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

Special Timely Report

Facility: Thomas J. S. Waxter Children's Center
375 Red Clay Road
Laurel, MD 207
Phone: 410 792-7416
Superintendent: Janice Gardner

Date(s) of Visit: February 1, 2006

Reported by: Katherine A. Perez, Director
Kim R. Bones, Juvenile Justice Monitor

Nature of Issue: **Child Abuse Allegation**

Staff Interviewed: Quanetta West, Assistant Superintendent
Administrative Officer
Supervisory staff
Various line staff

Other Agency Involvement: Anne Arundel Co. Dept. of Social Services
Maryland State Police (MSP)

Date of Report: March 28, 2006

INTRODUCTION:

During an unannounced visit, this monitor and Katherine Perez, Director of the Juvenile Justice Monitoring Unit, witnessed an altercation between three staff members and a female youth that resulted in an allegation of child abuse.

KEY FINDINGS:

Incident:

At approximately 10:00am, this monitor and Ms. Perez were exiting the Tour Office. The Detention Unit was standing in a line waiting to go to the education trailers. This monitor heard a female youth state that a male staff member was “nasty” looking a female staff member’s behind. After stating it a few times, the line began to exit into the stairwell. The male staff member stopped the line and reached into the stairwell and brought the female youth back into the hallway. The female youth told him not to touch her as he directed her to walk into the Tour Office seclusion room. The DJS Incident Report stated, “The youth was being placed in the seclusion room.” Placing the youth in seclusion for making the statements violated the following DJS policies, procedures, and standards:

DJS Procedure Directive #14, Locked Door Seclusion, states seclusion shall not be used as punishment and shall not be used as a sanction for minor misbehavior such as excessive loud talking.

DJS Detention Standard 5.3.4.4, Attitude, A youth shall not be sanctioned for displaying what is viewed as an undesirable attitude.

DJS Detention Standard 5.4.4, Absolute necessity required, Physical force may only be used in circumstances in which it is absolutely necessary.

DJS Policy Number 03.14.04, Limits on Use of Restraints and Seclusion, A facility employee may place a youth in locked door seclusion only if:

- (a) It is clearly necessary to prevent*
 - (i) imminent physical harm to the youth or other individuals;*
 - (ii) imminent and substantial destruction of property; or*
 - (iii) escape; and*

- (b) Less restrictive methods of behavior control have failed or cannot reasonably be implemented.*

Once out of the monitors’ sight, the female youth began to yell and curse at the male staff member while making statements such as, “don’t touch me” and “get off my stomach”. This continued while the monitors entered the Detention Unit and talked to five female youth sitting at a dayroom table. This monitor notified the Unit Manager about the female youth in the Tour Office yelling. When the yelling continued, the monitors began observing the incident through a window in the door of the staff area. Eventually, we observed the male staff member and two female staff members in a seclusion room with the female youth. The female

youth was visibly upset and yelling at the male staff member while the two female staff members were restraining her. The male staff member did not leave the room. The female youth then spit on the male staff member and he raised his fist. He started moving toward the youth but one of the female staff members stopped him and pushed him back to the doorway. He again moved toward her and was able to swing at the youth twice. The monitors were unable to see where the punches landed. Both female staff members then restrained the male staff member by pushing him out of the room.

It should also be noted that at no time did the staff in the Tour Office call for “staff assistance” from all available staff on duty to assist with resolving this situation. This monitor contacted Ms. West, Assistant Superintendent by cell phone to notify them of the incident because staff members had failed to do so. Ms. West immediately responded to the Tour Office and began accessing the situation.

DJS Policy 02.09.13.A3, Use of Force, In order to minimize the risk of injury to both youth and staff, whenever possible a sufficient number of Resident Advisors shall be employed for any use of force.

Two Tour Coordinators and an Administrative Officer were within a few feet of the incident but failed to assist or place a call for assistance from other staff. The staff members stated that they heard the youth making threats towards the male staff member and screaming constantly.

This monitor reported the incident to Anne Arundel County Department of Social Services (DSS) and the results of their investigation are pending. The Maryland State Police (MSP) stated that Anne Arundel County State’s Attorney’s Office failed to charge the male staff member for any criminal activity. The male staff member and two female staff members were cited in the DJS Office of Professional Responsibility and Accountability (OPRA) investigative report for violating policies and procedures.

Immediately following the incident, the Administrative Officer and one of the Tour Coordinators went to another unit for scheduled training. Ms. West briefed neither staff member before they left the area.

The female youth was given medical attention after the altercation and it should also be noted Ms. West informed this monitor and Ms. Perez that the youth is pregnant.

OPRA Investigation:

This monitor noted several inconsistencies with the investigation. During the incident, two youth were standing in the Tour Office and were not required to write statements about what they may have seen or heard. Neither youth was interviewed also. One of the youth was in seclusion for assaulting a staff member the evening prior to this incident. The monitors observed her standing in front of her room with a mop in her hand and at no time did staff remove the mop and

lock her in her room during the incident. The second youth was recently admitted to the facility and completing her intake evaluation with the Tour Coordinator.

DJS Standard of Conduct 2.13.2, An employee may not fail to take an action when the failure to act causes a breach of security or potential breach of security by jeopardizing the safety or security of any employee, delinquent youth, or offender.

The three youth that were sitting in the hallway with an Administrative Officer during the incident were interviewed. Two youth stated that they were able to see the male staff member grab the youth's arm in the stairwell and the female staff member escorting the group stated that he "put his arm underneath of her" before she yanked away. A staff member sitting on the bench stated that he never touched the youth in the stairwell. One youth stated that the Tour Office door was open and she stood up and watched the youth and male staff member go inside. She then stated that she saw the male staff member push the youth into the room. The male staff member also stated that he pushed the youth. During the incident, this monitor observed two female staff members standing at the Tour Office with the door open and a contractor walking in and out of the Tour Office. The Administrative Officer denied entering the Tour Office during the incident but was observing the area through the door. She failed to instruct the Tour Coordinators to secure the area from visitors and other youth until the situation was under control. She also failed to secure the youth on the bench as one youth was able to stand and watch the altercation.

The investigative report does not include a statement from Assistant Superintendent West. She was the first DJS Administrator to interview the youth and staff members immediately following the incident. This information was documented and included in the report. After Ms. West left the Tour Office, she interviewed the male staff member before placing him on administrative leave. The statements made by the staff member during the interview were not documented and provided to the OPRA Investigator.

DJS Policy Number 01.01.13, Investigating Child Abuse and Neglect, No later than 24-hours after alleged child abuse occurs, the administrator shall send a written report to OPRA and the Assistant Secretary. The policy also states that upon being notified of suspected child abuse the administrator should confirm orally that MSP and DSS have been notified.

Two staff members provided written statements detailing that the youth was very combative and hearing the male staff member instructing the youth the "get off of him about five times". One statement details the youth stating, "I'll kill you." Neither of these staff members attempted to assist the male staff member.

The Administrative Officer stated that staff members said nothing to the female youth before asking her to step out of the line and go into the Tour Office for seclusion. Completed Use of Force forms were not included with the OPRA investigative finding report that was issued to the JJMU by DJS.

DJS Policy 02.09.13F, Use of Force, If physical force of any kind is used, staff shall immediately notify his or her supervisor and, before the end of the employee's shift, provide the Superintendent with a signed and dated "Use of Force Report" which details:

- 1. The behavior of the youth and how the behavior of the youth Presented an imminent danger to the youth, other youth, staff, or the security of the facility;***
- 2. The alternatives, which were attempted, or an explanation of why Alternatives were not reasonably available;***
- 3. The exact nature of the force used and why it was the minimum amount of force necessary;***
- 4. Any injuries sustained by anyone involved and the medical attention sought for these injuries.***
- 5. All youth, staff, or other persons who were in or witnesses to the use of force; and***
- 6. The date, time, and exact location of the incident.***

DJS Policy 02.09.13G, Use of Force, Every use of force shall be recorded in the appropriate facility and unit logbooks, and a copy of the Use of Force Report shall be placed in the youth's base and unit files. Copies of the Use of Force Report shall also promptly be sent to the Assistant Secretary for Residential Services and OPRA.

The Administrative Officer stated that the group of Detention Unit youth entered the hallway totally out of control, noisy, and unruly. She stated that after the female staff member escorting the unit failed to conduct a required count of the youth. She then stated that after the unruly youth was removed from the line; the female staff member proceeded to remove the Detention Unit from the area to the dining hall enroute to the education trailers. At no time did the Administrative Officer's statement address before the youth exited the main building. The statement also did not address whether additional staff assisted the female staff member with gaining control of her group before leaving the main building and going outside. It should be noted that the Detention Unit Manager was on the unit unaware that his staff was having a problem in the hallway. No one contacted him for assistance with ensuring the group walked quietly to school.

DJS Detention Standard 5.1.2.04 states that direct care staff shall regulate all movement from one location to another, including individual and group movement to and from activities and programs according to written policies and procedures.

DJS Standard of Conduct 2.35 states that an employee assigned to conduct a count of any youth shall ensure that the recorded count accurately reflect the number of youth in the assigned area.

DJS Detention Standard 5.1.2.03 requires supervisory staff to provide a written report to the facility's Program Manager for appropriate corrective action when unsafe conditions are discovered.

RECOMMENDATIONS:

- 1.** Force should be used when there is imminent danger and when other lesser alternatives are not suitable.
- 2.** Youth should be placed in seclusion in accordance with DJS policy.
- 3.** A sufficient number of staff members should be employed for any use of force.
- 4.** Following an altercation with a youth, staff members should remove themselves from the area when assistance arrives.
- 5.** All other youth in the immediate area should be secured in rooms during an incident.
- 6.** All persons involved in or witnesses to an incident should provide a statement and be interviewed by an investigator.
- 7.** Staff should be held accountable for failure to take action to prevent a possible breach of security by jeopardizing staff or youth safety.
- 8.** Supervisory staff should ensure that counts are conducted as required before allowing the unit to exit an area.
- 9.** Unit Managers should be contacted to assist when their staff and youth are not following rules and regulations.
- 10.** All staff should be held accountable when providing inaccurate or incomplete statements.