



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

February 27, 2013

The Honorable Edward J. Kasemeyer
Chair
Senate Budget and Taxation Committee
3 West Miller Senate Building
Annapolis, MD 21401-1991

The Honorable Norman H. Conway
Chair
House Appropriations Committee
121 House Office Building
Annapolis, MD 21401-1991

The Honorable Thomas M. Middleton
Chair
Senate Finance Committee
3 East Miller Senate Building
Annapolis, MD 21401-1991

The Honorable Peter Hammen
Chair
House Health and Government
Operations Committee
Annapolis, MD 21401-1991

Dear Chairmen Kasemeyer, Middleton, Conway and Hammen:

Pursuant to the 2012 Joint Chairmen's Report (p. 207) the Department of Health and Mental Hygiene (DHMH) respectfully submits this report on an evaluation of plans for the development and construction of a 60-bed Secure Evaluation and Therapeutic Treatment (SETT) center by the Developmental Disabilities Administration (DDA).

At the end of fiscal year 2009, DDA implemented an interim plan for housing the state's forensic population at the Springfield Hospital Center (Sykesville SETT) and the Clifton T. Perkins Hospital Center (Jessup SETT). The Department also initiated a long-term plan to construct a consolidated 60-bed SETT facility based on the model used in a Minnesota facility – the Minnesota Extended Treatment Options (METO).¹ This decision was supported by the available data at that time, which indicated that METO was a safe and effective facility and that there was a need to increase the capacity of the SETT units.

Today, the treatment model used in METO is no longer considered safe or effective. The Court has found METO to be in violation of the Olmstead standards, and the facility has since been closed. As a result, Minnesota has a multimillion dollar settlement agreement and a court monitor to ensure compliance. Individuals are currently being transitioned into the community.²

Further, DDA's more recent data – captured through improved forensic data collection – does not support previous assumptions that increased capacity within the SETT units is needed. This data demonstrates that the capacity needs of the SETT facilities have actually been declining, mirroring national trends. For these reasons DDA made the decision in early 2012 to reexamine the decision to construct a new 60 bed SETT facility.

¹ M. Smull, *Secure Evaluation and Therapeutic Treatment Services – Report to the Legislature*, 4 (2011).

² *Id.*

As part of this review, DDA hired an independent consultant, Mr. Michael Smull of Support Development Associates, to convene a workgroup consisting of representatives from the Maryland Disability Law Center, Maryland Association of Community Services, Developmental Disabilities Council, the ARC of Maryland, and the Judiciary. The workgroup was tasked with analyzing Maryland's need for SETT services for court involved individuals with intellectual disabilities and developing recommendations for DDA.

The workgroup held a series of meetings throughout the fall. They also conducted conference calls with experts in other states to understand alternative models and best practices currently being used. Despite the workgroup's best efforts, a consensus was not obtained. The consultant advised against constructing a new 60 bed facility. Instead, the consultant recommended that DDA construct a secure evaluation unit for 12 people and create the capacity to serve 48 persons in community based residential homes that would be structured, supervised and sited to ensure security. This recommendation was supported by the following workgroup members:

- Maryland Disability Law Center;
- Maryland Association of Community Services;
- Developmental Disabilities Council; and
- ARC of Maryland.

Representatives from the Judiciary, Office of the Public Defender, and States' Attorneys' Association disagreed with the recommendation of the consultant and recommended that DDA continue with the planned construction of the 60 bed facility.

After reviewing the consultant's report, stakeholder input, and examining more recent data about the capacity needs of the new facility, DDA is recommending that the Department move forward with a 32 bed consolidated facility and expand community-based options for individuals transitioning out of SETT units. A more in-depth discussion of DDA's recommendations follows.

Recommendation #1 – Consolidate Existing SETT Facilities

DDA is recommending that the two SETT facilities be consolidated into a single facility. The inefficiencies of maintaining two separate facilities results in a loss of time to transport residents from one facility to the other and does not promote consistency in programming for the residents. Consolidation will promote enhanced management and supervisory oversight while reducing administrative and overhead costs. Further, the consolidated facility will have additional space to accommodate increased vocational and habilitation programming. This will allow staff to devote more time to providing the necessary programming to help support residents' successfully transition into alternative community settings.

Recommendation #2 – Maintain 32-bed Capacity Within Consolidated SETT Facility

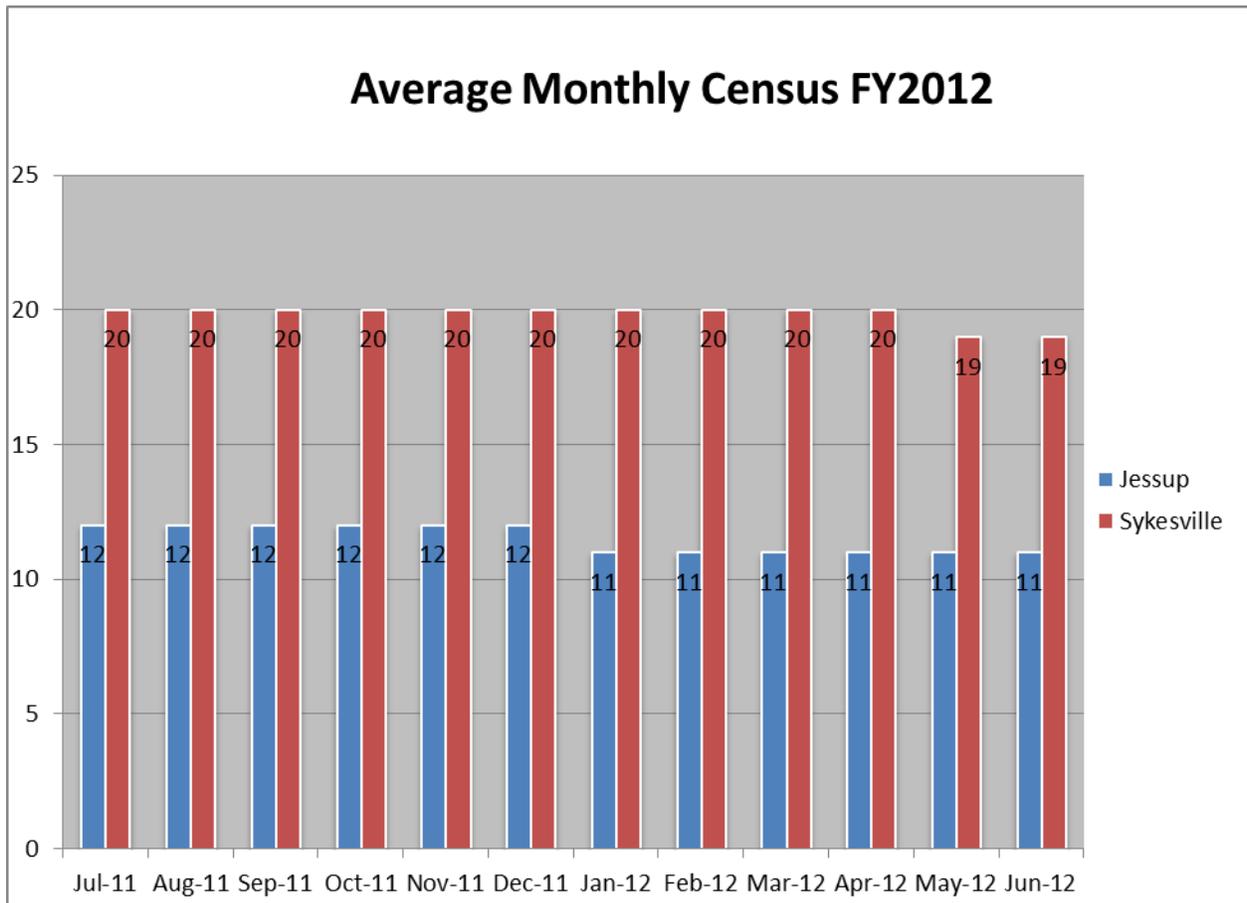
DDA is recommending that the consolidated SETT facility have a 32-bed capacity. DDA currently operates two SETT units – one in Jessup and the other in Sykesville – for court-committed individuals with intellectual disabilities. The Jessup SETT (12 beds) is an evaluation unit, and the Sykesville SETT (20 beds) is a longer-term unit for people in need of care and treatment.

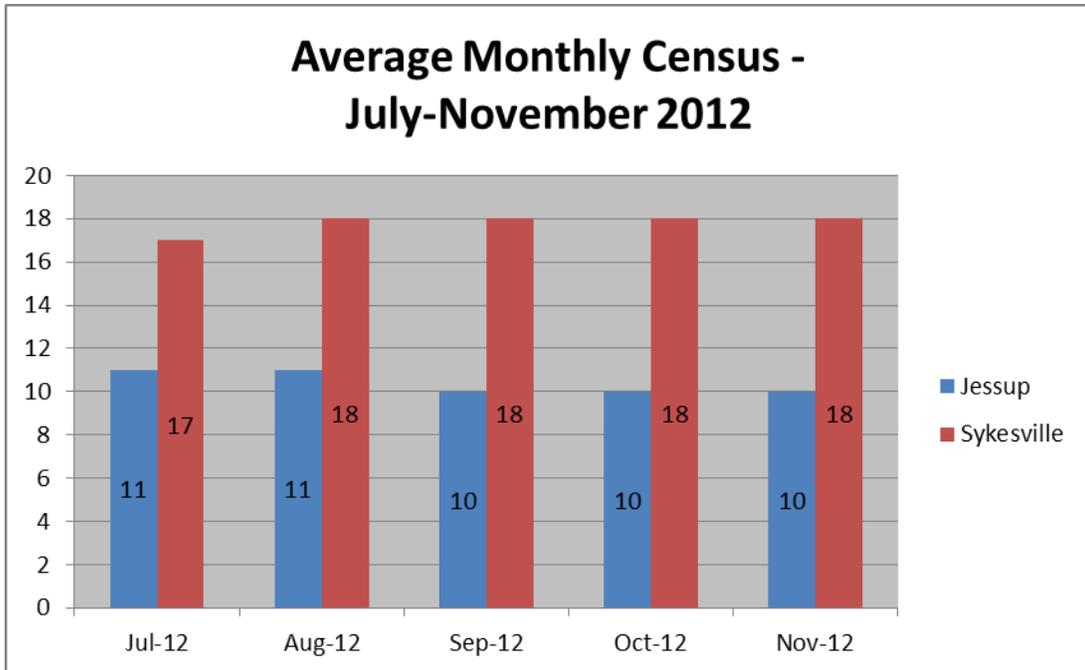
In recent years, DDA has been working to improve the Department's forensic data collection. Because of these efforts, the Department has access to more comprehensive utilization data for each SETT unit. At the same time, the Department has been implementing a number of initiatives to reduce

patients' length of stay and better facilitate the transitioning of individuals to alternative, community-based settings. These initiatives include: improving habilitation and training opportunities for individuals at the SETT, increasing an emphasis on vocational programming, restructuring of forensics oversight, and recruiting new community-based providers.

Our recent data demonstrates the benefits of these initiatives. First, utilization of the SETT for the purpose of conducting pretrial evaluations has declined, and more patients are being evaluated in community settings. From 2008 – 2012, the total number of pre-trial evaluations within the SETT units declined by 44%, and the facilities had fewer requests for services.

Second, DDA's SETT units have been operating below capacity, and the average monthly census has been declining. In fiscal year 2012 (July 2011 – June 2012), the SETT facilities had an average monthly census of 31 individuals. The most recent data available for fiscal year 2013 indicates that this decline in capacity need continues. During the first five months of fiscal year 2013 (July 2012 – November 2012), the average monthly census of the two SETT units decreased to 28 individuals.





Third, the Jessup location, which focuses on evaluations, has an average length of stay of 11 weeks while the longer term facility in Sykesville has an average length of stay of 18 months. This is compared to 17 weeks and 24 months, respectively, during the first years of operation. We expect that the average length of stay will continue to decrease, particularly if community capacity can be increased to more quickly transition individuals out of the SETT facilities.

Finally, the wait time to admit an individual to a SETT unit following court commitment has been reduced significantly. During previous years, patients were typically admitted to the Jessup SETT facility within 1 – 7 days of commitment by the Court. At times, there were delays up to 30 days due to operating capacity. During the first quarter of fiscal year 2013, defendants have been admitted immediately or within 1 or 2 days of Court commitment.

DDA plans to continue to expand these initiatives to further reduce the length of stay at the SETT facilities and alleviate the need for additional capacity. For this reason, the Department believes there is no need for additional institutional capacity within the SETT facilities. Maintaining the peak capacity at 32 will allow for current trends to continue, while recognizing that fluctuations in census may occur. We will pursue a construction plan that allows for alternative uses of part of the facility if the census falls substantially.

Recommendation #3 – Expand Community Based Homes

DDA is also recommending that the Department move forward with expanding the capacity to serve persons in community based residential homes that would be structured, supervised and sited to ensure security. These alternative community homes will be used to transition appropriate individuals from the SETT facilities. Although DDA currently has 35 to 40 providers that accept individuals transitioning from the SETT facilities, this capacity is insufficient to meet the need. It is important to note that these community placements are long term in nature and, if successful, result in low turnover of the residents, limiting the capacity for future placements. The goal is to appropriately serve as many individuals as possible in the community.

In reviewing data from FY 2009 to the present, there were 101 placements from the SETT facilities to the community, or an average of 23 per year. There have been 13 placements over that same period, nearly 3 per year, from the Potomac Center, another DDA operated facility.

In addition to placements for individuals transitioning directly from the SETT facilities, initial diversion from the SETT facilities is very important. DDA receives about 300 court-ordered evaluations annually, of which 200 are evaluated in the community and are not placed in the SETT facilities. Although there is currently some capacity in the community to serve these individuals, the Community Forensic Aftercare Workgroup report that was issued in April 2011 recommended that this capacity be further developed to serve additional individuals.³ This workgroup had a similar composition to that of the group that worked with the consultant in developing this revised recommendation.

Although the State would provide funding to selected providers for the acquisition and renovations of these homes, they would be not be located on state owned facility campuses and would instead be located in residential settings. These homes would be built over a period of several years as needed and would be part of a continuum in transitioning individuals from the SETT facility into alternative placements in community settings. Such placements would have appropriate programming and security measures that best meet the unique needs of each patient. To date, three new providers have expressed interest in operating these community-based homes. DDA will be working to define the necessary community capacity to meet the unmet need as part of the revised scope of this project.

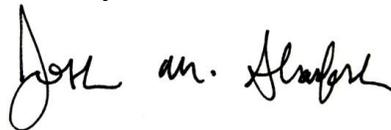
Based on DDA's current cost data, serving an individual in the community costs approximately \$113,560 per year, as opposed to over \$279,466 per year to serve them in the SETT facilities. DDA will be working with the Department of Budget and Management to finalize cost estimates for these community homes.

Conclusion

The Department will be pursuing an amendment to the current capital budget authorization language for the planning and design of this consolidated facility in order to realign the language with the above recommendations. The Department will be working with the Department of Budget and Management to finalize the project scope and determine the estimated capital and operating costs associated with each of these recommendations.

If you have any questions, please contact Patrick Dooley, Chief of Staff, at (410) 767-0907.

Sincerely,



Joshua M. Sharfstein, M.D.
Secretary

cc: Gayle Jordan-Randolph
Frank Kirkland
Patrick Dooley
Marie Grant
Erin McMullen
John Newman

³ Community Expansion Workgroup, *Report of the Community Expansion Workgroup* (2011).