



JUVENILE JUSTICE MONITORING UNIT

OFFICE OF THE ATTORNEY GENERAL

THIRD QUARTER REPORT

JULY 1 – SEPTEMBER 30, 2009

Juvenile Justice Monitoring Unit 3rd Quarter, 2009 Report

Overview

In this quarter, the Juvenile Justice Monitoring Unit Report includes comprehensive evaluations of each of the residential facilities the Office monitors. Several issues of system-wide importance are highlighted in this overview.

1. Victor Cullen Recidivism

For some time, this Office has reported on the high rearrest rates for youth completing the Victor Cullen program. The 2nd Quarter, 2008 JJMU Report discussed in detail problems at Victor Cullen, including the lack of a therapeutic model shown to rehabilitate youth, uneven implementation of the therapeutic program, limited and inconsistent aftercare, and the distance of the facility from youths' communities.

JJMU updated its earlier studies for this Quarterly Report, including examining conviction and incarceration in the adult system, and the findings are extremely discouraging. Despite the expenditure of over \$12 million to rehabilitate the site and operating costs of approximately \$8 million/year, Victor Cullen's graduates are rearrested, convicted, and incarcerated for new offenses at an alarming rate.

VICTOR CULLEN RECIDIVISM¹ POST-RELEASE (AFTER SUCCESSFUL COMPLETION OF PROGRAM)

	FY 2008 ²	FY 2009 ³
AFTER ONE YEAR	Total = 20 youth	Total = 45 youth
Rearrest Juvenile/Adult ⁴	65% (13)	60% (27)
Readjudication/Conviction	30% (6)	22% (10)
Recommitment/Incarceration	30% (6)	6% (3)

¹ One year recidivism was calculated by counting all youth successfully discharged during a fiscal year (e.g., FY2008, FY2009), and tracking each youth in that cohort for one year from his date of release.

² FY 2008 cohort. All youth have been released for at least one year.

³ FY2009 Cohort 8 Youth Have Been Released for at least one year.

37 Youth Have Not Been Released for at least one year.

⁴ All youth recommitted to DJS for violations of probation are excluded from these calculations.

Of the 20 youth who successfully completed the program in FY2008, only 3 have not been rearrested (one of those three has been recommitted to DJS for violation of probation). During the first year following release, 65% were rearrested, 30% were readjudicated or convicted, and 30% were recommitted or incarcerated.

Although Victor Cullen is considered the flagship rehabilitative program in the State, its one year recidivism rates are worse than statewide rates, detailed in the chart below:

STATEWIDE ONE YEAR RECIDIVISM RATES

	FY 2007 ⁵
AFTER ONE YEAR	
Rearrest Juvenile/Adult ⁶	57%
Readjudication/Conviction	23%
Recommitment/Incarceration	15%

Only eight of the 45 youth discharged in FY2009 have been out of Victor Cullen for a full year. Nevertheless, 27 (60%) have already been rearrested, and 10 have been readjudicated or convicted of a crime in the adult system. The cases of 18 youth released from Victor Cullen are pending so these numbers will undoubtedly rise as their cases are resolved.

When Victor Cullen youth are tracked into their second year following release, the results are even more discouraging. Fully 90% of youth from the FY2008 cohort have been rearrested, 45% of them have been readjudicated or convicted, and 40% have been incarcerated.

⁵ FY2008 statewide recidivism rates have not yet been released.

⁶ All youth recommitted to DJS for violations of probation are excluded from these calculations.

TOTAL REARRESTS, READJUDICATIONS, AND RECOMMITEMENTS/INCARCERATIONS⁷

	FY 2008	FY 2009 ⁸
TOTALS JULY, 2007 – OCTOBER 15, 2009	Total = 20 youth	Total = 45 youth
Rearrest Juvenile/Adult	85% (17) ⁹	60% (27)
Readjudication/Conviction	45% (9)	26% (12)
Recommitment/Incarceration	40% (8)	10% (5)

Victor Cullen is a last stop for many youth who have absconded repeatedly from less secure facilities or continued to reoffend after being placed on probation or in less restrictive settings. By the time youth complete the Victor Cullen program, most are between 17 and 18 years old. At that point, any new arrest is likely to be into the adult system, making it even more essential that Victor Cullen's program provide true rehabilitation for youth to avoid their graduation into the adult system.

Review of the data showed that fully 87% of youth rearrested following successful discharge from Victor Cullen are charged in the adult system. Eighty-six percent of all convictions are adult rather than juvenile, and 85% of those reincarcerated have gone to an adult jail or prison.

JUVENILE V. ADULT RECIDIVISM

Youth Rearrested into Juvenile System	6	13%	Youth Rearrested into Adult System	41	87%	Total Rearrest	47 ¹⁰	100%
Youth Readjudicated In Juvenile System	3	14%	Youth Convicted in Adult System	18	86%	Total Readjudication/Conviction	21	100%
Youth Recommitted in Juvenile System	2	15%	Youth Incarcerated in Adult System	11	85%	Total Youth Recommitted/Incarcerated	13	100%

Many youth have been convicted for controlled substance possession with intent to distribute. At least six have been charged with various gun crimes, one with

⁷ Although no youth have been released from the program for two years, some youth have been rearrested, convicted, or incarcerated *during* the second year following discharge. This chart reflects those totals.

⁸ FY2009 Cohort. Eight youth have been released for at least one year; and 37 youth have not been released for at least one year.

⁹ Numbers and percentages in red were updated/revised on December 8, 2009.

¹⁰ Includes 3 youth released in FY2010 who have been arrested.

attempted murder, and one with murder. Sentences have ranged from probation to 20 years in prison with various numbers of years in the sentences suspended.

The efficacy of Victor Cullen's model is a critical issue because two more treatment facilities replicating the Victor Cullen model are in the planning stages – one in Baltimore City and one on the grounds of the Cheltenham Youth Facility. This program should not be replicated unless it can be demonstrated that youth completing the program do well following release.

Although JJMU has made many recommendations for improvement at Victor Cullen, the State may wish to explore a step-down model in which youth completing the program move into a group home setting for 6-12 months following release. During this transition time, they could be completing high school or GED's, finding work, and be supported as they move into adulthood. We simply cannot afford to continue graduating youth from the juvenile system into the adult criminal system – particularly not those we have placed in expensive residential programs that are supposed to be rehabilitating them.

One final note. The high recidivism rates for Victor Cullen graduates should not be viewed as evidence that youth of a certain age or with extensive juvenile system involvement cannot be rehabilitated. A significant body of research exists showing that youth with deep involvement in the juvenile justice system can be rehabilitated to become productive and contributing members of their communities. Some states are experiencing success with these most challenging youth. For Maryland to begin to experience success, however, the current Victor Cullen model will need to be significantly changed.

2. Shelter Usage

Statewide, DJS is placing fewer and fewer youth in shelter care. Shelter use has declined by more than 50% this year. DJS closed its only two structured shelters in June, 2009, pledging to continue placing appropriate youth in Department of Human Resources-licensed shelters. The table below demonstrates, however, that shelter use plummeted following the closing of the DJS shelters and has continued to drop in the intervening four months.

**Average Daily Population in Shelter Care (State-Wide)
January – October, 2009**

Month	Average Daily Population
January	99
February	125
March	117
April	126
May	171
June	71
July	75
August	52
September	53
November 6, 2009 ¹¹	47

Youth who need residential care before their cases are resolved but who are not threats to themselves or others should be placed in shelters rather than secure detention centers. Judges sometimes order a youth into DJS custody with a recommendation that s/he be placed in shelter if a shelter bed is available, and if not, in secure detention. Youth should not have to spend time in a detention facility because there is no shelter bed available.

Female youth are disproportionately affected, as there are even fewer shelter beds available for girls than there are for boys.

3. Detention Facility Overpopulation and Staffing Shortages

Nearly all detention facilities throughout the State were overpopulated during the 3rd Quarter. The Facility Reports for Baltimore City Juvenile Justice Center (BCJJC), Cheltenham Youth Facility, Charles Hickey School, Lower Eastern Shore Children's Center (LESCC), Noyes Children's Center, and Western Maryland Children's Center (WMCC) discuss this issue and concomitant effects on safety, hygiene, and staffing.

In general, the number of youth in secure detention has not declined since FY2007 and has shown an upward trend this year. In FY2007, the average number of

¹¹ Latest date for which population totals were available.

youth in detention was 432. Between January and August of this year, the average number of youth in detention was 446.¹²

Cheltenham's population was over the maximum capacity of 115 every day during the third quarter. At its highest, Cheltenham held 151 youth and its average daily population during the Quarter was 135. At Lower Eastern Shore, the population was over capacity for approximately two-thirds of the third quarter. Extra youth had to sleep in seclusion rooms (similar to regular rooms but with no toilet facilities) or in plastic "boats" on the floor.

WMCC was overpopulated a total of 50 days (or 54%) of the 3rd Quarter, though there was a substantial reduction in days over capacity in September.

Noyes' overpopulation issue stems from its policy of housing girls and boys and sleeping two to four youth in each room. The American Correctional Association standards require that living units be primarily designed for single occupancy and that multiple occupancy rooms should not exceed 20 percent of the bed capacity of the unit.¹³ Safety is the reason single occupancy rooms are important in juvenile detention facilities. While DJS has set a rated capacity of 57 youth at Noyes, if rooms were limited to single occupancy the rated capacity would be 32.

In addition, Noyes houses both boys and girls. Until this year, three of the four units were devoted to boys' housing and one to girls' housing. A number of girls were transferred from Waxter (the girls' detention center in Laurel, Maryland) to Noyes when the bathrooms at Waxter were under renovation. Two units were turned over to girls. Although the girls' units always have vacant beds, the boys are crowded into two units, and some are forced to sleep on the floor every night. A facility with such severe crowding issues should not be housing both boys and girls.

At the very least, youth in detention centers should be sleeping in a cell with a bed and not in a fiberglass shell in the middle of the dayroom floor. It is unsanitary, and youth who must sleep on the floor have no personal space for belongings such as books, underwear, extra clothing, or shoes. There is no personal space to read or do homework.

The combination of overpopulation and chronic understaffing has put severe pressures on direct care staff and administrators at DJS detention centers throughout 2009. At most detention centers, administrators are working some direct care shifts to attempt to make up for staff shortages. Some positions have been eliminated when becoming vacant following a resignation or retirement, including five clinical and supervisory positions at WMCC. The fatigue level of staff striving to make up for direct care worker shortages could potentially affect the safety and security of youth and staff alike.

¹² DJS Monthly Population Reports; StateStat Reports.

¹³ American Correctional Association Standards for Juvenile Detention Facilities 3-JDF-2C-01.

4. Baltimore City Juvenile Justice Center and Waxter Center for Girls

Other than Victor Cullen, the Baltimore City Juvenile Justice Center and Waxter Center for Girls continue to be the most troubled and challenging facilities in the system. BCJJC continues to suffer from increasing levels of violence despite the Department's significant attention to the facility and efforts to curb violence. Over the past three years, this Office has made multiple recommendations to improve BCJJC, including professionalization of the workforce, reducing population, and using the physical space for a regional assessment center.

Waxter also suffers from increasing levels of violence and a high number of allegations of child abuse filed against staff. A major contributor to the problems at Waxter is the attempt to operate both a detention center and a committed care program in the same facility – the only facility in the State to do so. Maryland Human Resources Article § 9-238.1 (a) (6) requires DJS to 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.”

Although DJS has stopped moving girls in detention to sleep with girls in the secure committed program, the girls still share in all other areas of the facility because of the design of the building. They also share teachers, mental health and medical staff, and direct care staff.

It is difficult to discern a clear program model for the committed program, and girls complain that they don't understand what they are supposed to be doing or what is expected of them to successfully complete the program. When resources are shared with the more chaotic detention program, the Enhanced Academy (committed care program) is disrupted. Enhanced Academy students consistently request a separate, freestanding program, and the Department should find another location – even a small home – where these girls can be housed.