of review consistent with its assigned responsibilities. In late March 2001, three additional monitors were hired through a grant from the Governor's Office of Crime Control and Prevention.

While the Office of the Independent Juvenile Justice Monitor identified issues and concerns within its assigned facilities, there was a perceived lack of autonomy and permanency of function. Funding for the Office was derived from transferred monies from the Department of Juvenile Justice's budget. Also, any party to the Memorandum of Understanding establishing the Office could terminate this agreement based upon on the annual review of this agreement.

In order to address these issues, legislation to codify the Office of the Independent Juvenile Justice Monitor was introduced and passed unanimously in the 2002 legislative session. HB 971 was signed into law on April 25, 2002 with an effective date of October 1, 2002. As a result of HB 971, funding for the Office was derived from general funds and the statutory duties of the Office were identified to include the evaluation at each facility of:

- The child advocacy grievance process;

- The Department's monitoring process;
- The treatment of and services to youth;
- The physical conditions of the facility; and,
- The adequacy of staffing.

In order to carry out these functions, HB 971 provides that the Office shall:

- Review all reports of disciplinary actions, grievances, and dispositions and alterations in the status or placements that result in more security, additional obligations, or less personal freedom.
- Receive copies of the grievances submitted to the Department.
- Perform unannounced site visits and on-site inspections.
- Receive and review all incident reports submitted to the Department from facilities.
- Receive reports of the findings of child protective services investigations of allegations within facilities.
- Be available to attend meetings of the State Advisory Board and facility advisory boards.

Further, HB 971 provides that the Office may:

- Review relevant laws, policies, procedures, and juvenile justice records, including records relating to individual youth.
- On request, conduct interviews with staff, youth, and others.
- Review investigative reports produced by the Department relating to youth in facilities.
- Participate, within the context of the local department of social services' multidisciplinary team process, in a child protective services investigation concerning any allegation of abuse or neglect within any assigned facility.

# STAFF

***Ralph Thomas,*** Executive Director, directs and coordinates the activities of the office. He possesses a Master of Science degree in Juvenile Justice from Eastern Kentucky University. Mr. Thomas began his career as a juvenile probation officer advancing to a probation director. Subsequently, Mr. Thomas served as a regional manager with the Virginia Department of Juvenile Justice responsible for various residential and community based programs. He has also served as an adjunct instructor in criminal justice at Central Texas College.

***Earl El-Amin,*** Deputy Director, assists in the coordination of activities in the office. He also monitors facilities in the greater Baltimore area including the Baltimore Juvenile Justice Center. Prior to his current position, Mr. El-Amin served as ombudsman with GOCYF, was the director of an acclaimed youth diversion program and served as a consultant in the closure of the Montrose School. He is also an adjunct instructor at Sojourner-Douglass College. Mr. El-Amin has published numerous articles on juvenile justice. He has a Bachelor of Science degree from Morgan State University and a Bachelor of Arts degree from Sojourner Douglass College.

***Philip "Jeff" Merson,*** Juvenile Justice Monitor, monitors facilities in Central Maryland. He is responsible for the Charles H. Hickey School, the Thomas J. S. Waxter Children's Center, the Thomas O'Farrell Youth Center and the Sykesville Shelter Home for females. Mr. Merson served 26 years with the Maryland State Police and retired as a Sergeant in 1999. He served 5 years on the Special Tactical Assault Team Element for the State Police, was instrumental in establishing the Child Abuse Sexual Assault Unit in Carroll County, and he spent the last 6 years of his career with the FBI on a Violent Crime Task Force in Baltimore City. Upon retirement, Mr. Merson became the Admissions Coordinator for Bowling Brook Preparatory School, a highly touted private residential treatment facility for aggressive adjudicated young men. Mr. Merson then became an investigator with the Department of Juvenile Justice and served as the Assistant Director of Investigations from 2000 through 2001 before joining the Office of the Independent Juvenile Justice Monitor. Mr. Merson holds a Master's degree in Education from Loyola College.

***Kim Bones,*** Juvenile Justice Monitor, works with facilities in Eastern Maryland. She monitors Cheltenham Youth Center, J. DeWeese Carter Children's Center, Alfred D. Noyes Children's Center; Eastern Shore Structured Shelter Care, and the Lower Eastern Shore Children's Center. Previously, Ms. Bones served as Grievance Supervisor investigating staff and inmate grievances in the York County, PA. Prison. She also served as a Hearing Officer on the Disciplinary Hearing Board. Ms. Bones completed an internship in a North Carolina State juvenile detention facility and has also worked in a number of residential and community based programs in Maryland and Pennsylvania,

including electronic monitoring. She has a Bachelor of Arts degree from North Carolina Central University.

***Timothy Snyder,*** Juvenile Justice Monitor, works with facilities in Western Maryland. He is assigned to the Allegany County Girls' Home, Hagerstown Holdover Center, the four Youth Centers and the Western Maryland Children's Center. Mr. Snyder has a Master of Arts degree in Pastoral Counseling with special emphasis in marriage and family counseling from LaSalle University. Mr. Snyder was the Director of the New Dominion School in Maryland, a residential program for troubled youth, prior to his current position. Mr. Snyder has worked in various capacities in youth residential settings previously and has served as a consultant to families experiencing difficulties with their children.

***Phyllis Polston,*** Legal and Compliance Administrative Assistant, provides ongoing support and coordination for the activities of the Office of the Independent Juvenile Justice Monitor and the Assistant Attorney General for GOCYF. Ms. Polston has seventeen years of State experience within the Executive Department. She has two years of college credit and has participated in extensive trainings and conferences. Prior to State employment, Ms. Polston worked in the area of child abuse and neglect for a non-profit organization and also in equal employment opportunity/personnel operations within the federal government.

# ASSIGNED DJS FACILITIES

| FACILITY | LOCATION | MONITOR |
|---|---|---|
| Allegany Girls Group Home | Allegany County | Tim Snyder |
| Green Ridge Youth Center | Allegany County | Tim Snyder |
| Maple Run Youth Center * | Allegany County | Tim Snyder |
| Thomas J. S. Waxter Children's Center | Anne Arundel County | Jeff Merson |
| Baltimore Juvenile Justice Center | Baltimore City | Earl El-Amin |
| Ferndale Group Home # | Baltimore City | Earl El-Amin |
| Maryland Youth Residence Center | Baltimore City | Earl El-Amin |
| Mount Clare House | Baltimore City | Earl El-Amin |
| William Donald Schaefer House | Baltimore City | Earl El-Amin |
| Guide Northeast Shelter Home | Baltimore County | Earl El-Amin |
| Charles H. Hickey, Jr. School | Baltimore County | Jeff Merson |
| Thomas O'Farrell Youth Center | Carroll County | Jeff Merson |
| Sykesville Group Shelter Home | Carroll County | Jeff Merson |
| Eastern Shore Structured Shelter Care # | Dorchester County | Kim Bones |
| Hurlock Youth Center * | Dorchester County | Kim Bones |
| Victor Cullen Academy * | Frederick County | Jeff Merson |
| Backbone Mountain Youth Center | Garrett County | Tim Snyder |
| Meadow Mountain Youth Center | Garrett County | Tim Snyder |
| Savage Mountain Youth Center | Garrett County | Tim Snyder |
| J. DeWeese Carter Children's Center | Kent County | Kim Bones |
| Alfred D. Noyes Children's Center | Montgomery County | Kim Bones |
| Cheltenham Youth Facility | Prince George's County | Kim Bones |
| Hagerstown Holdover Program # | Washington County | Tim Snyder |
| Western Md. Children's Center | Washington County | Tim Snyder |
| Lower Eastern Shore Children's Center | Wicomico County | Kim Bones |

** Facility not currently in operation*

*# Facility closed during FY 2004*

# OFFICE ACTIVITIES FOR FISCAL 2004

## *VISITATION*

As illustrated in the preceding chart, monitors are assigned to specific facilities. The monitors are deployed on a regional basis in proximity to their homes and assigned facilities in order to maximize the level of visitation. Many visits by monitors occur on evenings and/or weekends when there is a higher incidence of problems. Most visits are unannounced. Also, monitors make more frequent visits to the larger, physically secure facilities due to the higher incidence of issues within these programs. During FY 2004 the Office of the Independent Juvenile Justice Monitor made 500 visits to 23 facilities, an increase of 24% as compared to FY 2003 (see Appendix A).

During visits, monitors interview both youth and staff. In addition, monitors review facility records including cottage logs, grievance reports, incident reports, suicide watch forms, medical data, and staffing assignments. Further, monitors make inspections of the facilities to determine the status of the physical plant.

State Advisory Councils exist in some of the Department of Juvenile Services facilities. These councils are composed of members of the community and local governing bodies who are charged with making recommendations to the Secretary to improve the conditions within these facilities. The monitors attend and participate in these meetings on a regular basis.

## *REPORTING*

Based upon the monitors' visitation to facilities, written reports are developed and submitted. Timely visitation reports are issued to the Subcabinet, the Secretary of the Department of Juvenile Services, the Special Secretary of the Governor's Office for Children, Youth, and Families, the Speaker of the House, and the President of the Senate generally on a quarterly basis. Special visitation reports detailing significant events are occasionally issued on a more frequent basis as circumstances dictate.

Both types of reports contain a corrective action plan noting the monitor's findings and recommendations. The Department of Juvenile Services is charged with completing this corrective action plan to address and remedy the issues cited. The Office of the Independent Juvenile Justice Monitor reviews the corrective action to determine if the stated plan properly addresses the issues cited. If, in the opinion of the Office of the Juvenile Justice Monitor, the plan fails to adequately address the issues cited, the corrective action plan is returned to the Department of Juvenile Services with comment and a request to amend. The Department of Juvenile Services then resubmits the corrective action plan. If the Office of the Independent Juvenile Justice Monitor and the Department of Juvenile Services cannot reach agreement on the corrective action plan, the matter may be referred the Special Secretary of the Governor's Office for Children, Youth, and Families and Secretary of the Department of Juvenile Services for resolution.

In addition to the Timely Reports, the Office of the Independent Juvenile Justice Monitor issues Quarterly Reports, a summarized version of the findings and recommendations contained in the Timely Reports. The Quarterly Reports also contain the Department of Juvenile Services' responses to the Office of the Independent Juvenile Justice Monitor's findings and recommendations.

Finally, the Office of the Independent Juvenile Justice Monitor issues an Annual Report. Both the Quarterly Reports and the Annual Report may be accessed on the internet at: www.ocyf.state.md.us by clicking on Monitoring.

The above referenced reporting requirements are mandated by HB 971, which became effective October 1, 2002. The reporting requirements of HB 971 are as follows:

1. In a timely manner to the Subcabinet, Special Secretary, the Secretary, the Speaker of the House of Delegates, and the President of the Senate
    - Knowledge of any problem regarding the care, supervision, and treatment of children in facilities;
    - Findings, actions, and recommendations, related to the investigation of disciplinary actions, grievances, incident reports, and alleged cases of child abuse and neglect; and
    - All other findings and actions related to the monitoring required by HB 971.

2. Quarterly to the Special Secretary and Secretary, the State Advisory Board for Juvenile Justice, the Speaker of the House of Delegates, and the President of the Senate
    - All activities of the Office;
    - Actions taken by the Department resulting from the findings and recommendations of the Independent Monitor, including the Department's response; and
    - A summary of any violations of the standards and regulations of the Department that remain unabated for 30 days or more during the reporting period.

3. Beginning in 2003, on or before November 30 of each year, the Office shall report to the Special Secretary, the Secretary, the State Advisory Councils, the Governor, the Speaker of the House of Delegates, and the President of the Senate
    - All activities of the Office; and
    - *Actions taken by the Department in response to findings and* recommendations of the Independent Monitor.

In addition, a Standard Operating Procedure (SOP) between the Office of the Independent Juvenile Justice Monitor and the Department of Juvenile Services was ratified in November 2003. Consistent with the provisions of HB 971, the SOP includes the criteria and standards used in monitoring facilities, the monitoring process itself, the sharing of information between DJS and the Independent Monitor, and the methods of documentation and reporting to the Secretary of DJS and the Subcabinet (See Appendix B).

Please see Appendix C for a flow chart illustrating the reporting requirements of the Office of the Independent Juvenile Justice Monitor as required by HB 971 and the Standard Operating Procedure.

### *REVIEW OF DJS INCIDENT AND INVESTIGATIVE REPORTS*

The Department of Juvenile Services maintains a system wide incident reporting database which the Office of the Independent Juvenile Justice Monitor may access via the internet. Monitors regularly review this database as well as other reports and information resulting from their visits. In addition, the Office of the Independent Juvenile Justice Monitor obtains hard copies of the submitted incident reports that include supplemental information such as witness statements. Subsequently, DJS provides the Office of the Independent Juvenile Justice Monitor with copies of completed investigative reports. The information gathered from the review of the incident reporting process and the investigative reports allows monitors to determine whether accurate information is being collected by the Department regarding facility operations, assists in the collaboration with the Department's internal monitoring and investigation division (Office of Professional Responsibility and Accountability – OPRA), and helps identify potential trends within facilities.

### *GRIEVANCE REVIEW*

Monitors, during their facility visitation, discuss with youth their knowledge of and satisfaction with the Department of Juvenile Services' grievance process. The Department of Juvenile Services assigns Child Advocates to facilities who review and process youth grievances. If a youth has not forwarded a grievance to the assigned Child Advocate, the monitor will normally encourage him/her to do so or make the referral on behalf of the youth. Monitors also regularly dialogue with the Child Advocates regarding activities and concerns within the facilities.

### *LEGISLATIVE AND POLICY ADVOCACY*

The Office of the Independent Juvenile Justice Monitor, as part of the Governor's Office for Children, Youth, and Families, has opportunity to review and offer comment on proposed legislation impacting youth.

## *CHILD ABUSE AND NEGLECT*

Abuse of youth within residential settings has been a particular concern of this Office. In its monitoring activity, this Office has identified numerous issues associated with the reporting, investigation, and disposition of allegations involving the abuse and neglect of youth within residential settings. Not all cases of alleged child abuse and neglect are reported by residential facilities to the proper authorities. If reported, sometimes the local Department of Social Services and the appropriate law enforcement entity may not coordinate their investigatory initiatives. Further, one agency may not know of the other's disposition of a case. This has occasionally allowed a person who has abused or neglected a youth to remain in contact with youth in residential settings.

House Bill 971 allows the Office of the Independent Juvenile Justice Monitor to receive notice from local Department of Social Services when an allegation of abuse and neglect is reported within one of this Office's assigned facilities. Further, this Office may participate in a multidisciplinary team process with the child protective services investigation.

In addition, in February 2004 the Maryland Attorney General issued an opinion in response to an inquiry by the Governor's Office for Children, Youth, and Families Special Secretary, M. Teresa Garland, concerning the Office of the Independent Juvenile Monitor's function with regard to the reporting of child abuse and neglect. The Attorney General concluded that the Independent Monitor may, and should, include findings and recommendations regarding public agency performance in response to allegations of child abuse and neglect at DJS facilities while complying with appropriate law governing confidentiality. Further, the opinion held that so long as the Independent Monitor's report is in compliance with confidentiality requirements that the report may be subject to public inspection pursuant to a Maryland Public Information Act request (See Appendix D for the full opinion).

The monitors have been instrumental in bringing together personnel from the local Department of Social Services, State Police, State's Attorney's Office, and Department of Juvenile Services to develop a draft protocol for the handling of allegations concerning abuse and neglect in a number of jurisdictions. One such agreement, the Baltimore County Interagency Agreement on the Investigation of Child Abuse and Neglect at the Charles H. Hickey School, was signed by all concerned parties and enacted on April 22, 2004 (See Appendix E).

While this additional involvement with the child abuse investigatory process has assisted this Office in its work in this area, many problems remain. Recognizing this, the Special Secretary and Secretaries of the Department of Juvenile Services and the Department of Human Resources have established a multi-agency task force to further address these issues and make recommendations for change. A draft report is being prepared for release in the near future with specific recommendations for action.

## *INTERAGENCY RELATIONS*

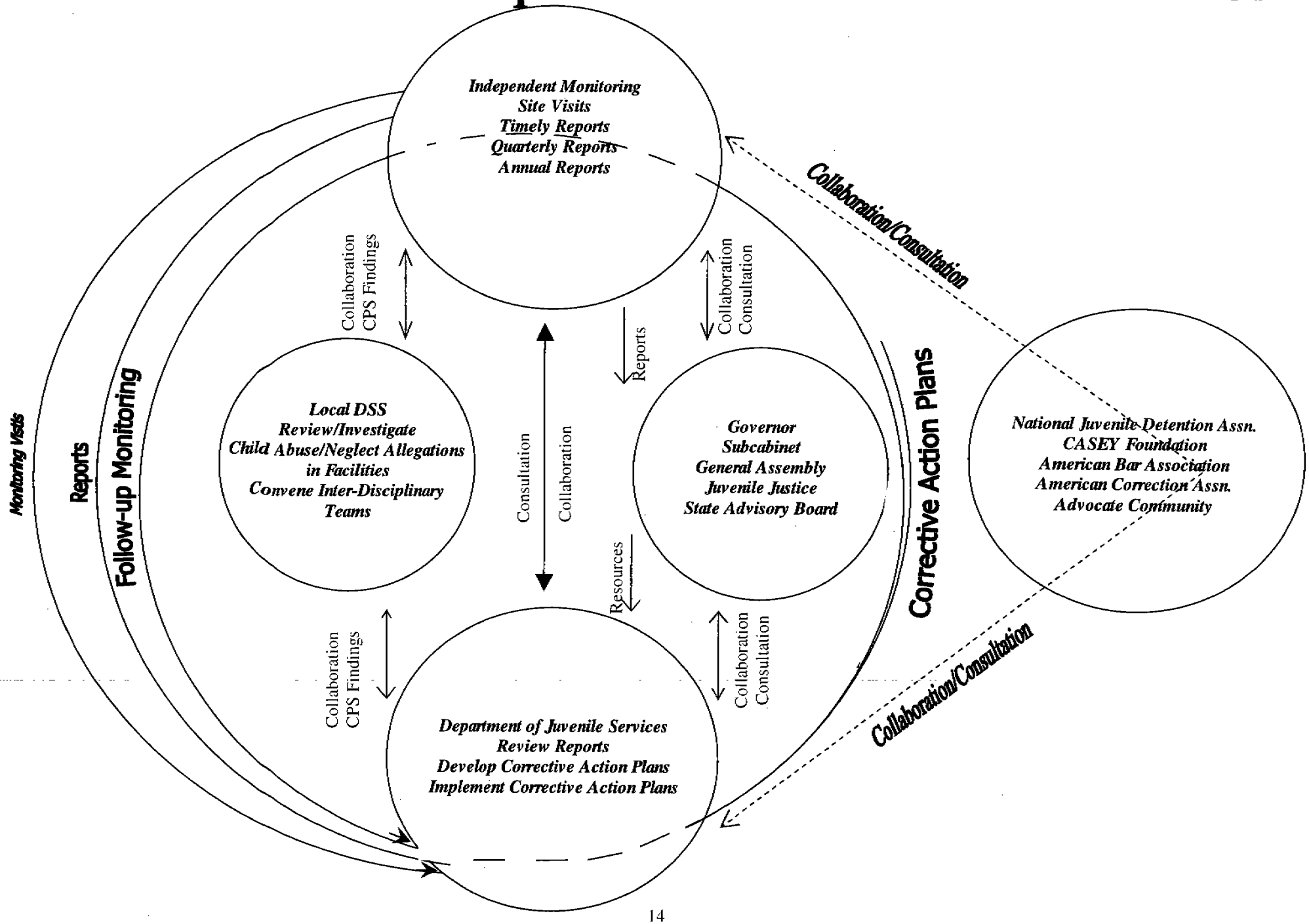
The Office of the Independent Juvenile Justice Monitor has established productive working relationships with other youth-serving agencies and organizations. These agencies and organizations include:

- Detention Response Unit of the Baltimore Public Defender's Office
- Maryland Disability Law Center
- Suicide Prevention Network
- American Bar Association
- Annie E. Casey Foundation
- National Juvenile Detention Association
- American Correctional Association
- National Center on Institutions and Alternatives
- State Juvenile Justice Advisory Board
- State Juvenile Justice Advisory Councils
- Maryland State Police
- State's Attorney's Offices
- Maryland Association of Resources for Families and Youth
- Maryland Juvenile Justice Coalition
- Local Management Boards
- Local Departments of Social Services

## *BUSINESS PROCESS OR SERVICE DELIVERY IMPROVEMENT*

The following strategy map offers a visual diagram showing the various factors that influence desired outcomes with regard to the work of the Office of the Independent Juvenile Justice Monitor. These factors include various program components and strategies, external forces, effects from other State agencies or other governmental and private sector organizations. The diagram maps out the cause and effect relationships among these various system components showing improvements in outcomes.

# Office of the Independent Juvenile Justice Monitor



# *ACCOMPLISHMENTS*

- Staff from the Office of the Independent Juvenile Justice Monitor attended and participated in numerous statewide boards, workgroups and committees. A summary includes:
    - Juvenile Justice Advisory Board
    - Out of Home Legislative Workgroup
    - Interagency Institutional Abuse Workgroup
    - DJS Commitment Care Standards Committee
    - DJS Due Process Development Workgroup
    - Task Force to Study Alternative Living Arrangements for Children in Out of Home Placements
    - Youth Centers' Citizen Advisory Committee
    - Maryland Female Taskforce
    - Detention Reform Committee
    - Task Force to Study the Mentoring and Monitoring of Children in the Custody of or Under the Supervision of DJS
    - Restraint and Seclusion Task Force
    - Children's Justice Act Committee
    - Child Abuse Multidisciplinary Teams

- Initiated and coordinated efforts to develop and/or update Institutional Child Abuse Response Protocol Agreements between local Child Protective Services, the Maryland State Police, the Department of Juvenile Services and juvenile facilities in the counties of Baltimore (Hickey), Montgomery (Noyes), Anne Arundel (Waxter), and Carroll (Thomas O'Farrell and Sykesville Shelter).

- Provided eight (8) six-hour training modules on Child Abuse and Neglect Recognition and Reporting and eight (8) two-hour training modules on Juvenile Rights for approximately 200 new employees of the Department of Juvenile Services. These entrance level training courses are certified through the Maryland Police and Corrections Training Commission.

- Presented a training module on Interagency Response to Institutional Child Abuse and Neglect at the Governor's 11th Annual Conference on Child Abuse and Neglect.

- Facilitated a tour of the Prince William County, Virginia Boys Group Home and Day Treatment Program attended by members of the General Assembly, Governor's Office, and DJS demonstrating how local development and governance of a system of community based programs, in partnership with the state, has been successful in regionalizing services.

- Partnered with DJS, at the request of the Office of the Independent Juvenile Justice Monitor, to have the National Juvenile Detention Association conduct a staff training needs assessment at the Cheltenham Youth Facility and the Charles H. Hickey School. Subsequently, the National Juvenile Detention Association developed and provided a training curriculum to Cheltenham staff.

- Attended and sponsored fifteen (15) DJS staff's attendance at the Annual Joint Conference on Juvenile Justice in Minneapolis, Minnesota.

- Issued several special reports outlining findings and recommendations in response to significant incidents within Department of Juvenile Services' facilities.

- Recommended numerous physical plant enhancements which were completed.

# *FINDINGS AND RECOMMENDATIONS AND DEPARTMENT OF JUVENILE SERVICES ACTIONS*

The last available Office of the Independent Juvenile Justice Monitor's Quarterly Report (see appendix F) covering April-June 2004 provides a current summary of issues by facility and the Department of Juvenile Services' reported actions.

# *OUTSTANDING ISSUES AND RECOMMENDATIONS*

### *DETENTION OVERCROWDING AND INADEQUATE STAFFING*

Overpopulation results from excessive admissions and prolonged lengths of stay, due largely to youth pending permanent placement. Populations exceed budgeted capacity and architectural design and create inadequate staffing ratios. Staffing is inadequate in facilities to provide a reasonable expectation of safety for youth. Life, health and safety issues persist in many facilities, imperiling both youth and staff. Staff members who fear for their own safety cannot be expected to provide meaningful programming. Youth are often idle, especially during weekends and evenings, when staffing is minimal. The Department of Juvenile Services has often cited that it does not control admission to detention and therefore, is unable to alleviate overcrowding. Most juvenile correctional agencies throughout the county share this problem. However, many juvenile correctional agencies have been able to develop partnerships and strategies that have been successful in reducing detention overcrowding. DJS should continue the implementation statewide of its intake risk assessment tool to screen for detention admission. Shelter placements and other community alternatives to detention should also be initiated.

### *CHILD ABUSE*

While progress in the identification, reporting, investigation and disposition of residential child abuse and neglect allegations has been made, continued focus on this matter must occur. The Baltimore County Interagency Agreement addressing roles and responsibilities in the reporting and investigation of allegations of abuse and neglect at the Charles H. Hickey School should serve as a model for other jurisdictions. The rate of abuse and neglect continues at unacceptable levels in DJS facilities. A coordinated and comprehensive approach by all responsible agencies is required in order to appropriately address this issue.

### *CONTINUED ASSAULTS*

A high incidence of youth-on-youth and youth-on-staff assaults continues in larger facilities. The volume of incident reports and grievances taxes the ability of DJS to process and investigate completely. Underreporting of incidents at Cheltenham and the Baltimore Juvenile Justice Center continues to occur. DJS lacks quality-control procedures. To enhance security, we have recommended installation of video monitoring equipment and more managerial reviews of operations.

### *SUICIDE POLICY*

The suicide prevention policy and procedure has not been fully and consistently implemented. Youth with severe mental health issues remain in DJS facilities, which are not equipped to appropriately serve this population. DJS has violated its own policy and procedure by being unable to adequately screen, refer and supervise suicidal youth. Facility practice must comply with adopted policy and procedure in order to ensure the safety of youth. Additional commitment and resources are required to appropriately address this problem.

### *LACK OF STAFF TRAINING*

A lack of training for both line and supervisory staff contributes to the problems within DJS facilities. The National Juvenile Detention Association conducted a staff training needs assessment at Cheltenham and Hickey this year. A training curriculum for Cheltenham staff has been developed and provided. It is anticipated that other detention centers will be able to participate in this project upon identification of funding sources.

### *OVER-RELIANCE ON STATE OPERATED RESIDENTIAL CARE PROGRAMS*

Localities have little or no responsibility to provide services to youth involved in the juvenile justice system. For youth requiring services beyond what may be available by non-profit or other small organizations within a jurisdiction, the court system must rely upon committing a youth to the custody of the Department of Juvenile Services even if the court wishes to have the youth placed in a group home, which should be an extension of the local community and affiliated social and educational services. Youth only requiring more structured community programming and not secure placement are then usually placed in a detention facility such as Cheltenham and Hickey pending DJS processing and, hopefully, eventual placement in a group home should space be found. This results in youth being unnecessarily detained, minimally delinquent youth being exposed to severely delinquent youth, overcrowding in detention, prolonged time in finding placements, inappropriate placements occurring due to the system relying upon first available vacant bed regardless of the youth's needs, and youth not being placed closer to family and other support systems.

The system must be redesigned to create more local, community programs and viable options outside of state care for the juvenile court. A number of states have created such incentives for local jurisdictions and maximized community programming and services.

Such expanded local programming could also occur in Maryland with limited fiscal impact. Maryland is already expending a significant portion of funding for juvenile services but with a disproportionate amount designated for detention and deep end residential care. With limited venture capital to initiate new services within localities, a determination of what the state expended for a particular locality for detention and other residential care could be calculated, and these funds could be administered locally with the court/locality deciding how it wished to expend its funds in providing services to youth. Local control of funding would create incentives to develop less expensive options for treatment of youth and reach youth at earlier stages in the judicial process with an increased chance for success.

### *ANTIQUATED AND POORLY DESIGNED FACILITIES*

Many facilities are antiquated and functionally obsolete. The newly constructed facilities, Baltimore City Juvenile Justice Center, Lower Eastern Shore Children's Center, and Western Maryland Children's Center, all have significant physical plant deficiencies that pose life, health, and safety concerns for both youth and staff. These issues not only impact the ability to deliver services but create public safety concerns due to the lack of security. There have been a number of escapes this year from Cheltenham, Hickey, Noyes, Waxter, and the Baltimore Juvenile Justice Center. In addition, youth in the newer facilities have damaged or destroyed non-security grade fixtures using these items

in suicide attempts and/or as weapons. The capital improvement plan for these facilities should take into account the need to renovate and consolidate the footprint of structures to improve operations and security/supervision.

***STANDARDS***

A comprehensive set of standards governing Department of Juvenile Services, both for secure and non-secure facilities, is still lacking. Department of Juvenile Services standards for secure detention have not been revised since their adoption in November 2000. These standards do not cover many of the requirements addressed in nationally recognized standards and only govern secure detention facilities. Standards do not exist for Department of Juvenile Services operated facilities such as short-term shelters, group homes, and commitment care programs. Further, DJS operated facilities are exempt from complying with COMAR standards to which privately operated programs must adhere. Adoption of nationally recognized standards or use of other states' standards could be put into place in an expeditious manner. To date, the Department of Juvenile Service has not been willing to establish standards that it is unable to meet. This approach allows substandard conditions to perpetuate creating serious life, health, and safety issues.

# APPENDICES

Appendix A - Visitation Chart

Appendix B - Standard Operating Procedure

Appendix C - Flow Chart

Appendix D - Attorney General Opinion

Appendix E - Baltimore County Interagency Agreement on the Investigation of Child Abuse and Neglect at the Charles H. Hickey School

Appendix F - Quarterly Report for April-June 2003

# Appendix A

# Visitation Chart

# 2003-2004 VISITATION BY THE OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR

| DATE<br>Facility/Capacity/Monitor | JULY | AUG | SEPT | OCT | NOV | DEC | JAN | FEB | MAR | APR | MAY | JUNE |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| ALLEGANY GIRLS HOME - 9<br>Tim Snyder | 30 T | 19 T | 5 T | 30 T | 14, 25 T | 10, 31 T | | 9, 29 T | 11, 31 T | 22 T | 5, 27 T | 25, 29 T |
| BALT. CITY JUVENILE JUSTICE CENTER - 144<br>Earl El-Amin | Under Construction | Under Construction | 15 R, E, K, J, T | Opened Oct. 30 | 4, 12, 19, 24 E | 2, 10, 11, 13, 15, 22, 30 E | 4, 12 E | 2, 18, 23, 24 E | 2, 3, 8, 9, 18, 23 E | 7, 13, 19, 21, 29 E | 6, 13, 14, 18, 20, 24 E | 2, 15, 21, 29 E |
| CARTER - 15<br>Kim Bones | 9, 23 K | 5, 11 K | 17 K | 8, 21 K | 6, 20 K | 10, 19 K | 7, 22 K | 4, 26, 27 K | 24, 31 K | 6, 27 K | 20 K | 8, 23 K |
| CATONSVILLE SHELTER - 10<br>Earl El-Amin | | 4, 21 E | 10, 22 E | 9, 22 E | 19 E | 17, 22 E | 4, 31 E | 19, 24 E | 2,16 E | 8, 22, 26 E | 5, 12, 25 E | 22, 28 E |
| CHELTENHAM - 300<br>Kim Bones | 3, 14, 17, 21, 31 K | 1, 6, 8, 20, 25, 29 K | 1, 4, 10, 12, 15, 22, 23 K | 7, 10, 24, 29 K | 3, 6, 12, 17 K | 1, 3, 7, 9, 12, 15, 23, 29 K | 21, 27, 29 K | 2, 5, 10, 11, 20, 24 K | 1, 3, 5, 9, 11, 15, 16, 17, 22, 23, 30 K | 2, 5, 13, 16, 20 K | 3, 18, 19, 24, 25 K | 1, 3, 11, 16, 24 K |
| VICTOR CULLEN - 255<br>Jeff Merson | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed |
| E. SHORE SHELTER - 8<br>Kim Bones | 10 K | 7 K | 8 K | 7, 30 K | 10 K | 4, 16 K | Closed Jan. 11th | Closed | Closed | Closed | Closed | Closed |
| FERNDALE GROUP HOME - 6<br>Earl El-Amin | | 4, 12 E | 16, 25, 29 E | Closed Oct 1 | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed |
| HAGERSTOWN HOLDOVER - 8<br>Tim Snyder | 23 T | 21, 27 T | 24 T | 1 T | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed |
| HICKEY - 355<br>Jeff Merson | 2 E, 10 E, J, 18, 24, 31 J | 18, 27 J | 8, 22 J | 30 J | 13, 18 J | 22 J | 2 J | 4, 10, 20, 27 J | 4, 10, 22, 31 J<br>30 R | 1, 2, 15, 22, 30 J | 6, 12, 13, 18, 24 J | 2, 5, 10, 24 J |
| HURLOCK GROUP HOME - 10 | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed |
| LOWER EASTERN SHORE CHILDREN'S CENTER - 24<br>Kim Bones | Under Construction | Under Construction<br>7 K | Under Construction | Under Construction<br>1 K;<br>20 K, R | Opened Nov. 10<br>10 K | 4, 16 K | 30 K | 17 K | 10, 24, 31 K | 23 K | 4, 26 K | 30 K |
| MD YOUTH RESIDENCE CENTER - 52<br>Earl El-Amin | | 4, 12, 21 E | 10, 17, 25 E | 9, 16, 30 E | 3 E | 1, 4, 9, 22 E | 3, 30 E | 10, 23 E | 3, 4, 16, 23 E | 7, 21, 28 E | 6, 11, 17, 24, 27 E | 16, 23, 28, 29, 30 E |
| MOUNT CLARE HOUSE - 12<br>Earl El-Amin | | 11, 21, 25 E | 17, 22 E | | 17 E | 10, 17 E | 3, 31 E | 18, 25 E | 11, 17 E | 5, 19, 28 E | 4, 13, 17, 19, 24 E | 2, 22, 28 E |
| NOYES - 37<br>Kim Bones | 3, 28 K | 4, 27 K | 24, 26, 29 K | 6, 20 K | 7, 11 K | 2, 15 K | 12, 19 K | 12, 25 K | 4, 19 K | 8 K | 5 K | 2, 9, 18 K |
| O'FARRELL YOUTH CENTER 40<br>Jeff Merson | 10, 23 J | 19, 26, 28 J | 12 J | 31 J | 16 J | 10 J | 30 J | 24 J | 4 J | 13 J | 5, 13, 27 J | 7, 22 J |
| WM. DONALD SHAFER HOUSE - 19<br>Earl El-Amin | | 5, 19 E | 16, 22 E | 8, 21 E | 17 E | 9, 16 E | 10 E | 18, 24 E | 2, 10 E | 5, 22, 27 E | 11, 19, 25 E | 24, 28, 29 E |
| SYKESVILLE SHELTER - 10<br>Jeff Merson | 10 J | 19 J | 29 J | 31 J | 16 J | | 30 J | | 4, 9 J | 13 J | 5 J | 22 J |
| WAXTER - 60<br>Jeff Merson | 10, 16, 31 J | 21 J | 5, 10, 21 J | 22 J | 12 J | 3 J, 15 R | 21 J | 2, 25 J | 9, 26 J | 19, 22 J | 5, 19, 27 J | 8, 23 J |
| YOUTH CENTERS<br>Tim Snyder | | | | | | | | | | | | |
| Green Ridge - 40 | 1 | 18, 30 T | 7, 21 T | 22 T | 27 T | 10, 25 T | 11, 27 T | | 2, 26 T | 5, 12 T | 20 T | 3, 11 T | 16, 28 T |
| Savage Mtn. - 40 | 2 | 9, 22 T | 6, 12, 15, 18 T | 10 T | 28 T | 6, 19 T | 4, 18 T | 26 T | 28 T | 4, 16 T | 26 T | 4, 14 T | 14, 27 T |
| Meadow Mtn. - 40 | 3 | 25 T | 11, 25 T | 23 T | 29 T | 14, 26 T | 15, 17 T | 27 T | 27 T | 10, 14 T | 27 T | 12, 31 T | 14, 23 T |
| Backbone Mtn. - 40 | 4 | 31 T | 20, 28 T | 29 T | 29 T | 14, 26 T | 7, 23 T | | 4, 6 T | 9, 26 T | 30 T | 18, 30 T | 26, 30 T |
| Maple Run - 40 | 5 | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed | Closed |
| W. MD. CHILDREN'S CENTER - 24<br>Tim Snyder | | Under Construction | Under Construction | Opened | 31 T | 7, 11, 18, 25 T | 7 T | 7, 16 T | 5, 10, 18, 24 T | 18 T | 1, 21, 29 T | 6, 10, 18, 26 T | 2, 10, 18, 24 T |

Number = Day of Month

R = Ralph Thomas; E = Earl El-Amin; T = Tim Snyder; J = Jeff Merson; K = Kim Bones

# APPENDIX B

## Standard Operating Procedure

# GOVERNOR'S OFFICE FOR CHILDREN, YOUTH, AND FAMILIES
# AND
# DEPARTMENT OF JUVENILE SERVICES
# STANDARD OPERATING PROCEDURES
# FOR THE
# INDEPENDENT JUVENILE JUSTICE MONITOR

## 1.0 Background:

In February 2000, the Maryland Subcabinet for Children, Youth, and Families and the Maryland Department of Juvenile Services (DJS) signed a Memorandum of Agreement (MOA) establishing an Independent Monitor for the Department of Juvenile Justice. A revised Memorandum of Agreement took effect on November 1, 2001. Effective October 1, 2002, the Office of the Independent Monitor was codified under the terms of HB 971, Chapter 255, Laws of Maryland 2002. The Independent Monitor evaluates at each facility the Child Advocacy Grievance process, the DJS monitoring process, the treatment of and services provided to youth at each facility, the physical condition of each facility, and the adequacy of staffing.

## 2.0 Purpose:

This document outlines the Standard Operating Procedures (SOP) for implementation of the provisions of Chapter 255 and the Independent Monitor MOA by DJS and OCYF. The SOP includes the criteria and standards used in monitoring facilities, the monitoring process itself, the sharing of information between DJS and the Independent Monitor, and the methods of documentation and reporting to the Secretary of DJS and the Subcabinet.

## 3.0 Definitions:

3.1 "Child Advocate" means an individual who works on behalf of youth under the DJS jurisdiction to ensure youth needs are met and their rights upheld throughout DJS operations.

3.2 "Corrective Action Plan" means a plan developed by DJS and a DJS facility to address findings and recommendations of the Independent Monitor related to that facility.

3.3 "Grievance" means a complaint by or on behalf of a youth concerning a circumstance or action alleged to be unjust. "Grievance" does not include an employee grievance, disciplinary appeal, or complaint.

3.4 "Independent Monitor" means the Independent Monitor for Juvenile Justice or a member of the staff of the Independent Monitor for Juvenile Justice.

3.5 "Monitoring" means the process of assessing performance in accordance with the provisions of Section 4.0.

3.6 "Facility" means a residential facility owned or operated by DJS. A residential facility is a program that provides residential services to youth on a 24-hour basis.

3.7 "Youth" means an individual who is under the jurisdiction of DJS and placed in a facility.

## 4.0 Monitoring Standards:

### 4.1 Existing Standards

The Independent Monitor shall monitor using the following standards:

#### 4.1.1 Code of Maryland Regulations (COMAR)

- Title 01 Executive Department, Subtitle 04 Office for Children, Youth, and Families, Chapter 04 Residential Child Care Programs.
- Title 07 Department of Human Resources, Subtitle 02 Social Services Administration, Chapter 07 Protective Services for Neglected and Abused Children.
- Title 16 Department of Juvenile Services.

#### 4.1.2 DJS Secretary Directives and DJS Protocol, Procedure and Guidelines

DJS Secretary's Directives, protocols, procedures, and guidelines governing the care, custody, treatment and supervision of youth at facilities monitored by the Independent Monitor. DJS will provide the Independent Monitor with copies of directives protocols, procedures, and guidelines for inclusion among the Independent Monitor's compliance standards.

#### 4.1.3 DJS Standards for Juvenile Detention Facilities

This volume describes in detail the requirements for operating a detention facility. Though not all facilities that the Independent Monitor reviews are used for detention, many of the standards may apply to other types of residential facilities.

#### 4.1.4 DJS Standards of Conduct and Disciplinary Process

This volume contains rules for DJS employee conduct, attendance and leave, disciplinary sanctions, appeals and grievances, and information about the Investigations and Child Advocacy Unit (ICAU), including: Standards of Conduct and Performance; Attendance Requirements; Disciplinary Sanctions; Implementation of Corrective and Disciplinary Sanctions; Appeals and Grievances; Investigation and Child Advocacy Unit.

#### 4.1.5 Contracts between DJS and private entities

Upon request, DJS shall provide the Independent Monitor with access to or a copy of a contract for the operation of a facility.

#### 4.1.6 Court Orders

Upon request, DJS shall provide the Independent Monitor with copies of relevant court orders. The Independent Monitor shall review such orders when monitoring

### *4.2 Identification of relevant standards*

DJS will provide the Independent Monitor with citations to all statutes and regulations, and copies of all relevant policies, procedures, court orders and contract provisions that it has determined are relevant to the monitoring process. DJS and the Independent Monitor will work collaboratively in identifying revisions and additions to these standards.

**4.3. Identification of Other Monitoring Concerns**

As part of monitoring whether facilities are in compliance with the standards identified in Sections 4.1 and 4.2, the Independent Monitor may also address other conditions and situations that jeopardize the effectiveness of the DJS grievance and monitoring processes, the treatment of and services to youth at each facility, the physical condition of each facility, and the adequacy of staffing for which:

A. no current standards applicable to DJS can be identified; or

B. the Independent Monitor believes that current standards afford inadequate protection of the health, life, safety and humane treatment of youth in a DJS facility. If the Independent Monitor determines that current standards afford inadequate protection of the health, life, safety and humane treatment of youth in a DJS facility, the Independent Monitor shall identify the deficiency in current standards related to the concern and provide recommendations pursuant to Section 7.0. The Independent Monitor may report associated findings and recommendations in accordance with the reporting requirements in Section 6.1.

**5.0 Monitoring Process:**

The Independent Monitor has a formalized monitoring and reporting process to ensure that on-site visits to facilities result in identifying and reporting to the Secretary of DJS in a timely manner, any material deficiencies in treatment and services or immediate threats to the health, life, safety and humane treatment of youth under DJS care, custody or supervision.

5.1 The Independent Monitor may conduct unannounced and unscheduled visits to facilities.

5.2 The Independent Monitor shall develop and use monitoring tools for collecting and documenting information obtained during the on-site monitoring visit, including interviews, review of records, and observation.

5.2.1 The Special Secretary shall approve any monitoring tools used by the Independent Monitor.

5.2.2 The Secretary of DJS shall have the opportunity to provide input regarding the monitoring tools prior to approval by the Special Secretary and shall be given copies of all monitoring instruments.

5.2.3 The Independent Monitor shall revise monitoring tools to reflect revisions to DJS standards under Section 4.1.

5.2.4 To the extent they exist, DJS shall provide the Independent Monitor with copies of any monitoring tools utilized by the Investigations Unit of the DJS Office of Professional Responsibility and Accountability.

5.3 DJS and the Independent Monitor shall share information as follows:

5.3.1 The Independent Monitor may inspect any information that is readily accessible on site at a DJS facility or office upon request, and may make copies at that time, subject to immediately available resources.

5.3.2 The Independent Monitors shall have ongoing access to DJS electronic case tracking and incident reporting and tracking systems at the Independent Monitor's OCYF and field locations. DJS shall provide hard copies of attachments to incident reports upon the Independent Monitor's request.

5.3.3 DJS shall provide all incident reports, attachments to incident reports, and dispositions not available on the online system to the Independent Monitor on a weekly basis.

5.3.4 DJS shall provide the Independent Monitor with a copy of its monthly summary grievance report as part of the report's routine distribution, and copies of individual grievances and their dispositions upon the Independent Monitor's request.

5.3.5 DJS shall provide the Independent Monitor with copies of all investigative reports relating to youth in facilities within 3 days of each report's completion.

5.3.6 If DJS is required to compile information in order to meet a request of the Independent Monitor, the information shall be provided within 30 days.

5.4 The Independent Monitors shall announce their presence and sign in on the facility's log upon arrival at a facility. The Independent Monitor will be available to confer with the facility administrator at the administrator's request and to advise the administrator of the nature of the visit and the scope of the monitoring visit, as appropriate.

5.4.1 The administrator shall facilitate the cooperation of facility personnel and the identification of documentation to be reviewed, if any. Consistent with the safety and well being of staff and youth and the orderly operation of the facility, the administrator shall ensure that staff and youth are reasonably available to communicate with the Independent Monitor. If DJS staff indicates that an Independent Monitor's visit to a particular area creates a security risk, the Independent Monitor will temporarily leave the area. If DJS staff indicates they are not able to reasonably respond to the Independent Monitor's questions while assisting youth in their normal course of duty, the Independent Monitor may schedule an interview at a time when the staff is not working with youth.

5.5 The Independent Monitor shall immediately report imminent or material threats to the health, life, and safety of youth, staff, or the public to:

- The facility administrator or managing officer, as appropriate, and
- The DJS on call administrator.

5.5.1 At the conclusion of the on-site visit the Independent Monitor shall offer to conduct an exit conference with the facility administrator or managing officer to advise them of any preliminary findings and observations.

5.5.2 The Independent Monitor shall specifically advise the administrator or managing officer of other issues that may have the potential to

jeopardize the health, life, or safety of youth, staff, or the public.

5.6 As soon as practicable, DJS shall report imminent or material threats to the health, life, and safety of youth, staff, or the public to the Independent Monitor.

6.0 Reporting.

6.1 The Independent Monitor shall prepare preliminary findings and recommendations to the Secretary of DJS (or designee) on the results of a monitoring visit, including findings and recommendations regarding compliance with standards identified under Section 4.1 and other concerns identified under Section 4.3. The preliminary findings and recommendations shall be submitted and organized as follows:

6.1.1 Findings related to DJS's compliance with standards included in section 4.1 shall be reported in a section entitled "compliance with DJS standards."

6.1.2 Findings related to concerns regarding the adequacy of DJS standards under section 4.3 shall be reported in a section entitled "other monitoring concerns."

6.1.3 Recommendations related to compliance with DJS standards included in section 4.1 shall be reported in a section entitled "recommendations" and in proposed corrective action plan elements appended to the report.

6.1.4 Recommendations regarding options for addressing concerns identified under section 4.3 may be set out in a memorandum to the Special Secretary, as provided in section 7.0.

6.2 The Independent Monitor will submit preliminary reports of findings and recommendations regarding regular, periodic monitoring visits to facilities to DJS on at least a quarterly basis. In addition, the Independent Monitor may submit preliminary reports of specific incidents seriously affecting the care, supervision and treatment of children in facilities that require more timely attention at any time.

6.3 DJS will be permitted 10 work days from the date of hand delivery or facsimile receipt of a preliminary report to deliver a response to the preliminary report findings and recommendations, including suggested corrections or other revisions to the preliminary report and the reasons for those suggested changes. The Independent Monitor may seek further clarification or otherwise discuss the response with DJS. The Independent Monitor may amend the preliminary report to adopt any DJS suggestion, as appropriate. The preliminary report shall be considered a draft during the 10-day comment period.

6.3.1 If the Independent Monitor does not adopt a DJS suggestion, the DJS response to the preliminary report shall be appended to and considered a part of the Independent Monitor's Final Report of Findings and Recommendations. If some of the DJS suggestions are adopted, DJS shall be given the opportunity to deliver a modified response, within 3 work

days from the date of hand delivery or facsimile notice of the Independent Monitor's decision, for inclusion with the Independent Monitor's Final Report of Findings and Recommendations.

6.3.2 If DJS does not deliver suggested corrections or revisions to the preliminary report within 10 work days, the Independent Monitor's preliminary report shall be forwarded to DJS as the Final Report of Findings and Recommendations.

6.4 The Independent Monitor will send a copy of the Final Report of Findings and Recommendations to DJS, the Subcabinet, the Speaker of the House, and the President of the Senate within 10 work days after the deadline for receipt of comments to the preliminary report.

6.5 DJS will have 45 days from receipt of the preliminary findings and recommendations to submit a Corrective Action Plan which details corrective actions taken since the date of the on-site visit and corrective actions to be taken, including timelines for completion.

6.6 To enhance the possibility of agreement as to the Corrective Action Plan, the Independent Monitor and DJS shall engage in discussions concerning DJS's proposed Corrective Action Plan.

6.7 Within 90 days of issuance of the Report of Findings and Recommendations, the Independent Monitor shall issue a Comprehensive Monitoring Report. The Comprehensive Monitoring Report shall include: the Final Report of Findings and Recommendations, the Corrective Action Plan and the following addenda, as appropriate:

6.7.1 If the Report of Findings and Recommendations does not adopt the suggestions contained in DJS's response to the preliminary report, it shall include a copy of DJS's response. If some of DJS's suggestions are adopted, DJS shall be given the opportunity to submit a modified response for inclusion with the Comprehensive Monitoring Report.

6.7.2 If DJS and the Independent Monitor have not reached agreement regarding the Corrective Action Plan, the Comprehensive Monitoring Report may include the Independent Monitor's comments on the DJS Corrective Action Plan.

6.8 If the Independent Monitor and DJS have not reached agreement on the Corrective Action Plan within the 90-day period, then the issues in dispute shall be submitted to the Secretary of DJS and the Special Secretary for resolution. However, efforts to resolve disputes under this provision shall not delay the issuance of the Comprehensive Monitoring Report within the 90-day timeline in Section 6.6.

6.9 The Independent Monitor's Comprehensive Monitoring Report shall be distributed to the Secretary of DJS, the Subcabinet, the Speaker of the House, and the President of the Senate, and be made available in electronic format.

6.10 On the next visit to the facility, the Independent Monitor shall review the status of corrective action on items agreed to by DJS from the prior monitoring reports, in addition to other monitoring activities that may be appropriate.

6.11 All reports issued by the Independent Monitor shall comport with the provisions of this Section and Section 7.0.

7.0 Policy Recommendations.

If the Independent Monitor has recommendations regarding matters to be addressed pursuant to Section 4.3, those concerns or suggestions shall be presented in a memorandum to the Special Secretary. If the Special Secretary deems it appropriate, the Special Secretary may present such matters to the Secretary of DJS and the Subcabinet.

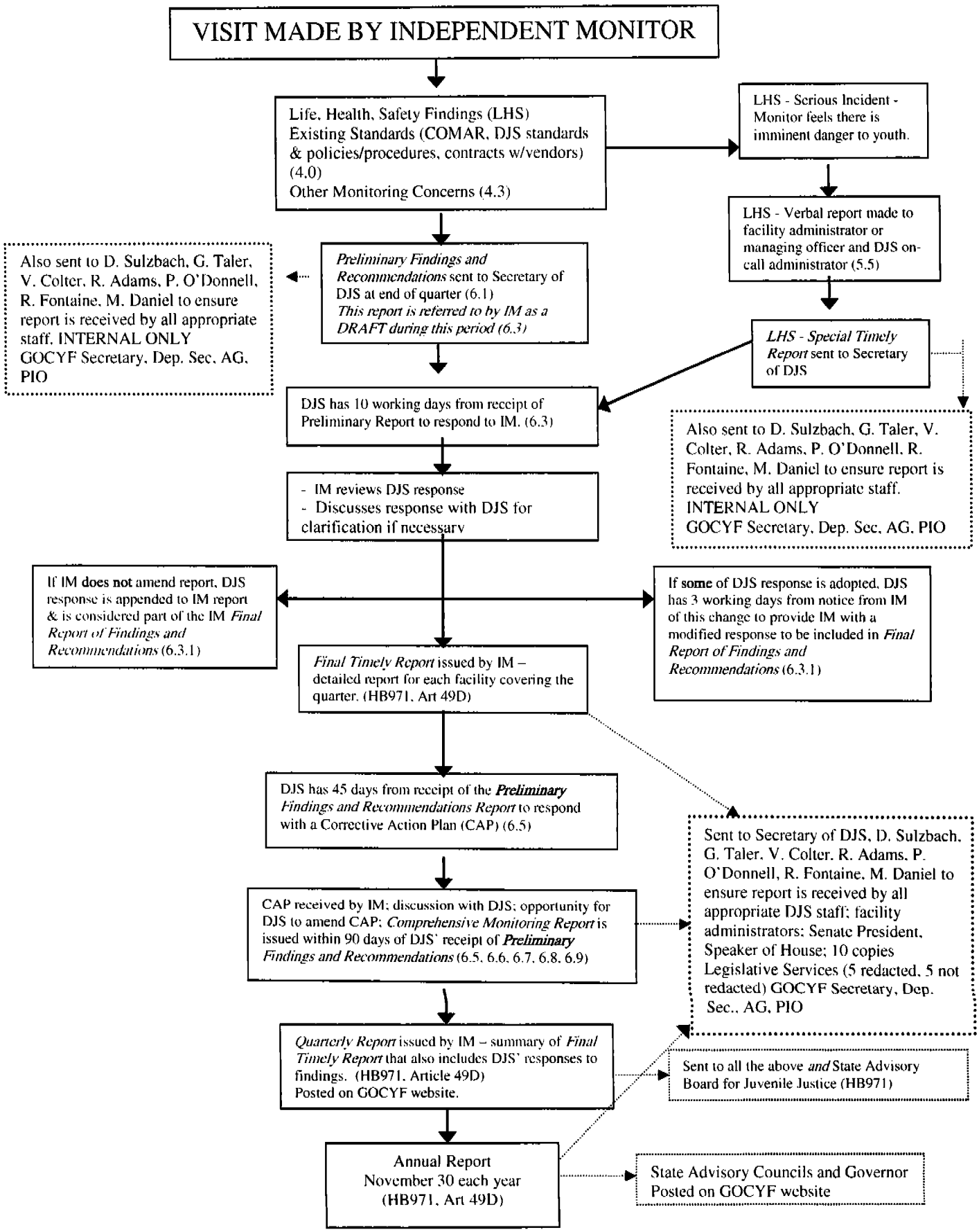
8.0 Confidentiality.

8.1 The Independent Monitor shall conduct the monitoring process and reporting consistent with applicable confidentiality laws, including, but not limited to, Maryland Annotated Code, Courts and Judicial Proceedings Article, § 3-8A-27, Article 83C, Article 88A, §6A, and Article 49D.

# APPENDIX C

## Flow Chart

# Independent Monitoring and Reporting Process



# APPENDIX D

## Attorney General Opinion

# CHILD ABUSE AND NEGLECT

## PUBLIC INFORMATION ACT – RESTRICTIONS ON CONTENT AND DISSEMINATION OF REPORTS OF INDEPENDENT JUVENILE JUSTICE MONITOR

February 17, 2004

*The Honorable M. Teresa Garland*
*Special Secretary*
*Governor's Office for Children,*
*Youth, and Families*

You have asked for our opinion about the extent to which the Office of the Independent Juvenile Justice Monitor ("Independent Monitor") must keep confidential information that it receives in carrying out its statutory responsibilities to evaluate and report on investigations of alleged child abuse or neglect at facilities of the Department of Juvenile Services ("DJS"). You specifically ask us to reconcile the Independent Monitor's statutory obligations to provide reports to other State officials and to respond to requests under the Maryland Public Information Act ("PIA") with the confidentiality requirements that pertain to child abuse investigations under Annotated Code of Maryland, Article 88A, §6(b). We summarize your questions as follows:

1. To what extent does Article 88A, §6(b), limit the information regarding incidents and investigations of possible child abuse and neglect that the Independent Monitor may include in the reports that it is required to provide to various State officials?

2. To what extent does Article 88A, §6(b), or other law further limit the information in a report of the Independent Monitor that may be disclosed in response to a request under the PIA?

3. Do the restrictions imposed by Article 88A, §6(b), on the information in a report depend on which agency provided the information to the Independent Monitor?

For the reasons explained in this opinion, we conclude:

1. A report by the Independent Monitor may, and should, include findings and recommendations regarding public agency performance in response to allegations of child abuse and neglect at DJS facilities. However, to comply with Article 88A, §6(b), the report should not identify, or disclose information that invades the privacy of, a child, the child's family, the individual who allegedly committed the abuse, or the individual who reported suspected abuse to State or local authorities.

2. Assuming that a report is prepared in compliance with Article 88A, §6(b), that statute would not further restrict the public inspection of the report pursuant to a PIA request. Of course, in responding to a PIA request, the Independent Monitor must also consider other applicable exceptions to the general rule of disclosure under the PIA. In particular, the Independent Monitor should consult with agencies that provided investigative reports to determine whether public disclosure of the contents of those records would compromise a current investigation or otherwise be contrary to the public interest. To the extent possible, the Independent Monitor should identify the parts of a report subject to that exemption at the time the report is provided to State officials.

3. The restrictions imposed by Article 88A, §6(b), apply to information that the Independent Monitor obtains from DJS, local departments of social services, law enforcement agencies, or other agencies, as well as to results of any investigation by the Independent Monitor itself.

## I
## The Independent Monitor

### *A. Duties of the Independent Monitor*

The Independent Monitor, established in the Governor's Office for Children, Youth, and Families ("OCYF"), is responsible for determining "whether the needs of children under the jurisdiction of

the Department [of Juvenile Services] are being met in compliance with State law, that their rights are being upheld, and that they are not being abused." Annotated Code of Maryland, Article 49D, §40(f).[1] The Independent Monitor must evaluate facilities owned or operated by DJS, including physical conditions, staffing, grievance and monitoring processes, and the treatment and services provided to residents. Article 49D, §43(1). It is to review DJS's internal monitoring and incident reporting activities, as well as the reports of findings of the local departments of social services [2] concerning incidents at the facility. Article 49D, §43(2), (5), (6). The Independent Monitor is to make unannounced site visits to facilities, interview staff, youth, and others, and participate in multi-disciplinary teams organized as part of an investigation of an allegation of abuse or neglect at a DJS facility. Article 49D, §§43(4), 44(2), (4).

### *B. Reporting Obligations of the Independent Monitor*

The Independent Monitor law directs the Independent Monitor to report detailed findings and recommendations to the legislative leadership and various other State officials. Article 49D, §45. The statute requires the Independent Monitor to issue two basic types of reports: (1) special reports keyed to particular problems or findings, and (2) periodic reports summarizing the activities of the Independent Monitor.

---

[1] The Independent Monitor was originally created in 2000 under a Memorandum of Agreement of the Subcabinet for Children, Youth, and Families, an entity comprised of the heads of various human services agencies. *See* Annotated Code of Maryland, Article 49D, §4.1. Two years later, the General Assembly codified the Independent Monitor and expanded its responsibilities. Chapter 255, Laws of Maryland 2002.

[2] Under State law, reports of child abuse or neglect are referred to a local department of social services or an appropriate law enforcement agency. *See* Annotated Code of Maryland, Family Law Article ("FL"), §§5-704, 5-705. Local departments of social services are charged with investigating those reports and pursuing various remedies, and providing treatment. *See, e.g.*, FL §§5-706 (investigations), §5-709 (removal of child from home), §5-710 (provision of services to child); *see also* COMAR 07.02.07.01A.

First, the Independent Monitor must provide ongoing "timely" reports concerning:

> (1) Any problem regarding the care, supervision, and treatment of children in DJS facilities;
>
> (2) Findings and recommendations related to its investigations of disciplinary actions, grievances, incident reports, and cases of alleged child abuse and neglect; and
>
> (3) Other findings and actions undertaken by the Independent Monitor.

Article 49D, §45(a). These reports are to be made to the Subcabinet for Children, Youth, and Families, to the Special Secretary for OCYF, and also to the Speaker of the House of Delegates and the President of the Senate.[3] *Id.*

Second, the Independent Monitor must prepare, on a quarterly and an annual basis, reports that describe "all activities of the Office" and any actions taken by DJS as a result of findings and recommendations of the Independent Monitor. Article 49D, §45(b)-(c). The quarterly reports are also to summarize any violations of DJS standards or regulations that remained unabated for more than 30 days during the quarter. Article 49D, §45(b)(3)(iii). These reports are to be provided to the Special Secretary, the Secretary of DJS, and the General Assembly. Article 49D, §45(b)-(c). Copies of the quarterly reports must also be sent to the State Advisory Board for Juvenile Services, while copies of the annual reports are to be

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[3] The reports are to be submitted to the legislative leadership in accordance with Annotated Code of Maryland, State Government Article ("SG"), §2-1246. Under that provision, five copies are delivered to the Department of Legislative Services. SG §2-1246(b)(1). Copies are to be provided to other members of the Legislature upon request or upon direction of the leadership. SG §2-1246(b)(2).

sent to the Governor and to special advisory boards related to specific juvenile facilities. *Id.*

*C. Requests for Reports of the Independent Monitor*

Since its inception, the Independent Monitor has reviewed a number of instances of alleged child abuse and neglect in DJS facilities and has produced reports that identify practices that may impair the State's ability to prevent abuse and neglect or to respond effectively when it occurs.[4] The Independent Monitor has relied on information from numerous sources, including DJS incident reports, records and reports of local departments of social services and law enforcement agencies, interviews with facility staff and residents, personal observations by the Independent Monitor's staff, and participation in multi-disciplinary teams investigating particular incidents.

The Independent Monitor's reports have included detailed findings concerning alleged abuse incidents and the responses of DJS, local departments of social services, and law enforcement personnel. The reports also make recommendations for corrective action to improve public agencies' response to child abuse and neglect allegations and incidents. It is our understanding that the Independent Monitor has attempted to exclude from its reports identifying information concerning youths who may be the subjects of abuse or neglect, reporters of suspected abuse, and alleged abusers.

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[4] *See, e.g., Independent Juvenile Justice Monitor Special Report on Conditions/Incidents: Physical Abuse/Neglect Incidents, Thomas J.S. Waxter Children's Center* (June 30, 2003) (findings and recommendations concerning excessive use of force incidents and other child abuse allegations at the Waxter Center during 2003); *Charles Hickey School* (May 29, 2003) (findings and recommendations regarding DJS reporting of and response to 20 cases of suspected child abuse or neglect during 2003 at the Charles Hickey School); *Overcrowding/Inadequate Staffing and Supervision/Sexual Behavior between Youth/Decreased Incident Reporting/Threats to Life, Health and Safety, Cheltenham Youth Facility* (November-December 2003) (findings and recommendations regarding health and safety risks to youth as a result of severe understaffing and failure to report violent incidents to DJS and other authorities).

The Independent Monitor's reports have been disseminated to various State officials in accordance with the Independent Monitor law. Like other agencies, the Independent Monitor receives requests for copies of its reports pursuant to the Maryland Public Information Act ("PIA"), Annotated Code of Maryland, State Government Article ("SG"), 10-611 *et seq.* Before releasing a report in response to such a request, the Independent Monitor must redact information if disclosure of that information is prohibited by the PIA or other laws, such as Article 88A, §6(b).

## II
## Confidentiality Requirements of Article 88A, §6(b)

Much of the information and many of the reports reviewed by the Independent Monitor derive from investigations by law enforcement agencies and local departments of social services of suspected child abuse and neglect. Article 88A, §6(b) generally provides that "all records and reports concerning child abuse and neglect are confidential." The statute and a related regulation of the Department of Human Resources ("DHR") set out limited circumstances under which disclosure is permitted. Article 88A, §6(b)(1)-(2); COMAR 07.02.07.19. Unauthorized disclosure is a criminal misdemeanor. Article 88A, §6(e).

The exceptions to the broad prohibition against disclosure are limited to specifically described situations and classes of persons who investigate the child abuse allegations, care directly for a child, or administer or oversee social welfare programs. Disclosure may be made pursuant to a court order or, in more limited circumstances, an order of an administrative law judge. Article 88A, §6(b)(1). Disclosures are also permitted, for specified purposes, to various other State and local officials who investigate allegations of child abuse or neglect, to entities such as the State Council on Child Abuse and Neglect, the State Citizens Review Board for Children, and child fatality review teams, and to officials responsible for child protective services or child care, foster care, and adoption licensing. Article 88A, §6(b)(2)(i), (ii), (iii). Disclosure may also be made to *licensed practitioners or officials providing services to the victims*

of abuse or neglect. Article 88A, §6(b)(2)(i), (v). Other permissible recipients of this information include a person accused of child abuse or neglect, the parent or custodian of a child, and a school superintendent or director of a child care facility responsible for taking administrative or personnel action against an alleged abuser. Article 88A, §6(b)(2)(iv), (vi), (vii), (viii).

One of these exceptions specifically allows for disclosures to the Independent Monitor. Article 88A, §6(b)(2)(ix). However, the statute is silent on whether this exception encompasses redisclosures in the Independent Monitor's reports. The DHR regulation attempts to ensure that redisclosure of such information is governed by the same standards as the original disclsoure. It provides that a record or report "may only be disclosed to individuals who, by law or written agreement, are subject to the requirements of Article 88A, §6(b)...." COMAR 07.02.07.19F.

Both the statute and the regulation emphasize that the identity of the individual who reports alleged abuse or neglect is to remain confidential. *See, e.g.,* Article 88A, §6(b)(iv) (disclosure permitted to alleged abuser if identity of reporter is protected), (vi) (disclosure to parent or custodian permitted if reporter's identity is protected); COMAR 07.02.07.19E, I.

Finally, the statute contains a proviso that it should not be construed to prohibit "... the publication, for administrative ... purposes, of statistics or other data so classified as to prevent the identification of particular persons or cases." Article 88A, §6(c)(1).

The confidentiality requirements of Article 88A, §6(b), are designed to ensure that the State complies with federal regulations issued under the Child Abuse Prevention and Treatment Act, 42 U.S.C. §5101 *et seq*. The federal statute prescribes eligibility criteria for certain federal grants for child abuse and neglect treatment and prevention programs. To maintain a state's eligibility, among other things, the state's law must include confidentiality provisions for child abuse and neglect records that are designed to protect the rights of victims of alleged abuse or neglect and their parents or guardians. 42 U.S.C. §5106a(b)(2)(A)(v). A related regulation

requires that projects and programs supported by federal grants "must hold all information related to personal facts or circumstances about individuals involved in those projects or programs confidential and shall not disclose any of the information in other than summary, statistical, or other form which does not identify specific individuals [except in specified circumstances]." 45 CFR §1340.20. Another regulation, on which Article 88A, §6(b), is patterned, spells out specific circumstances in which disclosure is permitted. *See* 45 CFR §1340.14(i).

III

## Application of Article 88A, §6(b), to Independent Monitor Reports

### *A. Restrictions on Content of Reports*

You first ask about the extent to which Article 88A, §6(b), limits the information that the Independent Monitor may include in the reports required by its enabling legislation. At first glance, the two statutes may appear to work at cross purposes. Article 88A, §6(b), strictly limits the disclosure of information concerning investigations of child abuse and neglect, even to government officials. On the other hand, the Independent Monitor law requires reports that necessarily must discuss such investigations at DJS facilities.

We begin our analysis from the premise that the two statutes should be harmonized to the extent possible. *State v. Ghajari,* 346 Md. 101, 115, 695 A.2d 143 (1997) ("when two statutes appear to apply to the same situation, this Court will attempt to give effect to both statutes to the extent that they are reconcilable"). In that light we look to the legislative purpose underlying these enactments. *Kaczorowski v. Mayor of Baltimore,* 309 Md. 505, 514-15, 525 A.2d 628 (1987).

The Independent Monitor was created in response to reports of alleged child abuse at DJS facilities and concerns that there was a need for enhanced oversight of the agency's handling of such

incidents. *See, e.g., Criminal probe focuses on boot camp guards; Glendening orders monitoring of all juvenile facilities*, Baltimore Sun (December 14, 1999) at p. 1A. The Independent Monitor law directs the Independent Monitor to review child protective services findings regarding abuse or neglect investigations at DJS facilities, and to participate in local child abuse and neglect multi-disciplinary investigatory teams, Article 49D, §§43, 44, and to report "[f]indings, actions, and recommendations, related to the investigations of ... alleged cases of child abuse and neglect" to the Subcabinet and legislative leadership, Article 49D, §45(a). These responsibilities signal a legislative intent to include specific findings regarding child abuse and neglect incidents and investigations in the Independent Monitor's ongoing reports to the Subcabinet and legislative leadership.

In our opinion, Article 88A, §6 (b), is not to the contrary. In a 1986 opinion, Attorney General Sachs reviewed Article 88A, §6, and the related federal law and regulations. He concluded that, even within the strict confines of the "legally mandated preservation of personal privacy," the statute and regulations should be construed to permit review of agency performance. 71 *Opinions of the Attorney General* 368 (1986).

As Attorney General Sachs noted, the federal law on which Article 88A, §6(b), is based is intended to protect the privacy of a child and the child's family and, thus, "can properly be read as permitting disclosure, in the public interest, of information that would *not* impair personal privacy." 71 *Opinions of the Attorney General* 368, 377 (1986).[5] This is thoroughly consistent with the

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[5] The 1986 opinion also specifically addressed the extent of disclosure when a child has died and a parent or other custodian of the child has been arrested on charges related to alleged abuse. The Legislature subsequently codified and elaborated on the guidelines provided by the opinion, by enacting Article 88A, §6A. Chapters 405, 406, Laws of Maryland 1998. That statute explicitly grants the Secretary of Human Resources and local social services directors the discretion to disclose information regarding a child abuse investigation if the child has died or suffered serious injury, criminal charges have been filed, and disclosure is not contrary to the best (continued...)

intent of the federal law "to promote the establishment and conduct of effective state programs to prevent and treat child abuse." *Id.* Thus, as the 1986 opinion concluded, public disclosure that does not run afoul of Article 88A, § 6(b), and that would contribute to a fuller airing of "the quality of performance by social services agencies in handling child abuse cases," would ultimately promote agency effectiveness and permit agencies and the public to identify improvements in organization, administration, staffing, or funding of child protective services. *Id.*

Notably, the federal regulations, on which Article 88A, §6(b), is patterned clearly contemplate that non-identifying information will be disclosed as part of the oversight of agency performance. They provide that a state may, by statute, authorize disclosure to:

> [a]n appropriate State or local official responsible for ... oversight of the enabling or appropriating legislation, carrying out his or her official functions; and
>
> [a] person, agency, or organization engaged in a bona fide ... evaluation project, but without information identifying individuals named in a report or record, unless having that information open for review is essential to the ... evaluation, the appropriate State official gives prior written approval, and the child, through his/her representative ..., gives permission to release the information.

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5 (...continued)
interests of the child. Article 88A, §6A. In those circumstances, the *identity of the suspected victim of abuse may be disclosed, but not the* identity of the person who reported the alleged abuse or neglect. Article 88A, §6A(d)-(e).

45 CFR §1340.14(i)(2)(x)-(xi). As is evident, such a disclosure is limited, as necessary, to preserve individual privacy.

Attorney General Sachs concluded similarly that Article 88A, §6(b) is "not intended to shield from public scrutiny the functioning of child protective services [and] should be construed to permit disclosure of facts about local department performance — if, but only if, disclosure does not compromise the privacy interests that the restrictions require to be protected." 71 *Opinions of the Attorney General* at 374-75.

Under the same reasoning, an Independent Monitor's report may discuss specific incidents of alleged abuse or neglect at DJS facilities, the steps taken to investigate such incidents and prevent further incidents, and any findings or conclusions of the investigators. However, the report should not include information from which the youth, the youth's family, the reporter of the alleged abuse, or the alleged abuser may be identified.[6] We understand that the Independent Monitor already seeks to exclude from its reports any personally identifiable information.

Under these guidelines, significant details regarding agency performance may be disclosed. Nonetheless, we urge the Independent Monitor to take special care to avoid disclosing information from which individuals may be identified indirectly or information that would otherwise invade personal privacy. In some instances, for example, this will require eliminating references to the age and home county of a child, certain details of an alleged incident, or the position classification and specific job assignment of an employee. As a general guideline, we suggest that the Independent Monitor's reports include only the degree of detail necessary for a reader to assess the adequacy of the public agency's investigation and response to a report of suspected child abuse.

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[6] This proviso would not pertain if specific information had already properly become a matter of public record – for example, if the alleged perpetrator had been named as a defendant in a criminal proceeding arising out of the incident. *See* 71 *Opinions of the Attorney General* 368, 375 (1986).

### *B. Restrictions on Responses to Requests under the Public Information Act*

OCYF periodically receives requests for copies of reports of the Independent Monitor, including those that contain findings regarding possible child abuse or neglect incidents and their investigation. Similar requests have been made to the Department of Legislative Services, to which such reports are submitted under Article 49D, §45(a). You have asked what limitations Article 88A, §6(b), places on the agency's response to such requests. In particular, you ask whether the agency must redact from the report non-identifying information describing the process by which an incident of alleged child abuse was reported, investigated, and resolved, before it releases the report in response to such a request.

A request for a report of the Independent Monitor is governed by the Maryland Public Information Act ("PIA"). SG §10-611 *et seq.* The PIA provides a general right of public access to "public records" unless one of the various exceptions in the statute limits access. SG §10-613(a). A report of the Independent Monitor is clearly a "public record" as it is "made by a unit ... of the State government ... in connection with the transaction of public business." SG §10-611(g)(1).

Among the exceptions to the general right of access under the PIA are situations in which "inspection would be contrary to ... a State statute." SG §10-615(2)(i). Accordingly, Article 88A, §6(b), which restricts disclosure of information concerning reports and investigations of child abuse, can be the basis for denying access to public records. However, in our opinion, if an Independent Monitor's report follows the guidelines outlined in the previous section of this opinion, Article 88A, §(6) should not bar public disclosure of the report. As Attorney General Sachs observed in 1986, *"the public* has a vital interest in seeing to it that those responsible for child protective services are doing their jobs properly and are provided with adequate resources. The agencies involved have no privacy interest to be protected; on the contrary, the public *interest requires that they be held accountable for their performance,* like any other part of government." 71 *Opinions of the Attorney*

*General* 368 (1986) (emphasis added). Under the same reasoning, Article 88A, §(6), permits public disclosure of non-personally identifiable findings regarding agency performance in response to child abuse and neglect allegations that the Independent Monitor reports to the Subcabinet and the Legislature.[7]

On occasion, another exception to the PIA may apply to a specific report or specific portions of a report. For example, the PIA contains an exception for "records of investigations conducted by ... a police department, or a sheriff," as well as investigatory files compiled by other agencies "for any other law enforcement, judicial, correctional, or prosecutorial purpose." SG §10-618(f)(1).[8] Inspection of those records may be denied if the custodian believes that their disclosure would be contrary to the public interest. SG §10-618(a).[9]

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[7] For similar reasons, the 1986 opinion concluded that another exception in the PIA did not bar access to non-identifiable information. That exception prohibits public disclosure of "public records that relate to welfare for an individual." SG §10-616(c). Noting that the PIA must be construed broadly to afford public access to information about actions of government agencies and officials, the 1986 opinion determined that information on agency performance that does not implicate individual privacy interests could be disclosed. 71 *Opinions of the Attorney General* at 378. Thus, this exception would also not affect disclosure of a report by the Independent Monitor that complies with the guidelines set out in the previous section of this opinion.

[8] This provision also permits Maryland law enforcement agencies to deny inspection of certain intelligence and security information, SG §10-618(f)(1)(iii), and provides a "person in interest"with a somewhat greater right of access, SG §10-618(f)(2).

[9] To some extent, the assessment whether a disclosure of investigatory records is contrary to the public interest involves considerations similar to the privacy concerns underlying Article 88A, §6(b). *See, e.g.*, SG §10-618(f)(2)(iii)(investigatory record may be withheld if disclosure would constitute an unwarranted invasion of personal privacy); (iv) (disclosure of confidential source); *Mayor and City Council of Baltimore v. Maryland Comm. Against the Gun Ban*, 329 Md. 78, 617 A.2d 1040 (1993) (disclosure of report of internal investigation of police officer might dissuade witnesses and possible informants from cooperating in the (continued...)

Investigatory files compiled by the police in response to a report of suspected child abuse or neglect plainly are within the purview of the investigatory records exception. Records compiled by DJS or a local department of social services may also be withheld under this exception if certain showings can be made. *Equitable Trust Co. v. State Human Relations Comm'n*, 42 Md. App. 53, 399 A.2d 908 (1979), *rev'd on other grounds*, 287 Md. 80, 411 A.2d 86 (1980); *Fioretti v. State Board of Dental Examiners*, 351 Md. 66, 716 A.2d 258 (1998). In particular, the agency must be able to demonstrate that it "legitimately was in the process of or initiating a specific relevant investigative proceeding" and that disclosure of the investigatory information would prejudice the investigation or cause some other identifiable harm that justifies withholding the record. *Fioretti*, 351 Md. at 82, 91.

A report of the Independent Monitor might include information drawn from the investigatory files of another agency for which that agency might reasonably deny a request for access under the investigatory files exception. For example, an Independent Monitor's report might describe an ongoing investigation and include information that might prejudice the investigation, reveal an investigative technique, or disclose a confidential source. In those circumstances, it would be appropriate for the Independent Monitor to withhold that portion of the report from public inspection, if the agency that provided the information would itself deny access under the investigatory files exception.

In responding to a PIA request for a report, the Independent Monitor should consult with those agencies that shared investigative reports incorporated into the report to determine whether any information is subject to the investigative files exception and, if so, whether its disclosure would cause one of the harms the exception is designed to prevent – *e.g.*, jeopardize an ongoing investigation.

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9 (...continued)
investigation). However, other factors can also be part of a determination whether an agency should disclose an investigatory record. *See, e.g.*, SG §10-618(f)(2)(i) (interference with law enforcement proceedings); (vi) (prejudice to an investigation).

In some instances, the Independent Monitor may need to delay public disclosure of information until after administrative or judicial proceedings have been completed.

As a practical matter, it may be difficult for the State officials who receive a report of the Independent Monitor's to know whether the report contains such material exempt from public inspection under the PIA. If the Independent Monitor is aware at the time a report is disseminated that certain portions are exempt under the investigatory records exemption, it should identify those parts of the report for the benefit of the officials to whom the report is disseminated. The Independent Monitor should strive to the extent possible to avoid including material in a report that must be redacted before the report is publicly disseminated.

### *C. Whether Restrictions Depend on the Source of the Information*

Finally, you ask whether the disclosure restrictions imposed by Article 88A, §6(b), depend upon which agency is the source of particular information. As noted above, in assessing a DJS response to allegations of child abuse and neglect, the Independent Monitor relies on information and reports from a variety of agencies and other sources, in addition to its own staff.

The applicability of Article 88A, §6(b), to the investigative findings of agencies other than a department of social services has been discussed in several prior opinions of the Attorney General. Those opinions indicate that the statute must be construed to protect the privacy of the persons involved in an abuse or neglect incident, regardless of whether information about the incident was reported by personnel of the local department of social services or other agency investigators. 76 *Opinions of the Attorney General* 220, 231-32 (1991) (information gathered by school systems, in response to allegations of child abuse by school personnel, is subject to confidentiality requirements of Article 88A, §6(b)); 82 *Opinions of the Attorney General* 72 (1997) (Article 88A, §6(b), proscriptions are applicable to law enforcement records). The Independent Monitor has the same obligation to maintain the confidentiality of

protected information under Article 88A, §6(b), as does DJS, a local department of social services, or a law enforcement agency that provided information to the Independent Monitor.

The confidentiality requirements associated with child abuse investigations are based on the nature of the information, not the agency that conducted the investigation. The same guidelines set out above apply to all information arising from a child abuse or neglect investigation, regardless of the original source of the information.

## IV

## Conclusion

In summary, it is our opinion that:

1. A report by the Independent Monitor may, and should, include findings and recommendations regarding public agency performance in response to allegations of child abuse and neglect at DJS facilities. However, to comply with Article 88A, §6(b), the report should not identify, or disclose information that invades the privacy of, a child, the child's family, the individual who allegedly committed the abuse, or the individual who reported suspected abuse to State or local authorities.

2. Assuming that a report is prepared in compliance with Article 88A, §6(b), that statute would not further restrict the public inspection of the report pursuant to a PIA request. Of course, in responding to a PIA request, the Independent Monitor must also consider other applicable exceptions to the general rule of disclosure under the PIA. In particular, the Independent Monitor should consult with agencies that provided underlying investigative reports to determine whether public disclosure of the contents of those records would compromise a current investigation or otherwise be contrary to the public interest. To the extent possible, the Independent Monitor should identify the parts of a report subject to that exemption at the time the report is provided to State officials.

3. The restrictions imposed by Article 88A, §6(b), apply to information that the Independent Monitor obtains from DJS, local departments of social services, law enforcement agencies, or other agencies, as well as to results of any investigation by the Independent Monitor itself.

J. Joseph Curran, Jr.
*Attorney General*

JoAnn Goedert
*Assistant Attorney General*

Robert N. McDonald
*Chief Counsel*
*Opinions and Advice*

# APPENDIX E

## Baltimore County Interagency Agreement on the Investigation of Child Abuse and Neglect at the Charles H. Hickey School

# FINAL DRAFT - 9/25/2003

## BALTIMORE COUNTY INTERAGENCY AGREEMENT ON THE INVESTIGATION OF CHILD ABUSE AND NEGLECT AT THE CHARLES H. HICKEY SCHOOL

### I. GENERAL

The purpose of this Baltimore County Interagency Agreement on the Investigation of Child Abuse and Neglect at the Charles H. Hickey School (Agreement) is to provide and promote coordination and communication among the participating agencies in the investigation of allegations of child abuse and child neglect at the Charles H. Hickey School and in any subsequent criminal prosecutions which might arise from such investigations. The goal of this Agreement is to provide the best possible outcomes for children and the community. The parties agree to follow a common protocol for investigating allegations of child abuse and neglect, to commit resources necessary to achieve common goals, to seek to resolve differences that arise between or among agencies, and to place the welfare of children at the center of our efforts.

The participating agencies in this Agreement are the Baltimore County Department of Social Services (DSS), the Maryland State Police (MSP), the Office of the State's Attorney for Baltimore County (SAO), the Maryland Department of Juvenile Services (DJS), and the Governor's Office for Children, Youth and Families (OCYF).

- DSS is responsible for conducting Child Protective Services (CPS) assessments of allegations of suspected child abuse and neglect at the Charles H. Hickey School. DSS shall designate specific staff with appropriate skills and training to conduct these assessments.

- MSP is responsible for conducting criminal investigations of suspected child abuse at the Charles H. Hickey School. MSP shall designate detectives with appropriate skills and training to conduct these investigations.

- SAO is responsible for the prosecution of criminal charges arising from investigations of suspected child abuse and neglect at the Charles H. Hickey School.

- DJS is responsible for administrative investigations, the care and welfare of the young persons in its legal custody, and for oversight of the contract under which the Charles H. Hickey School operates. DJS is the licensing authority for the Charles H. Hickey School.

- OCYF is responsible, through its Independent Juvenile Justice Monitor, for general oversight of the welfare of children in the custody of DJS, including residential students at the Charles H. Hickey School.

## II. CHILD ABUSE

### The Initial Report

DSS and MSP shall maintain 24-hour coverage for receiving reports of suspected child abuse.

DSS and MSP shall immediately share with each other all information/notifications of suspected child abuse. Whenever either party receives a report, whether from an outside source or from the other, both parties shall also notify the Independent Juvenile Justice Monitor and DJS as soon as possible.

DJS staff that work on-site at the Charles H. Hickey School will notify DSS of any child abuse or neglect incident that comes to their attention. This will serve as a safeguard against the possibility of an incident not being reported by the operator of the Charles H. Hickey School.

The Independent Juvenile Justice Monitor and MSP shall also be notified by either DSS or DJS of any reports of alleged inappropriate conduct directed towards students at the Charles H. Hickey School, even if such incidents do not meet the technical requirements of child abuse. An example would be an alleged assault by a Hickey School staff member against a student who is 18 years old or older. MSP shall promptly notify SAO of any criminal investigations arising from such circumstances.

DJS shall assist DSS and MSP in obtaining basic information regarding the victim and the alleged perpetrator.

## The Investigation

All child victims shall be seen within 24 hours by the State Police and/or DSS.

DSS and the State Police shall conduct joint investigations of suspected child abuse to the fullest extent circumstances permit. There shall be full sharing of information between the respective investigators. Whenever possible, there shall be joint interviewing of victims and alleged perpetrators.

Whenver possible, DSS shall assign specialized staff to conduct CPS investigations at the Charles H. Hickey School. Whenever possible, MSP shall assign specialized detectives to conduct child abuse investigations at the Charles H. Hickey School. Whenever possible, the specialized investigators from DSS and MSP shall make a joint initial on-site response at the Charles H. Hickey School.

MSP patrol officers shall respond on-site to the Charles H. Hickey School when necessary after normal business hours to meet the mandate for 24-hour response.

In the event of serious injury after normal business hours, the MSP patrol officer shall notify an MSP detective who shall notify DSS through the DSS After Hours Service emergency telephone number. An MSP detective and the DSS social worker assigned to After Hours Service shall respond to the Charles H. Hickey School to begin the investigative process. A specialized investigator from DSS shall take over the CPS portion of the investigation on the next business day.

DJS on-site investigators shall make medical, social and other relevant information under its control or the control of the operator of the Charles H. Hickey School available to DSS and MSP investigators.

DJS shall inform the operator of the Charles H. Hickey School immediately of the investigation. DJS shall ensure that steps are immediately taken by the operator to remove the

alleged abuser from direct contact with the victim and other children as necessary pending completion of the investigation. Further, the operator shall take all necessary steps to protect the victim and any witnesses.

DJS shall assist in interviewing victims and suspects and gathering of relevant information from the facility at the direction of MSP and/or DSS investigators. This may include taking photographs of alleged victims and/or alleged perpetrators.

DJS shall ensure that the victim receives appropriate medical treatment.

Whenever possible, DSS and MSP shall coordinate all subsequent investigative interviews of victims, alleged perpetrators and other persons relevant to the investigation.

MSP, DSS, and DJS may consult with SAO if they believe that criminal or juvenile delinquency charges may result, or should result, from any incident under investigation at the Charles H. Hickey School.

## III. CHILD NEGLECT

### The Initial Report

DSS shall maintain 24-hour coverage for receiving reports of suspected child neglect.

DSS shall notify the Independent Juvenile Justice Monitor and DJS of any report it receives alleging neglect of a student at the Charles H. Hickey School as soon as possible.

DJS staff that work on-site at the Charles H. Hickey School will notify DSS of any child neglect related incident that comes to their attention. This will serve as a safeguard against the possibility of an incident not being reported by the operator of the Charles H. Hickey School.

The Independent Juvenile Justice Monitor shall also be notified by DSS, MSP, or DJS of any reports of alleged inappropriate conduct directed towards students at the Charles H. Hickey School, even if such incidents do not meet the technical requirements of child neglect.

DJS shall assist DSS in obtaining basic information regarding the victim and the alleged perpetrator.

### The Investigation

DSS shall see all child victims shall be seen within 5 days.

Whenever possible, DSS shall assign specialized staff to conduct CPS investigations at the Charles H. Hickey School beginning with the initial on-site response.

DJS on-site investigators shall make medical, social and other relevant information under its control or the control of the operator of the Charles H. Hickey School available to DSS.

DJS shall inform the operator immediately of the investigation. DJS shall ensure that steps are immediately taken by the operator to remove the alleged perpetrator from direct contact with the victim and other children as necessary pending completion of the investigation. Further, DJS shall ensure that the operator takes all necessary steps to protect the victim and any witnesses.

DJS shall assist in the interviewing of victims and suspects and in the gathering of relevant information from the facility at the direction of DSS. This may include taking photographs of alleged victims and/or alleged perpetrators.

DJS shall ensure that victims receive appropriate medical treatment.

DSS and DJS may consult with SAO and MSP if they believe that criminal or juvenile delinquency charges may result, or should result, from any incident under investigation at the Charles H. Hickey School.

## IV. MULTI-DISCIPLINARY TEAM MEETINGS AND THE SHARING OF RESULTS OF CHILD ABUSE AND CHILD NEGLECT INVESTIGATIONS

**EVERY INVESTIGATION OF CHILD ABUSE AND NEGLECT AT THE CHARLES H. HICKEY SCHOOL SHALL RECEIVE BE REVIEWED AT A MULTI-DISCIPLINARY TEAM MEETING. THE PURPOSE OF THE MULTI-DISCIPLINARY TEAM MEETING IS**

TO SHARE INFORMATION REGARDING THE PROGRESS AND/OR RESULTS OF THE INVESTIGATION.

ALL PARTIES TO THIS AGREEMENT ARE STANDING MEMBERS OF THE MULTI-DISCIPLINARY TEAM FOR CHILD ABUSE AND NEGLECT INVESTIGATIONS AT THE CHARLES H. HICKEY SCHOOL. DSS, MSP AND DJS STAFF WITH DIRECT KNOWLEDGE OF AN INVESTIGATION SHALL ATTEND THE MULTI-DISCIPLINARY TEAM MEETING FOR THAT INVESTIGATION.

The operator of the Charles H. Hickey School shall be invited to attend Multi-Disciplinary Team meetings for completed investigations. The results of the investigation, including the identification of persons found responsible for child abuse and/or neglect shall be shared at such meetings.

THE OPERATOR OF THE CHARLES H. HICKEY SCHOOL, AT THE DISCRETION OF THE DSS AND STATE POLICE, MAY NOT BE INVITED TO ATTEND A MULTI-DISCIPLINARY TEAM MEETING RELATED TO AN ONGOING INVESTIGATION.

OCYF shall receive a copy of the DSS investigative report at the conclusion of the DSS investigation. Under current practice, the DSS report is given to the Independent Juvenile Justice Monitor at the Multi-Disciplinary Team meeting and another copy is sent to the Director of the Office of the Independent Juvenile Justice Monitor at OCYF.

## V. FORMAL CHARGES AND PROSECUTION

SAO will have an Assistant State's Attorney available on an on-call basis for consultations on all cases involving child abuse at the Charles H. Hickey School which are being mutually investigated by MSP and DSS.

Whenever possible, MSP shall consult with SAO prior to arresting a suspect in connection with a child abuse or other criminal matter involving students at the Charles H. Hickey School.

UPON ARREST OF A SUSPECT IN ANY CHILD ABUSE CASE, MSP AND DSS MAY CONTACT SAO AND ADVISE OF ANY APPROPRIATE CONDITIONS OF BAIL WHICH

SAO SHOULD RECOMMEND TO THE JUDGE CONDUCTING THE BAIL REVIEW HEARING FOR THAT SUSPECT. SAO WILL MAKE SUCH RECOMMENDATIONS CONCERNING BAIL, PROVIDED SUCH REQUESTS ARE TIMELY AND APPROPRIATE.

SAO will maintain a separate unit known as the "Sexual Offense and Child Abuse Division" which will be responsible for the screening, formal charging, and assignment of all child abuse cases arising at the Charles H. Hickey School. In addition, the SAO Division Chief will be available for consultation with MSP and DSS regarding the decision as to whether to file formal charges in any child abuse case which is being investigated.

DSS AND MSP SHALL MAKE EVERY REASONABLE EFFORT TO HAVE INVESTIGATIVE REPORTS COMPLETED AND FORWARDED TO THE STATE'S ATTORNEY'S OFFICE IN A TIMELY MANNER – WITHIN 60 DAYS, IF POSSIBLE.

THE SAO DIVISION CHIEF OR HIS/HER DESIGNEE WILL PRESENT THOSE CASES INVOLVING CHILD ABUSE WHICH HAVE BEEN SCHEDULED FOR PRESENTMENT BEFORE THE GRAND JURY. AFTER FORMAL CHARGES HAVE BEEN FILED IN ANY CHILD ABUSE CASE, THE DIVISION CHIEF WILL EITHER KEEP THE CASE HIMSELF/HERSELF OR SPECIALLY ASSIGN THE CASE TO AN EXPERIENCED ASSISTANT STATE'S ATTORNEY WHO WILL BE RESPONSIBLE FOR THE HANDLING OF THE CASE THROUGH DISPOSITION.

IN ORDER TO SPARE THE ALLEGED VICTIM ADDITIONAL TRAUMA, THE ASSISTANT STATE'S ATTORNEY WILL NOT INTERVIEW AN ALLEGED VICTIM OF CHILD ABUSE UNLESS THE CASE IS REASONABLY CERTAIN TO GO TO TRIAL ON THE MERITS. IN THE EVENT A CHILD ABUSE CASE IS REASONABLY CERTAIN TO GO TO TRIAL ON THE MERITS, THE ASSISTANT STATE'S ATTORNEY HANDLING THE CASE WILL NOTIFY DSS, WHEN NECESSARY, SO THAT THE APPROPRIATE SOCIAL WORKER CAN BE PRESENT TO ASSIST DURING THE INTERVIEW OF THE ALLEGED VICTIM. DSS AND MSP WILL BE AVAILABLE TO ASSIST THE ASSISTANT STATE'S ATTORNEY IN ANY CHILD ABUSE CASE WITH MATTERS PERTAINING TO THE INTERVIEW OF THE ALLEGED VICTIM, THE MARSHALING OF EVIDENCE AND INFORMATION REGARDING THE RESULTS OF INVESTIGATIONS AS WELL AS THE JOINT RESOLUTION OF ANY PROBLEMS REGARDING THE LOCATION AND TRANSPORTATION OF THE ALLEGED VICTIM TO COURT FOR THE TRIAL OF THE CASE. DJS, AS THE AGENCY WITH CUSTODY OF THE ALLEGED VICTIM AT THE TIME OF THE INCIDENT WILL ASSIST IN THESE ACTIVITIES AT THE DIRECTION OF DSS, MSP, AND/OR SAO.

## V. TRAINING PROGRAM

Each of the parties to this Agreement is committed to providing specialized training that relates to the field of child abuse and neglect, including, when possible, training that relates to

institutional abuse and neglect. The respective parties will ensure that the other parties to this Agreement are aware of available training opportunities.

Barbara Gradet, Director, Baltimore County Department of Social Services date

Sandra O'Connor, State's Attorney for Baltimore County date

Kenneth Montague, Secretary, Maryland Department of Juvenile Services date

Terri Garland, Special Secretary, Governor's Office for Children, Youth, and Families date

Lt. Raymond Grissett, Golden Ring Barracks, Maryland State Police date

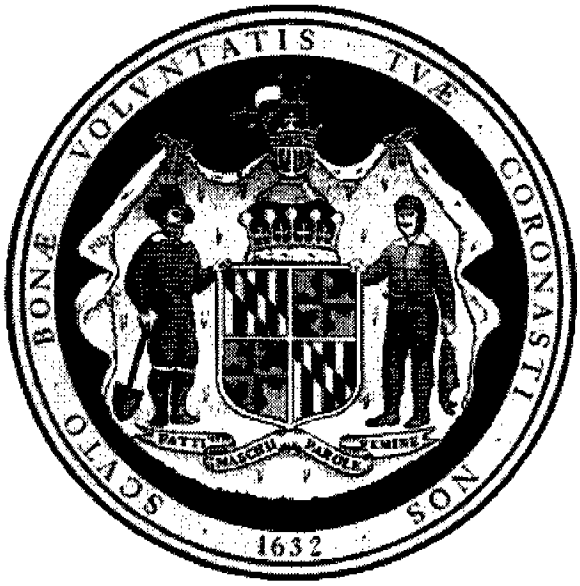
# APPENDIX F

## Quarterly Report for April – June 2004

# Quarterly Report

## April 1 – June 30, 2004

## The Office of the Independent Juvenile Justice Monitor




Robert L. Ehrlich, Jr. – Governor
Michael S. Steele – Lt. Governor
M. Teresa Garland, Esq. – Special Secretary,
Governor's Office For Children, Youth, & Families

MEMORANDUM

To: M. Teresa Garland, Special Secretary, Governor's Office for Children, Youth, and Families
Kenneth C. Montague, Jr., Secretary, Department of Juvenile Services

From: Ralph B. Thomas, Executive Director, Office of the Independent Juvenile Justice Monitor, Governor's Office for Children, Youth, and Families

RE: QUARTERLY REPORT FOR APRIL 1, 2004 – JUNE 30, 2004, OFFICE OF THE INDEPENDENT JUVENILE JUSTICE MONITOR

Date: September 17, 2004

I am pleased to present the most recent quarterly report of the Office of the Independent Juvenile Justice Monitor.

As required by Article 49D, Office for Children, Youth, and Families of the Annotated Code of Maryland, Section 45(b)(2), the Office of the Juvenile Justice Monitor "...shall report quarterly to the Special Secretary and the Secretary. A copy of the report shall be provided to the State Advisory Board for Juvenile Justice and, in accordance with Section 2-1246 of the State Government Article, the General Assembly. The report shall include: all activities of the Office; actions taken by the Department resulting from the findings and recommendations of the Independent Monitor, including the Department's response; and a summary of any violations of the standards and regulations of the Department that remained unabated for 30 days or more during the reporting period."

This quarterly report encompasses the period from April 1, 2004 to June 30, 2004. It notes conditions found within the Department of Juvenile Service's facilities by the Office of the Independent Juvenile Justice Monitor as well as those matters that have remained unabated since the issuance of the last quarterly report. As required, this report also includes the Department of Juvenile Service's response to the comments offered by the Office of the Independent Juvenile Justice Monitor. The Office of the Independent Juvenile Justice Monitor does not necessarily endorse or concur with the responses offered by of the Department of Juvenile Services.

I hope that this report serves to provide an accurate assessment of conditions within Maryland's Department of Juvenile Services' facilities and assists in the development of strategies to enhance programs and services to youth.

The Office of the Independent Juvenile Justice Monitor looks forward to continuing in its work with you in transforming juvenile justice within Maryland.

# MONITORS' ASSESSMENTS OF FACILITIES AND THE DEPARTMENT OF JUVENILE SERVICES RESPONSE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## MONITORS' ASSESSMENT OF FACILITIES AND THE DEPARTMENT OF JUVENILE SERVICES RESPONSE

The **Allegany County Girls Group Home,** which is operated by the YMCA, accommodates nine girls in an attractive home setting in Cumberland Maryland. Staff teambuilding and training continue to be contributing to the overall strengthening of the program. ACGGH uses elements of group process and positive peer culture, and describes its programming as the "healthy home" model. The program utilizes many community-based services for education, health, and counseling.

- The YMCA, program staff, and youth at ACGGH work to keep the facility in good shape and attractive. While the facility itself is in need of some repairs, the issue requiring the most immediate attention is the road, which after nearly a year, has still not been upgraded and repaired. During the long delay, estimates have increased from $20,000 to $40,000 for the needed repair and upgrade. DJS officials have indicated that the project will be undertaken this summer.

  **Response:**

  We have submitted our request to DGS and we are waiting for a response from DGS. We are also investigating other means that will allow us to make some temporary repairs while we wait for the response.

- The Allegany County Girls Group Home is a good resource for troubled and delinquent girls. However, with judges and DJS sending more youth home, referrals have dwindled somewhat. Also, the Department has, at times, put pressure on the group home to release youth prematurely. With so many girls needing out of home treatment placement, and with so few resources for girls available in Maryland, the Department should better utilize this valuable resource. ACGGH should continue to make their services known to other potential referring resources.

  **Response:**

  The Female Population Task Force will invite the administrative staff from the Group Home to come to the October meeting and present the program. Staff who work primary with girls from each of the Areas participate in these meetings as well as some of the Resource Consultants. All of these staff make referrals to the various programs for girls and will benefit from receiving an update on the facility and program.

The Department of Juvenile Justice **Youth Centers** are state owned and operated programs located in Allegany and Garrett Counties of Western Maryland. There are four Centers: **Green Ridge, Savage Mountain, Meadow Mountain, and Backbone Mountain.**

Meadow Mountain operates specifically as an addictions program. The average length of stay in the programs is six months. A total population of 156 youth is served in the Youth Centers.

The biggest problem facing the Youth Centers at this moment is lack of staffing. Currently, the Youth Centers are 24 positions short. Being open, "staff secure" facilities, effective programming, safety and security are completely dependent upon maintaining a full complement of trained and experienced staff. The direct care staff are the most vital component of DJS. To make cuts in direct care staff positions not only potentially puts youth and staff at risk, but the community as well. Staff morale has also suffered greatly as a result of the loss of positions, motivating some to seek employment elsewhere, thus further compounding the problem.

- **Unabated for 30 Days or More:** Youth Center group process programming is very dependent upon adequate numbers of staff to provide direction, safety, and security in the open programs. Because of the State budget crisis, however, the Department of Juvenile Services has reduced staffing positions in the Centers. The Centers are currently twenty-four positions short of being fully staffed. Additionally, the budget numbers for these positions have been deleted, effectively eliminating the positions permanently. The Superintendent has been active in stressing the importance of fully staffing the Youth Centers and advocating for the return of these lost positions.

  **Response:**
  The Department is aware of the need for additional staffing and the Youth Center's have been authorized additional Contractual positions to increase the staffing numbers.

- An issue that affects staff, contract staff in particular is the expressed concern and lack of understanding about the process by which staff PINs (personal identification numbers) are awarded. Until a staff member is granted a PIN, he or she has no benefits and serves under a year-to-year contractual agreement. There are presently eleven contractual staff in the Youth Centers. The current situation, where positions have been cut, only serves to increase staffs' concerns. The Superintendent has indicated to this monitor that training will take place at each campus to help staff understand the Department's personnel policies and procedures.

  ***Response:***

  PINs are assigned to contractual staff based on seniority in the particular classification. Staff meetings are scheduled in each Center which allows all staff to be present. Policies and procedures are reviewed at that time and questions answered. All staff receives training in personnel matters during their first week of Entry Level Training.

- The Youth Centers have developed a procedure manual for the operation of the Centers. There are, however, no commitment care standards in place to govern the operation of the Youth Center programs. A Committed Care Standards Task Force Committee has been convened, and is directed to present recommendations for the establishment of appropriate standards by the fall of this year.

  Response:

  The Committed Care Standards Task Force Committee has been established and they will present the recommendations in the fall. The Centers will follow the standards once they are approved.

- The Office of the Independent Monitor has supported that chronic "non-violent" offenders is an appropriate criteria, and should be adhered to by the Department. Thus, it is concerning that the "non-violent" proviso in the admissions criteria statement has been deleted. The Youth Centers report that with the downsizing of Hickey and Cheltenham, increasing numbers of youth coming into the Centers present more of a hardened detention mentality and demeanor. It is also the responsibility of the Department that the public, through the Community Advisory Board, be made aware of the full range and nature of youth being served in the open Youth Center programs.

  Response:

  We understand the IM's concerns about the youth they may feel are inappropriate. We know that our ability to deal with the youth who come to the Centers is an indication of the strength and integrity of the programs. Advisory Board members are very aware of the kind of youth committed to the center and undoubtedly share that information with others in the community.

- It still has not been officially determined as to what type of educational program the Youth Centers are approved to operate. They appear, however, to operate as public alternative educational programs. As a result of DJS Educational Administrators changing the school calendar, closing school every Wednesday afternoon, giving the teachers four weeks of "professional time", and not requiring the schools to make up snow days, the youth have significantly fewer days of instruction than previously. The days of instruction that have been taken from these students constitute a loss in credits gained, and they should be returned to the youth.

  Response:

  The DJS school calendar exceeds the 180 school days established by COMAR 13A.02.01.04A. DJS schools will be open of a total of 223 days during the 2004 –

2005 school year. During the 2003 – 2004 school year, school was open 229 days. Although Wednesdays will continue to be half days, we will alternate the groups so that the groups will not consistently miss a day each week.

- The vocational program at the Youth Centers is minimal. When the vocational instructor is absent, there is no substitute, and the youth spend "vocational" time cleaning the dorms, or doing "range" work, such as cutting grass, and picking up sticks. Youth who will need employment upon release form the Youth Centers should be better prepared while in placement.

  Response:

  Due to the short length of stay of youth at the Centers, it is not feasible for the Centers to train youth for vocations. However, the Youth Centers are currently working on a partnership with the Division of Rehabilitative Services which could provide job coaches and educational services for our youth.

- Family relationships and treatment with family members are often difficult for youth to maintain while in the Youth Centers. More needs to be done in programming to increase family and extended family participation in the treatment process, and thus; promote better youth reintegration into the family and community upon release.

  Response:

  We will continue to make efforts to increase family participation in aftercare program planning.

- While Probation Officers are doing a better job overall in making the necessary visitations to youth while they are in the Youth Centers, some visit rarely, if at all. Field Services needs to be required and supported in making monthly visitations to the Youth Centers to maintain contact with youth in their caseload.

  Response:

  The Area Directors will be advised of the lack of visits to the facility if and when they occur. They know that staff should be adhering to the visitation policy and they are being advised to have staff monitored for compliance.

- Some staff teambuilding meetings are taking place. Under the leadership of the Superintendent, the Youth Centers Administrators, and Supervisors, more meetings are reportedly being scheduled to help foster better communication and

address concerns on each campus. This is greatly needed, as staff report that effective problem solving and conflict resolution often does not take place, and that they have some fear of expressing this concern, as they might jeopardize their chances for promotion. It is recommended that mandatory staff meetings be held regularly, preferably on a weekly basis at first. As issues are resolved, meetings might be reduced to a monthly basis. The Youth Centers should either use their trainers, time permitting, or contract with outside skilled facilitators to help ensure that the necessary support is to given to all by an impartial team. The purpose of the facilitation should be to help each campus enhance open and constructive communication, focusing on trust building, teambuilding, problem identification, and problem resolution.

**Response:**

The Youth Centers have already put the mandatory staff meetings in place in all of the Centers to address the concerns of the IM.

**The Young Women's Facility of Maryland at Waxter** is a state owned and operated detention/ residential treatment facility located in Laurel, Maryland. The facility houses females under the age of 18 and is comprised of one detention unit and three programming units. The facility is operated under DJJ Detention Standards and other DJJ policies and procedures.

- **Unabated for 30 Days or More:** A review of the ICAU Incident Report Database for April through June of 2004 revealed that assaults/use of force incidents increased from .5 to .8 per day (1.6 every other day).

  **Response:**

  The Young Women's Facility have put more mental health groups in place to help the residents deal with some of the difficulties that they enter the facility with. The groups are designed to help the young women with some of the challenges and emotions they have encountered during their young lives. We have also made plans to have art and dance classes and special programs that have been designed to meet the needs of the young women.

- An investigator from DJS/ICAU assigned to investigate incidents of child abuse and other misconduct at the facility is under investigation for inappropriate contact with a youth at the facility. DJS conducted an internal investigation and the investigator resigned; however, other relevant agencies were not immediately notified so a coordinated and thorough investigation could be efficiently conducted in a timely manner.

  **Response:**

The Director of OPRA was notified and immediately sent the Assistant Director of ICAU to investigate the alleged incident. The Assistant Director of ICAU met with both Baltimore County Police and Baltimore County Child Protective Services Sex Offense Unit and provided them with all the pertinent information. Both agencies declined to investigate the incident as a criminal matter. It should also be noted that the alleged incident did not take place at Waxters but at the Good Shepherd Center which does not fall under the auspices of the IM.

- A youth who had been involved in seventeen (17) violent incidents at the facility just this year was allowed to use a curling iron on other youth and she became involved in an altercation with staff that resulted in staff and youth being burned before the youth could be physically restrained. A child abuse investigation was initiated by Anne Arundel Co. DSS/CPS. Youth who are known to be violent should not be allowed to use appliances capable of inflicting injury or harm to others.

  Response:

  The administration is working to develop teamwork among the staff assigned to the facility. Ongoing training for staff and the development of new programs for the young women will ensure that youth, no matter how difficult they are will receive the best possible programming and supervision.

- There is also a concern that the youth involved in the preceding incident was placed in seclusion for 72 hours for apparent punishment, contrary with DJS policy and procedure. The Facility Administrator advised that she had authorized such placement because the youth was a danger to herself and others. However, this monitor reviewed the seclusion logs for the period of time in question and all entries indicated that the youth was passive, non-violent, cooperative and/or sleeping without any problems throughout the 3-day period.

  Response:

  We agree that Seclusion should never be used as punishment and we do not use it as punishment. The young lady mentioned, may have quieted down but she was still seen as presenting a threat to others as indicated by the (17) violent incidents mentioned by the IM.

- **Unabated for 30 Days or More:** There remains no written protocol between DJS, MSP and CPS to address the issue of child abuse/neglect investigations. There was a case on 4/26/04 where a youth was reportedly sexual assaulted approximately one year ago in her neighborhood and the staff at Waxter had a difficult time reporting the incident to the appropriate authorities. Written

protocol between DJS, CPS, the State Police and the State Attorney's Office would outline procedures to be followed when there are incidents of assault, abuse, escape, etc… A written protocol could also address issues such as staff reporting suspected incidents of abuse, assault, etc… directly to the relevant agencies within Anne Arundel County.

Response:

We are reviewing the protocols that we have in place. If we begin to encounter difficulty with the various agencies, we will consider meeting with them to develop written protocols. At this time, when an incident occurs, the local police are called and the local Department of Social Services are called. They come to the facility to interview the victim if the case has never been reported.

- **Unabated for 30 Days or More:** A staff person under investigation for child abuse had been reassigned to work the front desk at the facility and should not have an opportunity to come into contact with any youth. During a visit on 6/23, this monitor observed one of the nurses at the facility come into the lobby/front office area with a youth to allow the youth an opportunity to get a drink from a machine. Any person working in the front office and receptionist window area would have had immediate access to the youth.

  Response:

  The staff under investigation for child abuse reassigned to work the front desk at the facility was placed on the 11:00 p.m. to 7:00 a.m. shift. Youth are always asleep at that time and should never be in that area during those hours. This procedure eliminates the danger of youth coming into contact with any staff person under investigation.

- **Unabated for 30 Days or More:** Some medical personnel are still not clear on the proper reporting procedures for child abuse/neglect cases that occur within the facility. This monitor spoke with administrators from the DJS Medical Department and learned that there was still ambiguity as to when nurses should report suspected in-house abuse.

  Response:

  Staff are trained in "Recognizing and Reporting Child Abuse." To ensure staff are aware of the process, training on this issue will be presented at a training session in September 2004. The IM is aware of this training because he will be involved in providing the training in the session.

- **Unabated for 30 Days or More:** The population at the facility remains at 50 or above. The population in the facility should be kept below 50 youth. Youth assigned to programs such as NIA and Drug Treatment (approximately 10 - 20 youth) should be removed from the facility and placed in other facilities. This would free up area to redistribute the detention/pending placement/secure placement youth (approximately 30 – 50 youth) throughout the facility.

  Response:

  Unfortunately, we have no control over who the judges send to this facility when they have a delinquency offense. However, the facility staff will work closely with the Resource Consultants, Case Managers and the Confinement Review Unit to identify and remove inappropriate youth as soon as possible. We will continue to work toward the ideal population. We agree that 50 youth would be the ideal. However, there are no programs for female youth such as Drug Treatment and NIA at the other facilities, however, please know the Department is exploring options for relocating the NIA Program.

- The distribution of staff per youth and per each unit is not adequate for response to potential problem situations on the units.

  Response:

  To increase the staffing, the facility has recently received 15 additional direct care positions. Interviewing will start immediately once the advertisement has been placed, the hiring will begin.

- **Unabated for 30 Days or More:** Computers are still needed throughout educational areas of the facility.

  Response:

  Before computers can be secured the appropriate wiring in the facility must take place.

- **Unabated for 30 Days or More:** Youth who need intense mental health counseling *due to past histories of violence, sexual abuse and rape are still being placed* at Waxter where such services are not sufficiently provided.

  Response:

  The Department have increased the mental health services to meet the needs of all youth assigned to the facility.

- **Unabated for 30 Days or More:** The facility still needs to hire a coordinator for substance abuse.

  Response:

  We are in the process of recruiting a coordinator for substance abuse. In the meantime, the facility administrator's credentials and 27 years of experience are adequate to provide direct supervision.

- **Unabated for 30 Days or More:** Staff persons and youth continue to complain that more vocational instruction is needed.

  Response:

  This is an area that continues to be a work in progress due to the fiscal impact of expanding the facility or adding a trailer for vocational programming.

- Youth in detention, pending placement and long term secure appear to be involved in much less programming than youth in the other two committed programs. There has been no evidence of outside recreation or effective programming at any of the other units besides the drug treatment unit during of the assigned monitor's visits over the past three months. Youth are observed sitting and watching television, braiding each other's hair, playing a board game or talking.

  Response:

  The Facility Administrator will be held accountable to ensure that all youth receive recreation and programming services as appropriate. New programming is being developed for all of the programs.

- A staff person expressed concerns to this monitor that some staff persons were verbally abusing youth and some staff actually discouraged youth from filing grievances. He/she advised that several youth had submitted letters to the DJS child advocate and the facility administrator that outlined their concerns, but as far as he/she knew there was nothing being done about them.

  Response:

  The Facility Administrator will continue to monitor closely all staff to ensure that they are not discouraging youth from filing grievances. The staff person alluded to in the report never reported to the appropriate administrator his/her concern of staff verbally abusing the youth.

- **Unabated for 30 Days or More:** There are still complaints from youth that there are problems with bugs and rodents in the facility. One youth complained that a spider had bitten her earlier in the day and a nurse supplied the youth with some cream.

  **Response:**

  The facility has a contract with Paramount Exterminators and they will continue to make regular visits to the facility to spray and check for bugs and rodents.

- Youth on the long-term secure unit complain that they do not have enough sanitary and hygiene supplies.

  **Response:**

  Hygiene products will always be available for youth when they need them. The youth will be encouraged to request items when they need them.

**Baltimore City Juvenile Justice Center** is located near downtown Baltimore City. It has the architectural capacity to house 144 male youth solely for detention. The property is owned and operated by the Department of Juvenile Services and is governed by DJS Secure Detention Standards. The facility opened on October 30, 2003.

On June 29, 2004, the population at the facility was 115. Three months prior on March 31 it was 75. Although there is a continued increased in the population, the facility still remains staffed for only 48 residents. During this reporting period there have been 164 incidents filed, of these 64% were youth on youth assaults. The rest were use of force, suicide ideation, youth on staff assault and youth requiring off grounds medical care. Two cases of child abuse were reported in June.

- **Unabated 30 Days or More:** Immediate measures must be taken to increase staffing consistent with the current population. This is the single most important step that must be taken to alleviate the serious life, health, and safety conditions present in this facility. With the daily population averaging 93, and the facility only staffed for 48, a gap analysis reveals that this facility is grossly understaffed by 35-40 staff. DJS conducted a recruitment fair for the hiring of new staff but this will not immediately impact this crisis as new staff will not be available for at *least 3-4 months due to screening and training requirements.*

  **Response:**

  On June 29, 2004 the facility held a job fair. More that 1,100 potential employees were in attendance. A list of perspective hires has been sent to headquarters for background checks and mental health evaluations. We expect to hire

approximately 35 contractual Resident Advisors and 4 Juvenile Counselors. In addition, 16 contractual staff has been temporarily reassigned from the Charles H. Hickey School to BCJJC. Also, five (5) additional staff from other facilities is temporarily assigned to BCJJC.

- Youth have a reasonable expectation to be housed in a safe and secure environment. Both staff and youth are not safe given the current staffing to youth ratio.

  Response:

  We are moving quickly to address this concern. Staff has been reassigned temporarily from other facilities to BCJJC. Also, a team of senior DJS residential staff have been brought in to conduct a review of day to day operations and recommend improvements.

- Further, programming is severely impacted, as staff is not capable of providing services. The education department has sustained staff shortages due to personal injuries and temporary reassignment, impacting the school program. Meaningful evening and weekend programming are essential components that also require immediate attention.

  Response:

  This area is being given immediate attention. A recreation coordinator has been hired for the facility and he will provide evening and weekend programming.

- During the reporting period, there were up to 20 children who were awaiting placement at BCJJC. Youth awaiting placement for long periods of time compound the overcrowding issue. In addition, these youth do not receive the long term treatment services that they are entitled to in a detention facility.

  Response:

  The Confinement Review Unit is working hard to locate the appropriate placements for the youth awaiting placements.

- Unabated 30 Days or More: Many youth on youth assaults occurred in the school, gym and dining hall. The immediate installation of surveillance cameras in the school, gym and dining room would assist staff greatly in the supervision of youth. Consideration should also be given to installing cameras in other high traffic areas within the facility.

Response:

Capital Planning has informed the BCJJC Detention staff that the Security Enhancements request has been approved. We are awaiting the installation of cameras in the Dinning Hall and the Gymnasium.

- **Unabated 30 Days or More:** Many of the construction materials, fixtures, and furnishings in this facility are not appropriate for a secure juvenile correctional facility. Serious life, health, and safety issues result from continuing to operate a facility given these physical plant deficiencies. Many items are capable as being used as weapons against self or others. As previously recommended DJS should secure the services of a professional architectural and design firm specializing in secure correctional facilities in order to review all equipment and furnishings to ensure that it meets acceptable standards for a secure detention facility. Some of the outstanding physical plant problems are addressed in the below referenced findings.

- **Unabated 30 Days or More:** DJS must repair all glass that is breakable in areas accessible by youth, including bedrooms and dayrooms.

  Response:

  All of the broken glass has been repaired. The glass will be replaced as it becomes broken.

- **Unabated 30 Days or More:** The shower doors and associated hardware are not tamper-proof and must be replaced. Showerheads are not tamper-proof and must be replaced ASAP.

  Response:

  This matter is under consideration.

- **Unabated 30 Days or More:** Remove/replace beds and desks in bedrooms with furnishings and equipment that are suicide resistant.

  Response:

  Desks and stools are being removed.

- The facility has an inordinate amount of trash and graffiti. After careful review by the assigned monitor, there is no documentation available supporting the required inspections of the facility by staff.

  Response:

  The facility has instituted a daily unit checklist that is to be completed by each shift. The units are also in the process of being painted to remove the graffiti.

- Facility does not have a wheelchair at its disposal.

  Response:

  A wheelchair has been secured for the facility.

- This Office and DJS have partnered with the National Juvenile Detention Association (NJDA) for technical assistance to address the training needs of staff and to improve the culture within the Cheltenham Youth Facility and the Charles Hickey, Jr. School. DJS and this Office have discussed the possibility of expanding the NJDA training to other detention facilities such as the Baltimore Juvenile Justice Center. Funding has been identified to proceed with this initiative at BJJC. This initiative should be implemented as soon as possible.

  Response:

  BCJJC will be included as one of the facilities to receive the NJDA training.

Maryland Youth Residential Center (MYRC) is a Department of Juvenile Services (DJS) owned and operated 24-bed shelter care facility located in Baltimore City. This facility rarely has vacancies and it is now servicing youth from all across the state. The educational program really has anchored the stability of this shelter care facility. Students have been on many cultural educational outings ranging from Morgan State's symposium on sexuality to the NFL's Ed Block Courage Awards Dinner. The Parent's Day Cookout was also very successful, held right on the grounds of MYRC; it provided parents quality time to spend with their children.

- **Unabated for 30 Days or More.** The leaking in the first/second floor bathrooms has drained to the ceiling in the dining room/kitchen causing paint to chip. This can become a major health concern.

  Response:

Bids are being prepared by the maintenance department. We are awaiting approval.

**Mount Clare House** is located on the fringe of downtown Baltimore City. The facility is a two-story house owned by the Department of Juvenile Services. The vendor for this facility is First Home Care Corporation. This is a twelve-bed group home that serves male youth (ages 15 ½ - 18) who have emotional and behavior problems. The length of stay is nine months to one year. A cook on-site prepares meals. Although licensed by DJS, the group home also contracts four beds with the Department of Human Resources (DHR); four beds with the Department of Health and Mental Hygiene (DHMH) and is governed by COMAR.

- Facility needs to install ramp at the front door to be fully handicap accessible.

  Response:

  A ramp has been built for the front door to make it handicap accessible.

**William Donald Schaefer House** is a nineteen-bed locked door facility for male youth who have a history of alcohol or drug abuse. The property is owned and operated by the Department of Juvenile Services. This is the only DJS-operated facility that is regulated and licensed by COMAR. It is located in a residential setting in north Baltimore.

As of this report, ninety-seven (97) youth have completed the program. There are a myriad of initiatives and activities that have taken place during this reporting period. Each youth participates in-group and individual counseling three days per week and addictions counseling drug/alcohol education and Youth Comprehensive Training (skills building) twice a week. Also, off grounds sessions to Narcotics Anonymous/Alcoholics Anonymous occur in the evenings twice a week.

- **Unabated for 30 Days or More:** As referenced in the previous report, the second floor bathroom and showers are inoperable.

  Response:

  The request for funding has been submitted.

- Paint is peeling around the exterior of the building.

  Response:

  Painting will be completed.

**Catonsville Structured Shelter Care (GUIDE)** is a privately operated non-secure facility located on Department of Juvenile Services' property. The current license allows for a capacity of ten male youth. The current vendor is held accountable for its services by Code of Maryland Regulations (COMAR) and certain Maryland Department of Juvenile Services licensing requirements.

This shelter care facility does a very good job with the residents programmatically. Residents participate in daily group sessions with topics such as anger management, effective communication skills, conflict resolution and other relevant topics. The Health Department does a weekly Sexual Education and STD workshop. It balances social responsibility, education and cultural exposure via field trips. During this reporting period, the average length of stay has been 33 days and the average daily population was seven.

- **Unabated for 30 Day or More:** The dining room, kitchen and bathroom floors are sinking and need to be repaired immediately.

  **Response:**

  Funding has been requested.

- During this reporting period, the shelter has had vacancies; about 30%.

  **Response:**

  No Response.

The **Charles H. Hickey School** has been a privately run facility located on State property. The facility is comprised of detention units and programming units designed for 30 days to 6 months programs. Correctional/Service Corporation (CSC) was the most recent vendor in the facility until the expiration of their contract on March 31, 2004. The Department of Juvenile Services has been managing the facility since that time. The facility and program were/are held accountable for servicing Maryland's youth through the Code of Maryland Regulations (COMAR) and certain Maryland Department of Juvenile Services (DJS) licensing requirements, Detention Standards and Conduct Standards.

- **Unabated for 30 Days or More:** The number of youth on staff assaults has risen significantly (over 300%) over the past two months of May and June. The average number of assaults/use of force incidents per day during the last 12 months was 2.46, and although there was a spike in April to 3.3 per day, there has been a decrease to 2.3 and 2.2 per day in May and June respectively. That decrease may be attributed to the drop in population of approximately 50 youth over the past three months and/or the transfer/placement of youth with severe behavior

problems to other facilities (See concerns with inappropriate placements at Thomas O'Farrell in this report). The assigned monitor continues to receive numerous complaints of assault and abuse at CHHS from youth at CHHS; DJS and CPS investigators; and DJS reports. DJS and CPS investigators continue to work closely together on cases and their relationships with investigators from the State Police should continue to improve per guidelines developed in the Interagency Agreement for Responding to cases of abuse.

Response:

Training for all staff was increased to meet the MCTC Standards. Also, an additional Program Manager has been assigned to assist with the increased accountability for all employees in the supervision of youth. We are continuing to focus our efforts on violence reduction through staff training to reduce the number of assaults. The decrease in incidents is encouraging as the Department has implemented a behavior management program for the youth that includes a Level and Point System with incentives and special behavior management plans for youth whose behavior is especially problematic.

- Youths in seclusion are not always being monitored and processed back into the facility population according to DJS seclusion standards. If youth are no longer a threat to harming themselves or others; are not an escape risk; or are not in danger of destroying property, they must be processed back into the population.

  Response:

  We will continue to monitor the seclusion area and remove youth at the most appropriate time.

- The logbooks for Seclusion and the Infirmary were missing for several days and staff were using notebook paper for a log.

  Response:

  New bound logbooks have been purchased for the Infirmary.

- *Unabated for 30 Days or More:* There are *still* some problems with investigations not being coordinated between DJS, the Department of Social Services (DSS) and the Maryland State Police (MSP) although the Baltimore County Interagency Agreement on the Investigation of Child Abuse and Neglect at the Charles Hickey School was placed into effect in April.

  Response:

We do feel we have a coordinated effort between DJS, the Department of Social Services and the Maryland State Police. If the IM continues to have concerns, he should meet with the Facility Administrator and provide additional detail or specific situations.

- **Unabated for 30 Days or More:** Vocational and general programming is insufficient at the facility. The Applied Learning Center (ALC) has been closed pending a decision from the Maryland State Department of Education concerning re-opening the vocational programs in July of 2004.

  **Response:**

  DJS took over the facility in April, since that time, we have had on going dialogue with MSDE as they were scheduled to take over the educational services August 2004. There is also ongoing dialogue with reference to the vocational services. After school residential programming will be provided by DJS. During the transition period between DJS and MSDE appropriate services were on going and continuous according to COMAR 13A.09.10. MSDE officially took Education programming on August, 2004 and plan to provide vocational programming.

- Although new suicide resistant and safer beds are being installed, the renovation of Ford Hall has no plans for replacing/repairing the ceiling vents, recessing the bedroom lights or making sure the toilets and plumbing are constructed to prevent breakage or access. There is consideration that the unit will be used to house mental health youth, so it is imperative that these changes be made.

  **Response:**

  We will continue to investigate the availability and costs of replacing the ceiling vents, bedroom lights and the plumbing in Ford Hall. We also want our youth to be safe.

- **Unabated for 30 Days or More:** The pedestrian sally port gate was not operating during most of this monitor's visits to the facility.

  **Response:**

  Repairs have been completed.

- **Unabated for 30 Days or More:** Some bedroom door locks are not functioning properly. Some staff and supervisors have not been ensuring that bedroom doors are locked when the youth are not in their rooms.

Response:

We will continue our efforts to maintain the bedroom door locks, which is an ongoing maintenance project. We have put procedures in place for ensuring that staff keep the doors locked when then youth are not in their rooms and the staff provide the appropriate levels of supervision.

- Suspensions, terminations and transfers have resulted in a lack of qualified staff in key direct care positions and the loss of four DJS Child Advocates. It is imperative that DJS hire qualified staff to ensure the safe and efficient operation of the facility. A recent job fair was very successful in attracting interested persons to work with DJS and hopefully an emphasis will be placed on obtaining highly educated and qualified personnel for residential services.

  Response:

  We will continue to recruit and hire employees according to MCTC Standards.

- There appears to be a renewed focus on mental health programs. Conversations with staff persons and supervisors for DelMarva reveal a sincere interest to broaden the vendor's responsibilities in this area. There are many cost benefits to the State for providing professional and competent on-grounds care versus the high cost of sending youth out-of-state.

  Response:

  No Response necessary.

- **Unabated for 30 Days or More:** Staff are not always alert and properly monitoring the youth as evidenced by the high number of youth on youth assaults. Youth have been going into each other's bedrooms and committing assaults.

  Response:

  New programming for youth and additional training for staff will work toward providing more appropriate levels of supervision of youth.

- The supply building is not being properly managed for inventory control. Visits revealed there is no system currently in place to accurately track incoming and outgoing supplies. There is also a need for increased manpower in the supply room to properly handle the ordering and receiving of supplies.

Response:

Staff member (Jim Kolmer) has been assigned from the business office to assist with the inventory in the warehouse.

- Some of the living units have been washing and drying clothes and towels on the units instead of taking advantage of the central laundry facility. Dirty clothes in the seclusion/intake area were observed piled in the hallway.

  Response:

  We have an agreement with the Department of Corrections (DOC) to provide Laundry services. The pick up days are Tuesday and Thursdays.

- Youth and parents have complained that the youth's personal belongings cannot be located once the youth is released or transferred from custody. An inspection of the property building revealed a lack of organization and control. It has been reported that the property room is being relocated to the Pratt building and there are plans to have someone placed exclusively in charge of the property control.

  Response:

  Effective June 2004, staff have been assigned to be responsible for and in control of the students' personal property.

- According to staff, some youth have not been paid or credited for helping in the supply room, dining hall and horse stables ever since the State of Maryland has taken over the facility.

  Response:

  Students were credited for hours worked prior to April 1, 2004 before DJS took over. There was a slight delay in processing the time sheets that resulted in youth not being paid immediately. As of July 2004 accounts were credited. In addition the salaries of the youth increased from $1.50 per hour to $5.50 per hour. All timesheets have been processed and turned in. Youth have been given their receipts. Once the youth leaves the facility, the check will be mailed to his home. The processing time is approximately three weeks.

- **Unabated for 30 Days or More:** Even after repeated citings by this Office over the last three years, the ceiling vents on the bedroom units are not suicide proof.

Response:

There is a major fiscal impact for replacing the ceiling vents. This is an item that remains under consideration.

- **Unabated for 30 Days or More:** The lack of sufficient lighting in the area behind the fence has been cited previously as a safety/security hazard for both staff and youth. There continues to be a lack of sufficient lighting and some staff express concern for their own safety when walking to their areas of assignment after dark.

  Response:

  The lighting in the area behind the fence has been completed.

- **Unabated for 30 Days or More:** The assigned monitor has observed toilets clogged or running on several of the units and in the infirmary.

  Response:

  The toilets have been repaired.

- **Unabated for 30 Days or More:** The infirmary doors have slide bolt locks installed on them, which can be a severe problem in the event of a fire with youth locked inside.

  Response:

  We have developed a unit that is assigned exclusively to the infirmary and seclusion at all times. We will always have a staff assigned to the area of concern for security and for the protection of the students in the event of an emergency.

- **Unabated for 30 Days or More:** This Office and DJS contacted the NJDA to conduct a Needs Assessment at the Hickey School. The assessment was completed in January and a report was submitted by NJDA recommending specific actions and training. Although the CSC is no longer the vendor at the facility, DJS should follow-up with those recommendations as they pertain to the current management.

  Response:

We agree and the Department plans to apply for funding through OJJDP to implement training at Hickey. Preliminary discussion with OJJDP has taken place.

- **Unabated for 30 Days or More:** Previous citings by this Office for a lack of security surveillance cameras has failed to result in the installation of these critical devices.

  **Response:**

  This matter is still under investigation.

The **Thomas O'Farrell Youth Center** is a privately run facility on state property which houses 43 adjudicated delinquent young men and an off-campus Transitional Living Continuum shelter care (TLC) houses 7 more.

- The numbers of assaults and use of force incidents have risen in the past three months. The facility feels that more inappropriate youths are being referred to the program and they have no right of refusal for such youth.

  **Response:**

  An accountability plan for the residential department to ensure that the level of engagement of youth increases to meet the expectations established in our crisis prevention strategy/training. O'Farrell Center staff do interview each youth referred to the program and they will continue to determine which youth are acceptable for placement in the Center.

- There have been several more escapes from the facility. Although the DJS Incident Reporting database identifies Thomas O'Farrell as a *Structured Shelter Care,* it does not meet the DJS definition of such a facility. It is important that DJS, the facility administration and the Maryland State Police recognize that Thomas O'Farrell is still considered a *Youth Center,* and youths who escape from the facility can be charged with the crime of escape. Refer to Article 83C, Section 2-117(a) (2).

  **Response:**

  O'Farrell has established protocols to ensure adequate custody and control over youth under our supervision and direct care. In the event staff are cited as negligent in their failure to practice policy, appropriate administrative action is taken to decrease the likelihood of similar incidents reoccurring. O'Farrell has never been classified as a secure facility.

- **Unabated for 30 Days or More:** Violent youth continue being charged with a crime within the facility, and are either not removed from, or are being returned to the facility population by DJS. DJS must cooperate with the police and TOYC to develop a written protocol to address this issue.

  **Response:**

  The Assistant Director of ICAU will continue to work with the MSP to ensure the appropriate handling of youth charged with new offenses.

- **Unabated for 30 Days or More:** The Maryland State Department of Education conducted an audit at the facility and there were concerns about the services being provided to the youths. TOYC must provide computers to meet the needs of the youth under its care, ensure substitute teachers are properly degreed, obtain youth's previous educational records and develop proper educational plans for all the youths.

  **Response:**

  A Computer Lab has been established in the O'Farrell School for student use for the new trimester. The O'Farrell School has met all the requirements cited in the MSDE audit, except for the library which will be completed by the end of the month, meeting our MSDE deadline. O'Farrell has cooperated fully and made significant programmatic adjustments to remain in good standing with MSDE and provide quality education to the youth we serve.

- **Unabated for 30 Days or More:** Vocational programs do not include any training for manual labor (carpentry, masonry, plumbing, electrical, painting, landscaping, auto mechanics, etc...). Youth could participate in appropriately guided learning activities on the facility grounds to build structures, paint, maintain equipment, garden, and improve the appearance of the grounds.

  **Response:**

  A vocational program is not part of the contract with DJS. Maybe at contract renewal time, we can revisit this observation. The O'Farrell School is currently equipped to offer pre-vocational training and career development. We still currently have an on and off ground work program in addition to the pre-employment skills training.

- **Unabated for 30 Days or More:** Recreational activities should be varied and meet the needs of all youth. The program must provide large muscle activity <u>every</u> day, not just a few times a week. On 5/5, 5/27 and 6/7 there was no activity going

on outside, although the weather was extremely nice. This problem has been cited in previous monitoring reports.

**Response:**

Daily recreation for the youth is an integral part of our daily schedule. In the event that staff are not following prescribed practices without authorization, they will be held accountable. The Recreation Coordinator will adjust his schedule to ensure that the scheduled activities are taking place.

- **Unabated for 30 Days or More:** A DJS Child Advocate has not been visiting the facility on a regular basis. Grievance boxes are being forced open by staff or youth and grievances are being handled by TOYC administrators/supervisors.

  **Response:**

  A Child Advocate has been assigned to the Center.

- A large dead tree is standing dangerously close to the outside basketball court. A walk-in freezer is not defrosting and the air conditioning unit for the dining area is still not working after more than a year. The sign at the entrance to the facility is in need of repair and painting, and the grounds are in need of extensive upkeep.

  **Response:**

  O'Farrell has cut down and removed all the dead trees from around the buildings and recreation areas to prevent accidents. This was completed on 8/14/04. The kitchen air conditioner was replaced on 7/6/04. The remaining maintenance concerns are a work in progress.

- During a visit on 6/22 it was noted that the temperature logs had not been completed for the walk-in refrigerators since 6/16.

  **Response:**

  Temperature control logs have been updated and will be monitored by the kitchen supervisor and the manager of that department.

The **Sykesville Shelter Group Home** is a privately run structured shelter care home located on state property. The facility houses up to 10 females, but due to space limitations, 8 females can be housed comfortably.

- There are complaints that youth have not been getting their personal belongings transferred to the facility after they have been placed there. DJS case managers must ensure that a youth's personal belongings are transported with a youth to their placement as required by DJS regulations.

  Response:

  DJS Area Directors will be informed of this concern and the need to have the young women's clothing transported with them, if their clothing is available. This item will also be placed on the Female Population Task Force's September Agenda.

- There are concerns that youth placed at the facility by DJS are not always getting their psychotropic medications transferred or prescribed in a timely manner. DJS case managers must ensure the youths they are placing or transferring receive the appropriate type and amounts of prescribed medication to last for at least 30 days. Most psychiatrists hesitate to prescribe medications to youths they cannot examine themselves or who are not considered their current patients. It may be feasible for DJS to assign psychiatrists by Area to handle the medical needs of the youth who are residing in facilities within that Area.

  Response:

  Facility staff will ensure that DJS case manager is notified of the child's psychotropic medication shortage within five working days of its depletion.

- According to a check of the facility records on June 29, 2004, there has been no DJS Child Advocate visiting the facility for several months. The Clinical Director and lead teacher both advised they had not seen any child advocates at the facility – but they did have the phone numbers of two child advocates if they were needed.

  Response:

  A Child Advocate has been assigned to visit the facility once a month or more often if there is a need.

- There have been concerns in reference to the facility relocating. DJS should cooperate with Sykesville Shelter Care to provide services in the best interests of the youth who are placed at the facility and offer ideas and suggestions that will ensure the program continues in a facility that is both appropriate and safe. Alternative solutions for monies and resources should be cooperatively researched by DJS and Sykesville's administration.

Response:

DJS has always cooperated with the Sykesville administration and will continue to offer suggestions and ideas for the next steps.

The **J. DeWeese Carter Children's Center** is a 24-bed detention facility located in Chestertown, Maryland. The facility houses both males and females between the ages of 12 and 18 years old. The facility operates under DJS Detention Standards and other DJS policies and procedures. The facility's total population has averaged between 15 to 20 youth. The number of females ranges from 5 to10.

- **Unabated for 30 Days or More:** A number of the youth detained are shelter eligible. As previously cited by this Office, there is no shelter care space on the Eastern Shore since the closing of the Eastern Shore Shelter Care in January of this year. During the reporting period, the facility experienced ten physical altercations amongst youth.

  Response:

  The facility continues to ensure that programming and services are provided for the youth. Performance measures are monitored including reductions of youth altercations.

- The facility's education program continues to be a positive part of the youth's detention period. The youth receive 5 hours of schooling per day as required by the DJS Detention Standards. Upon release, a "transfer record" is provided to the youth's home school to ensure that proper credit is given. A new teacher was hired in May although one position remains vacant. Educational staff meets with youth and their parents once per month to discuss all progress and any concerns. The youth enjoyed a brief two-week summer vacation in June and summer school started on July 6th.

  Response:

  No Response Needed.

- The youth participated in many programs during the reporting period. In April, the youth participated in an Easter egg hunt. On April 28th, the assigned monitor participated in birthday party for all youth, staff, and parents. In all 42 people celebrated their birthdays. Field Day was held on June 18th and the youth participated in various sporting events and a small cookout. The youth were also presented with certificates for their participation.

Response:

No Response Needed.

- The young father's program will begin in July to provide specialized programming to youth who are fathers.

  Response:

  The facility continue to enhance programming to meet the needs of our youth.

The **Alfred D. Noyes Children's Center** (Noyes) is a State owned and operated detention facility that houses both males and females under the age of 18. The facility operates under DJS Detention Standards and other DJS policies and procedures.

- **Unabated for 30 or More Days:** Noyes is a small facility with four housing units. At times, the youth engage in physical altercations. Staffing shortages have made it difficult to ensure two staff members are assigned to each unit. The facility lost 4 staff during the reporting period due to retirement, temporary transfers to other facilities, and entry-level training. Staff from the Western Maryland Children's Center (WMCC) has been transferred to Noyes on a rotating basis to provide additional supervision for the units. However, when WMCC becomes fully operational, this staff will no longer be available staffing at Noyes.

  Response:

  The facility was recently authorized additional positions to address staffing issues.

- **Unabated for 30 days or More:** The facility continues to house youth from Western Maryland because the Western Maryland Children's Center has not opened its additional twelve beds.

  Response:

  A process has been developed to ensure that Western Maryland residents are transferred to the Western Maryland Facility to fill the facility's capacity.

- The staff is still in need of some additional training to deal with youth suffering from mental health issues. The Office of the Independent Monitor (OIM) and DJS have partnered with the National Juvenile Detention Association (NJDA) for technical assistance to address the training needs of staff and to improve the culture within the Cheltenham Youth Facility and the Charles Hickey Jr. School. DJS and the OIM have discussed the possibility of expanding the NJDA training

to other detention facilities such as Noyes. Funding has been identified to proceed with this initiative at Noyes.

**Response:**

DJS is committed to improving and addressing training needs of staff.

- The assigned monitor was invited to sit in a Treatment Team meeting. The meeting regularly consists of administration, the Child Advocate, representatives of the education, medical, mental health, group life, case management, and substance abuse staff. This meeting occurs weekly to discuss newly admitted youth and cases that require additional monitoring and services.

  **Response:**

  We appreciate the monitor acknowledging the Treatment Team meeting.

- The facility has more nursing staff available on day and evening shifts. Since adding the additional nursing staff, the facility has not had any problems with providing adequate medical services to youth.

  **Response:**

  We appreciate the monitor acknowledging these improvements

- In June, the facility began distributing "The Spirit", a bi-monthly newsletter to staff and youth. The newsletter contains information from both youth and staff. It also acknowledges the accomplishments of youth within Noyes.

  **Response:**

  DJS appreciate the monitor acknowledging this positive initiative.

- The maintenance of the facility's physical plant has improved.

  **Response:**

  Thanks for the compliment.

- **Unabated for 30 days or More:** The facility is in need of a commercial washer and dryer because the current ones breakdown after 2-3 months use. Similar

commercial washer and dryers were purchased for the Cheltenham and Waxter facilities. Although Noyes lacks the space to place the machines in the same closet, one may be placed on each side of the facility.

Response:

The area for the commercial washer and dryer has been completed. Justification to purchase commercial type appliances has been submitted.

- **Unabated for 30 days or More:** The traveling barber/beauty shop cuts the boys hair on a weekly basis. Although the barbers will cut the girls hair, the female staff help the female residents maintain their hair. Female residents should also have the opportunity to have their hair groomed professionally. Chemical treatments should be applied only by trained professionals and not by facility staff.

  Response:

  We will investigate alternatives for the girls.

**The Cheltenham Youth Facility** (CYF) is a state owned and operated facility located in Cheltenham, Maryland. Within this reporting period, the facility's population decreased to 70 but has since increased to approximately 100. The facility has four detention units and one 24-bed shelter. The facility operates under the DJS Detention Standards and other DJS policies and procedures.

- The total population remained between 70 and 105. The number of youth has been drastically reduced within the past two years to single room capacity with adequate staffing levels.

  Response:

  DJS appreciate the monitor's acknowledgment of positive improvement at the Cheltenham Youth Facility as a result of dedicated staff.

- The housing units began using the evening programming rooms during the reporting period. Through interviews with youth, the boys state that they no longer sit idle on the units in the evening.

  Response:

  Again, we appreciate acknowledgement of the positive improvements at the facility.

- The pool has opened for the summer and this monitor has observed the youth enjoying their swim time. Because the population has been reduced, the staff seems to be able to provide more supervision to each youth.

  Response:

  No Response Needed.

- Shelter youth continue to complain about being locked in 2 dormitory style rooms at night. In addition, shelter care youth continue to have the majority of their daily activities such as school and dining provided within the secure detention portion of the facility. Thus, shelter youth are being held in secure custody and not in an unrestricted environment.

  Response:

  DJS will review to determine if adjustments are warranted.

- The shelter care youth have been taking scheduled field trips off grounds into community. On two occasions, youth have AWOL'd by running away from the rest of the group. This type of behavior occurs at a minimum and the positive experience of being in the community on a structured outing is a valuable resource for the youth and should continue.

  Response:

  The facility will continue to provide field trips consistent with the program.

- **Unabated for 30 or More Days:** Although the number of youth on youth fights remains high for the number of youth in this facility, the level of violence has reduced within the reporting period. The number of youth transported off grounds for medical treatment as a result of fights continues to remains high. Youth were transported off grounds many times for x-rays or stitches. The assigned monitor questions whether the staff are using appropriate crisis intervention steps to de-escalate verbal confrontations before they escalate into a physical confrontation. Some youth and staff state that many of the female staff refuse to intervene during youth on youth altercations fearing personal injury. Instead, they call for the male security staff to assist. Because security staff have many duties to perform, many minutes can pass before they arrive and by then, the youth are fighting and may already be injured.

  Response:

We will continue our efforts to train staff in resolving the conflicts before they escalate into physical confrontations. The Training of Trainers is scheduled to be held beginning September 13, 2004.

- The Office of the Independent Monitor (OIM) and DJS have partnered with the National Juvenile Detention Association (NJDA) for technical assistance to address the training needs of staff and to improve the culture within this facility. In April, NJDA representatives and a group of CYF staff members met over two days to discuss what areas of training are needed for facility staff. In May, the NJDA issued a suggested curriculum for staff training. NJDA has conducted similar interventions within other states resulting in enhanced facility operations.

  **Response:**

  The technical assistance by NJDA to address the training needs of staff continue with Training of Trainees scheduled for September 13, 2004.

- The facility seems to be using seclusion for reasons that are not in accordance with departmental policy and standards. Many times, youth were placed in seclusion for more than eight hours without the proper documentation to support why it was necessary. DJS policy states that a youth shall be released from locked door seclusion when the youth no longer fits the criteria for placement in seclusion. Many times, the fifteen minute room checks sheets verify that the youth is no longer posing a risk to the facility yet he will remain in seclusion for one to two more days. The continued seclusion after a youth no longer poses a threat could appear to be a form of punishment. Youth and facility staff verify that youth are often given 72 hours in seclusion for certain types of incidents, i.e. assault, attempted AWOL or escape. A review of the tour office seclusion logbook revealed that many youth did remain in seclusion for 72 hours for those types of incidents. Thus, youth are being placed in seclusion for prescribed periods of time as a sanction or punishment in violation with DJS policy.

  **Response:**

  To ensure that all seclusions are documented in the Tour Office and the Residential Health Center seclusion log, a memorandum is being issued as a reminder that all future requests will be documented on the appropriate Seclusion *Authorization Form.*

- Youth are also being placed on what facility policy describes as a "closed program". The assigned monitor found a youth with behavioral issues on the "infirmary's closed program" by being locked in a small hallway with one staff member outside of the seclusion rooms all day. He was not allowed to be in the

presence of other youth so he sat in the enclosed hallway for the majority of the day. He was given a packet of schoolwork to be completed and was given one hour of recreation. After the assigned monitor questioned this practice, the youth was transferred to another detention facility. Facility specific policies and procedures should not allow for a practice that is not approved by the DJS Detention Standards. The infirmary houses youth routinely placed there by administration for displaying negative behavior in general population, those youth in seclusion, and those with medical or mental health needs.

**Response:**

All closed program youth will continue to be afforded all programs and services as other youth. The DJS Detention Standards have not been approved at this time. They are still in draft form.

- The facility began using the due process hearing procedure in June. One youth complained that his hearing was held 3 business days after he was placed in seclusion for the alleged rule violation. Hearings must be timely in order to address youth's concerns and to satisfy their right to due process.

**Response:**

Due Process hearings will be held on Mondays, Wednesdays and Fridays. This will allow the hearings to be held within forty eight hours of the infractions.

- As cited in previous reports, the assigned monitor continues to find that when comparing the tour office logbook, seclusion logbook and the incident report database, it is apparent that many incidents were not documented and reported to DJS Headquarters as required. When Incident Reports are not completed and logged into the Incident Report Database, the Office of Professional Responsibility and Accountability (OPRA) will not know to investigate the incident.

**Response:**

We will continue to monitor this area for compliance.

- The floor in the Infirmary waiting area and two youth bathrooms is currently under repair.

**Response:**

No Response Needed.

The **Western Maryland Children's Center** is now accommodating up to 18 youth. The contractor has been attempting to attend to the many physical plant problems, such as lack of hot water, the heating system that doesn't work, and control panel malfunctions. The Department, however, has not addressed the many problems presented by the fixtures used in the youths' sleeping rooms. In spite of these numerous problems, the staff at the Western Maryland Children's Center have continued to provide quality programming, within this detention setting, that is creative and reflective of a high level of professionalism, dedication, and care.

- The Department is now contracting with Behavior Health Services to provide four hours of on grounds psychiatric time each week, and on call psychiatric capability on a twenty-four, seven day a week basis.

  **Response:**

  No Response Needed.

- The Department has made plans to make some improvements to the facility that are needed and that have been recommended. At least thirteen more surveillance cameras will reportedly be installed, and all of the cameras will be tied into a recording capability. The clear windows around the control room and adjacent hallway that compromise youths' confidentiality are to be replaced with tinted windows. However, these upgrades have not yet taken place.

  **Response:**

  We are in the process of identifying a product. We are also waiting for a funding source to be identified. As there are more urgent needs, and this item requires fiscal resources, we have determined that this is not a priority at this time.

- **Unabated for 30 Days or More**: Vitreous china fixtures are still present in the youth sleeping rooms and bathrooms used by youth. Because of the injuries incurred as a result of youth breaking these fixtures and using the sharp shards as weapons, the Department agreed in January of this year to install stainless steel fixtures immediately in at least two rooms, incrementally replace all of the fixtures with stainless steel as breakage of the vitreous china fixtures occurred; and replace all vitreous china fixtures with stainless steel within a three-year *period. However, as of this writing, no action has taken place.*

  **Response:**

  A/E has been selected to provide assessment/recommendation for plumbing systems and fixtures.

- **Unabated for 30 Days or More:** In addition to the danger presented by the vitreous china, the sink handles are types that provide a potential tie off point for a youth attempting suicide, or, as has happened most recently, have been broken off of the sink. One youth attempted to use the handle as a weapon, and another used the handle to break the glass in his sleeping room door. The Department has replaced the broken handle with a shorter handle, but this too could be used as a tie off point or as a weapon, albeit, a shorter weapon.

  **Response:**

  As building systems are in place – in depth discussions with Operations will be held to determine alternatives.

- **Unabated for 30 Days or More:** The beds used in the facility have holes and posts, and the desk stools have braces that could be used to attempt or complete a suicide. As reported in the last writing, that threat has turned to reality, as a youth attempted suicide by tying off a sheet to the stool arm. The desks and seats should either be removed or replaced with suicide proof furniture. DJS is currently reviewing potential suicide proof beds, and bed/desk combinations in order to remedy the problem.

  **Response:**

  No Response Needed.

- **Unabated for 30 Days or More:** As noted in the last two Quarterly reports, one youth managed to pull down a sprinkler covering in his room and set off the sprinkler. The vulnerability of these coverings to being tampered with by youth also poses the risk that an exposed sprinkler head could then be used from which to tie off in a suicide attempt. DJS says it is "reviewing" to determine appropriate action. Immediate action should be forthcoming in order to keep this type of incident from occurring again.

  **Response:**

  As building systems are in place, we will schedule a meeting and hold – in depth discussions with Operations to determine alternatives.

- **Unabated for 30 Days or More:** ADA handrails are still present throughout the facility in bathrooms and showers used by youth. Beyond the minimum number of ADA equipped bathrooms and showers required, the Department should either remove these rails, or make them solid to the wall in order to prevent a youth from tying off in a suicide attempt. Thus far, the Department has not committed

to making the changes recommended, but says it is "reviewing" to determine appropriate action.

Response:

The current ADA rails have been installed according to ADA building regulations. To satisfy the monitor's concerns, if necessary we will provide documentation from ADA as to the appropriateness of the rails.

- The Western Maryland Children's Center staff have been very diligent in documenting any incidents, no matter how minor. This is very positive, even though on the face of a report, it might appear that there is more trouble at the Center than elsewhere. In face, quite the opposite is the case, as other facilities have under reported incidents. This office is concerned that the Center has received some negative comments from DJS officials for having so many incidents. This could easily translate into the facility feeling pressure not to report incidents. The WMCC should be congratulated that staff are maintaining integrity in their reporting of incidents despite this pressure.

  Response:

  No Response Needed.

**The Lower Eastern Shore Children's Center** (LESCC) is a state owned and operated facility located in Salisbury, Maryland. The facility houses males and females between the ages of 12 and 18 years old. The facility operates under the DJS Detention Standards and other DJS policies and procedures. The facility is located on the grounds of the Wicomico County Adult Detention Center and shares its building with DJS transportation officers, electronic monitors, and the fiscal manager for the Eastern Shore.

- The assigned monitor has observed staff working alone on the two smaller units that each house up to six youth. Although DJS strives to provide staff to youth ratios of 1:8 during awake hours and 1:12 during sleeping hours, staff should not be required to provide crisis intervention alone during altercations involving two or more youth. Staff complains of the lack of an adequate number of male staff to provide supervision on the units.

  *Response:*

  The practice of hiring according to gender is not the practice of the Department; however selecting the most qualified applicant is the Department's practice. The facility will and does at all times staff all pods according to the set staff to youth ratio.

- Staff complains the two-way radios frequently do not work during emergencies (i.e. physical altercations) and experience outside interference.

  Response:

  DJS IT is currently working on the replacement of the currently used two-way radios. The Chief Information Officer was notified of the need for the radio replacement July, 04.

- A security enclosure will be installed over the intake desk area to prevent youth from entering the secure area. Cameras will be installed this month in the intake areas to allow the Control Center to monitor the entire area.

  Response:

  No Response Needed.

- One youth from Baltimore caused approximately $1100 damage to the facility by tampering with the sprinkler in his room during a violent outburst.

  Response:

  Youth transfers are authorized by the Department with the approval from appropriate Office Management Staff.

- **Unabated for 30 or More Days:** In this monitor's previous quarterly report dated January 9, 2004 (for the period from October 1 to December 31, 2003) several issues were cited that posed a risk for suicide attempts. DJS provided a Corrective Action Plan ensuring the porcelain toilets and sinks would be replaced with standard stainless steel toilets designed for detention facilities on an incremental basis. However, DJS previously agreed to the following plan specifying that it will be done as follows: no less than two bedrooms shall be retrofitted immediately; as the porcelain toilets and sinks are damaged, they will be replaced with stainless steel fixtures; and the complete replacement with stainless steel fixtures shall occur within three years.

  Response:

  A/E has been selected to provide assessments/recommendations for plumbing systems and fixtures.

- **Unabated for 30 or More Days:** The rooms still have desks with seats attached by a bar that swings outward. A youth could tie an item around the bar during a suicide attempt. Although the youth now use the desks to read books during quiet time, the risk continues to exist. The youth are only to be confined to their rooms for disciplinary purposes and for sleeping. Programming and recreational activities should occur in areas designed for education and group activity.

  **Response:**

  Alternatives are being investigated by DJS and the Office of the Independent Juvenile Justice Monitor.