



**MARLANA R. VALDEZ**  
*Director*

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

**SPECIAL REPORT**  
**THOMAS J.S. WAXTER CHILDREN'S CENTER**  
**JULY 20, 2009**

**Facility:** Thomas J.S. Waxter Children's Center  
375 Red Clay Road, S.W.  
Laurel, MD 20724  
Administrator: Johnitha McNair

**Reported by:** Moira Lee, Monitor  
Marlana Valdez, Director

**Issues Monitored:** Continuing Staff Shortages, Comingling of Committed and Detained Youth

**Date of Report:** July 2009

## **SPECIAL REPORT**

This Special Report is issued as a follow up to our Special Notification Letters on Waxter Children's Center (March 1 and June 5, 2009) and the Department's response to those letters.<sup>1</sup> The JJMU Monitor has continued to visit the facility regularly, and the Director visited Waxter on June 18, 2009. Conditions have not improved in the 3 ½ months since our first letter. Based on these observations, the Monitor's Office finds it necessary to issue a Special Report amplifying our concerns and renewing our recommendations as follows:

- Additional staff must be hired to provide a safe environment for youth.
- Population should be lowered.
- Co-mingling of detention and committed girls should cease.

### **1. Serious Staff Shortage**

On the morning of our June 18 visit, the staffing shortage was severe, and we are very concerned about how the facility can continue to operate safely, both for youth and for employees, with so few staff.

- The Shift Commander had been there all night and was scheduled for a double shift.
- On the A Unit<sup>2</sup>, the Lead RA had been there all night with 13 girls (2 girls from the B Unit slept on the A Unit), and was alone on the unit with 11 girls until a staff member came in at 9 am, a violation of staff:youth ratios. She was finally able to leave at 10:30 am.
- On the B Unit, both staff had already worked the overnight shift and had not been relieved at 10 am. We do not know if or when they may have been relieved that day.
- On the C Unit, one staff member had been alone on the unit overnight with 14 girls (3 girls from the B unit had slept in the C unit). At 9:30 am the next morning, she was still alone on the unit with 11 girls, a violation of staff:youth ratios. At

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<sup>1</sup> Attached to this Special Report.

<sup>2</sup> Waxter has three units. The sleeping area in the A unit consists of 14 individual cells. Girls in the committed treatment program sleep here. The B unit is for girls in pre-adjudication status (detention) and consists of 13 individual cells and a dorm sleeping area with 6 beds. The C unit is for girls awaiting placement in a committed care program, the sleeping area consists of one large room with 12 beds.

that time, a trainee, who could not be left alone with the youth, arrived to help out.

- At 9:30 am, none of the girls was in school because there were not enough staff members in the facility to transfer them to the school building - at 10:10 am, the last group of girls was finally taken to the school building.
- Girls we interviewed said they rarely get to school on time. In fact, on the day of the recent serious group disturbance, girls were still waiting in the day room at 10:00 am to be taken to school.

The staff we interviewed seemed very dedicated to the youth and to their jobs. The Shift Commander, Mr. Weathersbee, was involved in everything from janitorial work to counseling to youth transportation while we were there, and he performed these functions after already working an overnight shift. But all of the staff members we spoke with were very clearly exhausted.

We appreciate your acknowledgement of the staff shortage and that you have taken steps to transfer experienced staff to Waxter, but adding four staff to the facility is not adequate when the need is clearly much greater.

## 2. Co-mingling of Girls

As you know, Human Resources Article § 9-238.1(a)(6) requires that DJS serve children with programming that “uses detention and committed facilities that are *operationally separate* from each other and that *do not share common program space*, including dining halls and educational or recreational facilities.” (Emphasis added.) The persistent commingling of detention and committed youth at Waxter is in direct contravention of this statute

- When the detention (B unit) is full (as has been common recently), detention unit girls (B unit) are moved to the committed care unit (A unit) to sleep. On the evening before our visit, 2 detention (B unit) girls had slept on the committed care unit (A unit).
- The detention/pending placement girls (Unit C) must walk through the day room of the committed care unit (A unit) to reach their unit several times a day. Committed care (A unit) girls and staff we interviewed said the practice is extremely disruptive to any programming or recreation in progress. Unfortunately, the physical layout of Waxter does not provide any other access to or from the C unit.
- The committed care girls (A unit) and detention girls (C unit) share the common cafeteria. In fact, they routinely dine at the same time, albeit at separate tables.

- Detained and committed girls in the GED program attend class together.

Therefore, our concerns that youth are being co-mingled is not limited to one adjudicated youth residing with the committed program as stated in your letter of June 12.

We understand that following our June 18 visit, girls from the B unit stopped being moved to the A unit for sleeping and that the A and C units were separated for dining. If this change in procedure has occurred, it is a good start. But the program will continue to be in violation of State law until detained and committed girls are no longer attending school together and until C unit girls are no longer accessing their unit via the A unit.

We see little way this can be accomplished in the Waxter building as currently configured, and we continue to recommend that the Department move the committed girls program out of the Waxter facility altogether.

### **3. Overcrowding**

Waxter's rated capacity is 46 girls. On June 17<sup>th</sup> there were 11 girls in Unit A, 24 in Unit B (including 5 who slept in other units), and 11 in Unit C, so the facility itself was at capacity.

But, the B/Detention Unit was actually 5 girls over capacity except during sleeping hours. According to staff, the detention unit is the most difficult to manage. A maximum of 19 girls should be admitted to this unit at any time.

To clarify, irrespective of its rated capacity, Waxter is “overpopulated” when any single unit has more girls than it has beds, even if other units have empty beds. The facility is also overcrowded when staffing is not sufficient to meet Departmental staff:youth ratios.

Finally, regardless of whether Departmentally-established staff:youth ratios are being met, we consider Waxter to be overpopulated when, given the special needs of the girls housed there, staff is unable to maintain critical facility functions. These include maintaining an ordered environment, transporting girls to school to school on time, and providing appropriate programming.

### **CONCLUSION**

The staff we observe during our visits are doing the best they can in an exceedingly difficult situation. But the Waxter program for girls is the only program in the state that is required to operate both a detention and a committed care program out

of one facility. Programmatically, that has proven nearly impossible, regardless of the talent or dedication of the staff.

Waxter staff should be able to focus on operating one program – the program for detained girls - particularly given the significant mental health needs of many of the girls housed there.

Because the committed program is small, often less than ten youth, the Department could issue a Statement of Need to interested private providers to take over the committed program at another site. There are several private programs in Maryland that would be suitable and already have established programs for girls. Or the Department could purchase a small property – even a private home – to house the committed program.



Maryland Department of  
**Juvenile Services**  
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**July 17, 2009**

**DJS Response to Waxter Special Report of July 2, 2009**

We are responding to the JJMU Special Report about the Thomas J. S. Waxter Children's Center that we received on July 2, 2009. The Special Report identified three areas of concern, and we provide information about each below. We have scheduled a meeting with you about Waxter regarding the issues that your office has identified so that we can provide and discuss any additional information or clarification that you may require.

1. Additional Staffing

The JJMU Special Report indicates that the facility is in need of additional staffing. Active recruitment for additional direct care staff positions for the Waxter facility is underway. Since January 2009, the Department has allocated nine additional full-time direct care staff positions, a half-time program coordinator position, and an assistant superintendent for the Waxter facility. The Department has also transferred experienced direct care staff to assist with youth supervision at the Waxter facility. When necessary, we do maintain ratios for youth supervision by assigning line staff to work double shifts. You indicate that on June 18, a Shift Commander at Waxter was scheduled to work a double shift. Shift Commanders, like line staff, are sometimes required to work overtime. The new direct care positions, once hired and trained, will reduce the need for staff to work double shifts.

One staff supervising 13 or 14 girls on the overnight shift, as you indicate occurred on June 18, does not mean the facility was understaffed during that shift. To the contrary, the overnight shift was in compliance with staff-to-youth ratios. The staffing ratio for overnight shifts at Waxter is 1:16. Overnight shifts in juvenile facilities nationally have a different staff-to-youth ratio than day shifts because the youth are sleeping. The 1:16 ratio overnight is within nationally accepted standards and as you know is common at many of our facilities statewide. You are correct that the 1:11 ratio that you observed on June 18 at 9:00 a.m. on one housing unit and 9:30 a.m. on another unit did not meet the daytime 1:8 ratio. We will point out that this temporary deviation from the required staffing ratio did not result in any safety or security incident.

2. Reduction of Youth Population

The Special Report recommends reducing the youth population at Waxter. The Department is in full support of maintaining the lowest possible detention and pending placement population in our facilities consistent with public safety and the Department monitors the youth population at Waxter on a daily basis. However, as the JJMU are aware, the courts' detention orders are not something over which DJS has control. If we are ordered to detain a youth, we must do so, but we do so with procedures in place to identify and vigorously expedite appropriate alternatives to detention for youth made eligible by a judge.

3. Co-mingling of Detention and Committed Youth

As indicated in the JJMU Special Report, co-mingling is no longer an issue during the overnight hours because detained or pending placement youth are no longer sleeping on the committed unit. Preparations are underway to operate separate GED programs for detained and committed girls in the facility as well. The JJMU also reports that due to the design of the facility, pending placement youth must walk through the committed unit on their way to school, meals and other activities. The committed girls are not always on their unit when the pending placement girls are walking through. Pending placement youth are always escorted by staff when they do walk through the committed unit, which takes just a few minutes and occurs a few times each day. While you report that this limited movement through the committed unit can be disruptive, our administrators and staff have not observed disruption. However, we will follow-up and take action as warranted to avoid any disruption to youth, staff or activities.



MARLANA R. VALDEZ  
*Director*

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

June 5, 2009

The Honorable Thomas V. Miller, Jr., President of the Senate  
Maryland General Assembly  
H107 State House  
Annapolis, MD 21401

The Honorable Michael E. Busch, Speaker of the House  
Maryland General Assembly  
H101 State House  
Annapolis, MD 21401

The Honorable Donald DeVore, Secretary  
Department of Juvenile Services  
One Center Plaza, 120 West Fayette Street  
Baltimore, Maryland 21201

Rosemary King Johnston, Executive Director  
Governor's Office for Children, Office of the Governor  
301 W. Preston Street, Suite 1502  
Baltimore, MD 21201

**Special Notification Letter**

Dear President Miller, Speaker Busch, Secretary DeVore, and Ms. Johnston:

I am writing to inform you of persistent dangerous conditions at the Thomas J. S. Waxter Children's Center (Waxter). We are obliged to immediately report such conditions under State Government Article §6-406, which requires that the Monitor "report in a timely manner...knowledge of any problem regarding the care, supervision, and treatment of children in facilities."



This is the second letter of notification<sup>3</sup> we have issued regarding serious safety concerns at Waxter in little more than three months. The Department of Juvenile Services did not respond to our letter of March 1, 2009 which discussed overpopulation and insufficient staffing at the facility. Conditions have worsened since that time, and this week, a serious group disturbance disrupted operations and injured staff members.

Waxter is seriously understaffed. Insufficient staffing causes two major problems: (1) staff are not able to provide programming to youth; and (2) staff are not able to maintain a safe environment. In our interviews with Waxter youth and staff, they told us that youth are kept in their rooms for extended periods of time because there are not enough staff available to supervise them. They said (and we have observed) that sometimes school is held on the living unit, or not at all, because there are not enough staff to move the youth to the school. Some youth report they do not receive recreation. In addition to these programming concerns, staff report concerns that they are not able to manage youth behavior.

On Tuesday, June 2, 2009 a group disturbance occurred on the detention unit. There were not enough staff to safely move youth to school, so at 10:30 am, the girls were on their unit waiting, prepared to attend school, for almost two hours. During the delay they were cleaning their unit.

The incident started when a youth with a history of serious mental health issues hit a staff member in the face with a broom. The staff member's nose was broken in two places. Another staff member restrained the youth, but immediately was assaulted by four other youth. These girls then proceeded to tear the staff member's clothes off. The girls then struck her while attempting to prevent her from restraining the youth. Fortunately the situation stabilized quickly and no youth were injured.

But two staff persons were taken to the hospital for treatment, and another staff went home with less serious injuries. Later, staff from Cheltenham Youth Facility were transported to Waxter to assist in coverage.

All five youth involved in this incident are reported to have mental health issues. The youth who started the incident has incited other group disturbances while at Waxter. Staff report that they believe she needs a staff member assigned to shadow her all day to maintain safety, but that they do not have sufficient staff to make that possible.

This incident occurred while there was a ratio of one staff to five girls. On two earlier daytime visits this Monitor observed a one to ten staff to youth ratio. Staff described this as a common staffing situation. The night before the incident described here there were forty-six youth at Waxter and only five staff on duty. The Department of Juvenile Services sets staff: youth ratios at different levels, depending on the conditions at facilities and needs of youth housed there. Even a ratio of one staff to five girls was obviously insufficient to protect staff in this incident.

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<sup>3</sup> See attached letter dated March 1, 2009.

Significant overtime is required to keep even this minimum coverage. While no staff involved in this incident was working overtime that day, several had worked 16 hour days that week. During monitoring visits and interviews, staff appear to be physically exhausted. They repeatedly voice safety concerns because of the high population, insufficient numbers of staff, and excessive overtime. Procedures must be implemented immediately to assure that minimum staffing needs are met.

## **Recommendations**

Waxter's population should be reduced. Committed and detained girls, by law<sup>4</sup>, should not be intermingled. The legal prohibition on mixing detained and committed youth was discussed in this Office's letter of March 1. The Department of Juvenile Services did not respond and continues to intermingle the girls.

The committed program at Waxter could be removed from the facility to allow more space for detained girls. Because the committed program is small, often less than ten youth, several options are available. The Department could issue a Statement of Need to interested private providers to take over the program. There are several private programs in Maryland that would be suitable and already have established programs for girls. Or the Department could purchase a small property – even a private home – to house the committed program.

In the interim, the Department must send additional trained staff to Waxter to alleviate the current danger. I would appreciate receiving a response to this letter outlining corrective actions the Department of Juvenile Services is taking to remedy the conditions at Waxter.

Sincerely,

*Marlana R. Valdez*

Director

cc: The Honorable Brian Frosh, Maryland State Senate  
The Honorable Robert A. Zirkin, Maryland State Senate  
The Honorable Anthony Muse, Maryland State Senate  
The Honorable Joseph Vallario, Maryland House of Delegates  
The Honorable Anthony O'Donnell, Maryland House of Delegates  
The Honorable Gerron Levi, Maryland House of Delegates  
Katherine Winfree, Chief Deputy Attorney General, Office of the Attorney General  
Wendy Estano, Department of Juvenile Services  
Joan Dudley, Administrative Office of the Courts

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<sup>4</sup> Maryland Human Services Article §9-238.1 (a)(6)



# Maryland Department of Juvenile Services

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**June 12, 2009**

## **DJS Response**

We write in response to your June 5 letter concerning certain conditions at the Waxter Children's Center.

As noted in your letter, a group disturbance took place on June 2 at the Waxter Children's Center that involved five girls on one of the facility's housing units, resulting in injury to two staff members. Youth were not injured in the incident. Also as pointed out in your letter, the staff-to-youth ratio on the housing unit at the time of the incident was within Department guidelines; this staff to youth ratio falls well within staffing ratios in juvenile detention facilities nationally. Despite adequate staffing and preventive measures that the Department has in place, incidents involving youth assaults do sometimes regrettably occur. In those instances, the Department immediately responds and takes appropriate action, as was done in this case.

We will clarify that, contrary to the conclusion in your letter, Waxter is not "overpopulated." Waxter is experiencing a temporary surge in population, which is not uncommon in detention facilities, but the population at the time of the incident and previously has remained below the facility's rated capacity. You recommended that the Department allocate additional staff for Waxter, and we have taken steps to accomplish that through transfer of experienced staff and recruitment of new staff for the facility. On the infrequent occasion that the population exceeds rated capacity, the Department transfers youth to one of our other detention centers. The Department plans for and accommodates temporary population surges through various measures, including the use of overtime to ensure sufficient staffing and supervision of youth. We also coordinate ongoing efforts, with the juvenile courts and community-based service providers, to use alternatives to detention, consistent with public safety, such as shelter care and community detention.

It is not correct, as stated in your letter, that the night before the June 2 incident there were five line staff supervising 46 youth in the facility. There was actually seven line staff supervising a total of 45 youth that evening, which is within established staff ratios. Two additional staff were also working in the facility that evening managing intake and Master Control functions.

Your letters notes that girls at Waxter have mental health problems. The Department employs four qualified mental health clinicians at Waxter, three full-time and one half-time, including two doctoral level clinical psychologists. The Waxter mental health staff provides screening, evaluation, and individual and group counseling sessions for all the youth at the facility as appropriate to their needs.

Detention facilities, including Waxter, do house youth who display behaviors which are challenging to manage. We have had youth at Waxter on one-to-one staff supervision as needed. Decisions to place

youth on one-to-one supervision are made by a multidisciplinary staffing team at the facility. The decisions of the staffing teams are appropriate to the needs of each youth and may include such one-to-one staff supervision as well as other strategies. In addition, the mental health staff coordinate Guarded Care Plans for youth as warranted, which may include a range of individualized strategies to support pro-social youth behavior. We would encourage the JJMU to recommend to the staff who spoke to your Monitor to speak with the facility superintendent or mental health staff, and to contribute to staffing team decisions. The perspectives of all staff are important in making such decisions.

With regard to your concern about “intermingling” of detained and committed youth at Waxter, this was investigated and is limited to one adjudicated youth, who has been housed on the committed/treatment unit. The youth is pending placement to the Waxter treatment program and we expect her transition there is imminent.

In summary, the Department has responded to the temporary population surge that Waxter is experiencing, including through the use of overtime to maintain staffing ratios, and assignment of additional staff to the facility through transfer and recruitment, in order to maintain a safe environment in the facility.

We hope that this responds to your concerns and would be glad to meet with you .



MARLANA R. VALDEZ  
*Director*

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

March 1, 2009

The Honorable Thomas V. Miller, Jr., President of the Senate  
Maryland General Assembly  
H107 State House  
Annapolis, MD 21401

The Honorable Michael E. Busch, Speaker of the House  
Maryland General Assembly  
H101 State House  
Annapolis, MD 21401

The Honorable Donald DeVore, Secretary  
Department of Juvenile Services  
One Center Plaza, 120 West Fayette Street  
Baltimore, Maryland 21201

Rosemary King Johnston, Executive Director  
Governor's Office for Children, Office of the Governor  
301 W. Preston Street, Suite 1502  
Baltimore, MD 21201

**Special Notification Letter**

Dear President Miller, Speaker Busch, Secretary DeVore, and Ms. Johnston:

I am writing to inform you of current conditions of confinement at the Thomas J. S. Waxter Children's Center ("Waxter"). We are obligated to immediately report such conditions under State Government Article §6-406, which requires that the Monitor "report in a timely manner...knowledge of any problem regarding the care, supervision, and treatment of children in facilities." The facility is seriously overcrowded. The crowding has resulted in intermingling of committed and detained youth, increased levels of violence, and unsanitary conditions.

In January, sleeping area was limited because dorms were closed<sup>5</sup> while their bathrooms were renovated. Between January 1<sup>st</sup> and February 24<sup>th</sup>, there were more youths than beds on 43 of 55 days. Staff reported that through January and February youths slept on the floor in “boats”<sup>6</sup> in the common area of the detention unit. Youths reported that when there were not enough boats to go around, they slept on the floor on mattresses.

Construction on the bathrooms was completed last weekend. The new bathroom facilities are a significant improvement over the old ones. They provide both sufficient area and a measure of privacy for the girls. Even with all dorms reopened, however, the facility continues to be overcrowded. Population will further increase when other detention centers, such as Noyes in Montgomery County and Lower Eastern Shore Children’s Center, return girls they have been housing during the construction period.

Overpopulation causes three major problems:

- (1) Youth are inappropriately intermingled;
- (2) Incidents increase; and
- (3) Physical conditions become unsanitary.

## **Intermingling**

Population pressure requires mixing pre-adjudication (detention) and post-disposition (committed) girls for sleeping. This practice violates Maryland Human Services Article §9-238.1 (a)(6), which states in relevant part:

*The Department shall serve children...with programming that: ... uses detention and committed facilities that are operationally separate from each other and that do not share common program space, including dining halls and educational or recreational facilities.*

On February 24, eleven girls slept on the A Unit, reserved for youth in the committed care program. Six of those girls were in detention status and five were in the committed care program. Youth and staff said this practice is common. During the construction period, committed and detention girls slept together in the open dorm room on Unit C.

## **Increase in Incidents**

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<sup>5</sup> Waxter has three units. The sleeping area in the A unit consists of 14 individual cells. Girls in the committed treatment program sleep here. The B unit is for girls in pre-adjudication status (detention) and consists of 13 individual cells and a dorm sleeping area with 6 beds. The C unit is for girls awaiting placement in a committed care program, the sleeping area consists of one large room with 12 beds.

<sup>6</sup> Fiberglass sleeping ‘shells’ into which a mattress is inserted.

Overcrowded conditions result in an increase in incidents. In the first two months of the 4<sup>th</sup> Quarter, 2008, staff reported 39 incidents. In the same period this year, staff have reported 72 incidents, an almost 85% increase. Since last quarter, restraint use has increased by 36%.

The facility does not have enough space to separate youth to protect them from one another. Youth interviewed in the past week report that fighting occurs “all the time,” or “daily.” Many are worried about getting “jumped” or beaten up by other youth. While almost all youths report that staff intervene and try to protect them, there are too many to effectively control.

Staff and youth report that committed and detention youth are also intermingled during the day. Girls are locked in their rooms for hours if a fight is imminent. Sometimes youths stay in an administrative office with staff. One youth reported that she resided in an administrative office for 3 weeks and received no education or programming during that time.

### **Unsanitary Conditions**

Finally, overcrowding leads to unsanitary physical conditions. On a visit on Saturday, February 21, the new bathroom facilities were dirty and unhygienic. Two Monitors observed bloody tissues and garbage on the floor and multiple clogged toilets.

Youths consistently report that they do not have enough underwear and no longer receive night clothes. In a recent grievance, a youth complained of being disciplined for refusing to leave her room. She would not leave her room because she had no underwear.

In the first quarter of 2007, this Office reported that youth at Waxter were not receiving underwear. The reemergence of the issue indicates that there still is no effective protocol to ensure that youth receive appropriate clothing.

### **Recommendations**

Waxter’s population should be reduced. No youth should have to sleep on the floor. Committed and detained girls should not be intermingled. Facility operating procedures must be implemented to ensure that basic custodial responsibilities are fulfilled. This includes ensuring that girls have underwear and that common areas remain clean.

To create sufficient space for detention housing, the Department should move the committed care program out of the Waxter facility. Unit A, which houses committed girls has 14 rooms, but there are rarely more than five to six girls in that program. The other rooms sit empty while Unit B, the detention Unit, is chronically overcrowded.

It is difficult for staff to manage both a detention and a committed care program in the same facility. This is the only facility in the state that provides both functions, and it is clear that this arrangement, which includes shared cafeteria and recreation space, violates State law.

Because the program is small, several options are available. First, the Department could issue a Statement of Need asking for interested private providers to take over the program. This Office monitors several private programs that would be suitable. Second, the Department could purchase a small property – even a private home – for the committed program. There must be other options that also would better serve the girls in the Department's care.

I would appreciate being updated on any plans for girls' residential programming.

Sincerely,

*Marlana R. Valdez*

Marlana R. Valdez  
Director

Cc: The Honorable Brian Frosh, Maryland State Senate  
The Honorable Joseph Vallario, Maryland House of Delegates  
The Honorable Robert A. Zirkin, Maryland State Senate  
Katherine Winfree, Chief Deputy Attorney General, Office of the Attorney General