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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
JUVENILE JUSTICE MONITORING UNIT

October 30, 2006

Secretary Kenneth C. Montague, Jr.
Department of Juvenile Services
One Center Plaza
120 W. Fayette Street
Baltimore, MD 21201

Dear Secretary Montague:

Enclosed please find a "Special Timely Report" with regard to a youth on youth assault at the Charles H. Hickey School which resulted in a youth being cut and stabbed by a section of a pair of scissors. After being informed of the assault, this office conducted an inquiry into this information and the findings are as set forth in this report.

As you will see in the report, several deficiencies were noted prior to and subsequent to the assault. It is hoped that, due to the imminent danger involved, the recommendations of the Juvenile Justice Monitoring unit are taken into consideration and acted upon without delay.

I look forward to working with you and your staff in a collaborative effort to ensure that our collective vision, mission and core goals are realized.

Respectfully submitted,

/S/

Yusuf A Muhammad
Acting Director
Juvenile Justice Monitoring Unit

Enclosures

Cc: The Honorable Thomas V. Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House of Delegates
Deputy Secretary Stephen Moyer, DJS
Deputy Secretary Roberto Rodriguez, DJS
Deputy Attorney General Donna Hill Staton, OAG

Electronic Copies: William Stewart, Assistant Secretary, DJS
James Smith, Assistant Secretary, DJS
Phillip O'Donnell, Director, OPRA, DJS
Robert Fontaine, Principal Counsel, DJS
Marian Daniel, Program Manager, DJS



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Special Timely Report

- Facility:** Charles H. Hickey School (CHHS)
2400 Cub Hill Road
Baltimore, Maryland 21214
410-668-3300
Facility Administrator: Tom Bowers
- Date of Investigation:** October 16 – 23, 2006
- Reported by:** Philip J. Merson
- Nature of Issues during Reporting Period:** Threat to Life, Health, and Safety of Youth
- Staff Interviewed:**
- CHHS employees and Investigators for the Department of Juvenile Services Office of Professional Development and Accountability (ICAU)
 - Maryland State Police
 - Baltimore County Department of Social Services
- Monitoring Tools:**
- Article 83C of the Maryland Code
 - Maryland Rules, Title 11
 - Maryland Department of Juvenile Services Standards for Juvenile Detention Facilities (revised February 1, 2004)
 - Maryland Department of Juvenile Services Standards for Conduct
 - Maryland Department of Juvenile Services Policies and Procedures
 - Baltimore County Interagency Agreement on the Investigation of Child abuse and Neglect at the Charles H. Hickey School
- Date of Report:** October 23, 2006

INTRODUCTION:

The Charles H. Hickey School is a State owned and operated detention facility that currently has three cottages that are reported to be dedicated to detention, with one of the cottages to be dedicated to pending placement. All three cottages are located behind a razor wire fenced in area. The Maryland State Department of Education provides instruction to the youth at the facility.

On October 15, 2006, two youth reportedly became involved in a physical altercation resulting in serious physical injury. The victim was being detained at the facility pending case disposition. The accused perpetrator stabbed the victim with a “shank” made from a separated pair of scissors. The youth accused of the stabbing was a post-adjudicated youth who had been at the facility for 125 days and considered “too aggressive” for placement in several secure facilities. Subsequent to the stabbing, the shank was found hidden in a mattress in the accused youth’s room and the other half of the separated scissors was found hidden in the mattress of another youth’s room. State Police charged the youth as an adult with attempted murder, first-degree assault and possession of a deadly weapon and he was detained in the Baltimore County Detention Center. A follow-up search located a screwdriver in another cottage in the detention facility unrelated to this incident. There is a serious concern relating to detained youth making deadly weapons from materials obtained on-grounds at the facility.

KEY FINDINGS:

Based on conversations with investigators, staff, supervisors and administrators, it was reported to this monitor that several staff persons would be found negligent in their duties, according to DJS policies and standards. In response to this incident, procedures are being implemented to raise staff awareness, keep areas secured and ensure youth are searched more thoroughly and appropriately at the facility. Serious concerns remain regarding the ability of DJS to keep youth safe in the facility. These specific concerns and recommendations will be included in this monitor’s Timely Report due at the end of this quarter. However, the focus of this Special Report is in the following five areas:

- As consistently noted in previous reports, **“hard to place” youth are being held in a pending placement status for extended periods of time** and often beyond limits allowed by law. These youth may become increasingly angry and aggressive as their needs are not met. They may pose an increased danger and risk for the safety and security of other youth and staff. The processes and procedures for detaining, assessing and placing youth in the juvenile justice system must be consolidated to provide for the protection of a juvenile’s rights.
- The **“crime scene” was reportedly contaminated** and cleaned up before investigators from the Maryland State Police could process it for evidence.
- **Child Protective Services were reportedly notified but refused to accept** the incident for investigation.
- Reportedly, there were previous fights and concerns at the facility relating to the two youth who became involved in this fight. **The youth were not successfully processed and/or counseled to prevent the continued confrontations** and the subsequent stabbing of one youth by another.

- There are reported concerns that the accused of the stabbing may have been strongly **influenced by the “gang mentality”** of another youth on the unit. A subsequent search of the facility located the other half of the scissors, also made into a shank, concealed in a mattress in the room of the alleged “gang” youth.

Pending Placement and Violence:

This case typifies the problems that accompany post-adjudicated (pending placement) youth. Violent and aggressive youth frequently spend extended time, sometimes many months, waiting for a placement that is both capable and willing to meet the youth’s needs for treatment.

Victim:

According to the DJS ASSIST system, the victim in this incident has an extensive history with DJS, including escape and auto theft. Diagnoses included conduct disorder, substance abuse and depression. He was being processed for possible waiver to the adult system and was detained at the CHHS facility on September 19, 2006.

An interview with the victim on October 18, 2006 found him to be cooperative and amiable. He had stab wounds under his right eye and on his right chest. He expressed concern for his future safety because he had identified his attacker and felt there would be retaliation from the attacker’s associates. He said the confrontation had started two days prior to the stabbing incident when the accused youth had taken a muffin from his tray during breakfast on October 13, 2006 (see below).

Accused Youth:

The accused youth had been at the facility pending placement since June 13, 2006. He attempted an escape on October 12, 2006 at 8:15 AM by climbing on the roof and fence of the facility (ICAU Number 50948). The youth was eventually “talked down” by a staff member and subsequently received treatment from a counselor at Glass Mental Health. Some staff and counselors felt that the youth may have been reacting to recent news that he was being accepted for an out-of-state. However, according to DJS ASSIST, the youth had already been accepted into an out-of-state program on July 31, 2006. This raises a question as to why the youth was not previously aware of his acceptance into the program. The youth had previously been turned down by other secure facilities due to his aggressive behavior and/or medical condition.

The following are applicable sections of the Juvenile Justice Article and Maryland Rules pertinent to the above:

Article 83C, Sec. 2-111. DJJ is responsible for the proper placements of youth. “The Department is the central administrative Department for juvenile intake, detention authorization, community detention, investigation, probation, protective supervision, and aftercare services.”

Section 2-112 of the article states, “Detention, adjudication, disposition, and place and period of commitment in juvenile causes as to children in need of supervision and delinquent children are governed by Title 3, Subtitle 8A of the Courts Article.”

Title 3, subtitle 8A states that the court shall, "...commit the child to the custody or under the guardianship of the Department of Juvenile Justice... on terms that the court considers appropriate to meet the priorities set forth in § 3-8A-02 of this subtitle, including designation of the type of facility where the child is to be accommodated, until custody or guardianship is terminated with approval of the court or as required under § 3-8A-24 of this subtitle.

Title 3, subtitle 8A-02 states the purpose of the subtitle, which is:

1) To ensure that the Juvenile Justice System balances the following objectives for children who have committed delinquent acts:

(i)Public safety and the protection of the community;

(ii)Accountability of the child to the victim and the community for offenses committed; and

(iii)Competency and character development to assist children in becoming responsible and productive members of society;...

(4) To provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this subtitle; and to provide for a program of treatment, training, and rehabilitation consistent with the child's best interests and the protection of the public interest;...

(7) To provide to children in State care and custody:

(i)A safe, humane, and caring environment; and

ii) Access to required services

According to Rule 11.114 of the Maryland rules, "If the respondent is in detention or shelter care, the adjudicatory hearing shall be held within thirty days from the date on which the court ordered continued detention or shelter care. If an adjudicatory hearing is not held within thirty days, the respondent shall be released on the conditions imposed by the court pending an adjudicatory hearing, which hearing shall be held within the time limits set forth in subsection 1 of this section."

According to Rule 11-115 of the Maryland Rules: "If after an adjudicatory hearing the court determines that the allegations of the petition at issue in the adjudicatory hearing have been sustained, it shall promptly schedule a separate disposition hearing. The disposition hearing shall be held no later than thirty days after the conclusion of the adjudicatory hearing."

Crime Scene Protection:

The State Police advised that they were not notified of this incident for several hours and upon arrival, much of the evidence had been cleaned up or contaminated by staff. One of the primary responsibilities of any first responding investigator to a reported crime is to protect the crime scene. DJS/ICAU should ensure staff and employees are aware of the importance leaving the scene of a possible criminal scene as undisturbed as feasibly possible. This will aid in any subsequent criminal investigation by law enforcement officials.

DJS Standards of Conduct 7.0 states, "The Investigations section of the ICAU shall be responsible for the investigation and/or referral when appropriate, of all allegations of employee or vendor misconduct to include... misdemeanors and felonies, administrative violations, and special investigations..."

Refusal of CPS to Conduct Investigation for Neglect:

Although DJS/OPRA contacted CPS to report the concern regarding the possibility of staff neglect, the incident was not accepted by CPS for investigation. A conversation with the CPS intake worker on October 20, 2006 revealed they felt there was no indication that staff neglect contributed to the stabbing incident based on the information provided by the DJS reporter. This monitor expressed concern that staff neglect could not be determined without a more thorough investigation but CPS felt if any DJS investigation revealed that there was evidence of staff neglect, they should then be re-notified.

The Child Abuse Interagency Agreement drafted between agencies in 2003 states:

- **“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.”**
- **“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.”**
- **Regarding reports of neglect, the agreement goes on to state:
“DSS shall see all child victims 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.”**

Processing of Youth Involved in Altercations:

Incidents Involving the Two Youth:

On 10/13/2006 at 11:15 AM, these same two youth were reportedly involved in an altercation when the accused youth removed a muffin from the victim's food tray (ICAU Number 50982). According to the report, the subsequent fight between the youth resulted in multiple restraints and the accused youth was sent to seclusion.

On 10/13/2006 at 4:30 PM, two youth who were reportedly friends of the accused youth in the previous incident (50982) assaulted the victim youth and were removed to seclusion (ICAU Number 51000).

On 10/15/2006 at 7:30 AM, the accused youth reportedly went into the unit's laundry room (reportedly locked by staff) and waited for the victim (ICAU Number 50973). The victim reportedly went into the unlocked laundry room to obtain some clean socks and he was attacked and stabbed by the accused youth during a fight. The perpetrator left the laundry room and returned to his room. The incident was not discovered until another staff person saw the victim standing in the doorway of the laundry room bleeding. Both the perpetrator and victim youth had to walk down a hall and past a staff person who was reportedly monitoring hygiene activities in the bathroom. Also, the laundry room is approximately 15 feet from the entrance (staff post) to the bathroom. However, the staff posted at that location failed to observe the youth enter the laundry room, failed to hear any fighting in the laundry room and failed to observe the accused youth exit the laundry room and walk past him back to his room. After another staff observed the victim youth bleeding, a subsequent investigation by staff and supervisors resulted in the accused being identified and the recovery of two shanks made from a single pair of scissors (ICAU Number 51012).

DJJ Standards of Conduct 2.24.2 state, "Every Employee has a responsibility to ensure a safe and humane environment for youth and to respect the individual rights of youth and other clients." DJJ Detention Standard 5.1.5.3 states, "Youth shall be protected from violent, emotionally disturbed, contagious or ill youth..."

Hardened Repeat Offenders and Gang Affiliated Youth:

Some staff members interviewed felt that yet another youth, a professed "gang member", had strongly influenced the accused youth to assault the victim with the shank. Following the stabbing, a shakedown of the unit was conducted and the other half of the scissors (shank) was found in that same gang member's bed. This monitor conducted an interview with the alleged "gang youth" to determine any connection with the stabbing incident or the source of the scissors located in his bed. He refused to cooperate and stated he was "much too advanced for these youth" and he felt he should be in an adult facility. It was also learned that subsequent discussions within this youth's group resulted in his opinion that the victim of the stabbing "should have been killed."

The accused youth has an extensive history with DJS. Recently, he was detained at the Western Maryland Children's Center and was released to Hickey on 9/27/2006. Conversations with staff at Western Maryland Children's Center revealed that the youth had gang affiliations and he was transferred to Western Maryland from Noyes Children's Center. The reason for the transfer was reportedly because he had tried to influence another youth at the facility, also an alleged gang member, to assault a facility staff person at Noyes. This monitor contacted staff at the Noyes facility and according to the Noyes staff the youth was a known member of a violent gang and was transferred to Western Maryland Children's Center to protect staff and other youth at Noyes.

DJJ Standards of Conduct 2.24.2 state, "Every Employee has a responsibility to ensure a safe and humane environment for youth and to respect the individual rights of youth and other clients." DJJ Detention Standard 5.1.5.3 states, "Youth shall be protected from violent, emotionally disturbed, contagious or ill youth..."

RECOMMENDATIONS:

1. DJS must protect youth in its custody.
2. Aggressive or violent youth must not be held in a pending placement status for extended periods of time. These youth appear to become increasingly angry and aggressive as their needs are not met. They appear to pose an increased danger and risk for the safety and security of other youth and staff. The processes and procedures for detaining, assessing and placing youth in the juvenile justice system must be consolidated to provide for the protection of a juvenile's rights.
3. A serious incident such as this usually results in a crime scene. Staff members must be encouraged to leave the area as undisturbed as feasibly possible for law enforcement investigative purposes.
4. When requested, Child Protective Services should provide investigators to respond to reports of neglect.
5. Youth who are involved in physical altercations must be counseled and closely supervised to prevent follow-up assaults.
6. To prevent negative influence and manipulation, youth in detention who are identified as hardened members of known violent gangs should be housed separately from other non-violent/non-gang youth.

Note: The scheduled timely report for October through December will address issues concerning contraband, searches and staff negligence.