

IN THE CIRCUIT COURT OF BALTIMORE COUNTY, MARYLAND

**CLAUDIA MCCLAIN
and
John Does 1-10 (HS),**

Plaintiffs,

Civil Action No. _____

vs.

**The STATE OF MARYLAND,
Acting by and through its agencies,
MARYLAND DEPARTMENT OF
JUVENILE SERVICES, and/or
DEPARTMENT OF HEALTH
(formerly the DEPARTMENT OF
HEALTH AND MENTAL HYGIENE);**

Defendant.

COMPLAINT

“If you were sort of a mad scientist who was sent to Maryland to deliberately make kids into criminals, you could hardly do any better than what’s going on in Maryland’s juvenile facilities. You’d have to work hard to cripple kids worse than they’re being crippled now.”

– Vincent Schiraldi, then-executive director Center of Juvenile and Criminal Justice, 2001; now newly-appointed Maryland Secretary of Juvenile Services.

INTRODUCTION

The self-proclaimed mission of Maryland’s Department of Juvenile Services (“DJS” or “the Department”) is “to appropriately manage, supervise, and treat youth who are involved in the juvenile justice system in Maryland.” The Department is “a child-serving agency responsible for assessing the individual needs of referred youth and providing intake, detention, probation, commitment, and after-care services,” and its goals are to “[i]mprove positive outcomes for

justice involved youth, to only use incarceration when necessary for public safety, to keep committed and detained youth safe while delivering services to meet youth needs, to ensure a continuum of care for justice-involved youth that is age- and developmentally-appropriate, to build, value, and retain a diverse, competent, and professional workforce and to enhance the quality, availability, and use of technology to improve services for staff, youth, and families.” Its Vision is simple: “Successful Youth, Strong Leaders, Safer Communities.”

In executing its mission on behalf of the State, DJS is statutorily authorized to operate detention centers—like the Charles H. Hickey, Jr. School (“the Hickey School” or “Hickey”)—where the State may involuntarily place boys and girls ages 12 to 20, while awaiting their adjudicatory hearing or placement in a treatment program. Through these centers, the State undertakes the complete care and control of literally every aspect of the lives of the children in its care, including their housing, supervision, personal protection, education, nurture, and rehabilitation. Children placed for treatment are there because they need re-direction, they need mentors, and they need training in new ways that will equip them for normalized life in society. Unfortunately, due to the Department’s abysmal lack of management and oversight, thousands of youngsters have been harmed rather than helped as they became the prey of sadistic staff whom they could not escape. Having taken these children’s liberty, the State then paid the personnel who relentlessly raped, sodomized, beat, threatened, and tortured them in nightmarish ways. All while turning a blind eye for decades.

No one listened and no one believed the captive youth. Instead, the abuse there was so systemic that many residents recount, “Did we tell? There was no one *to* tell...staff were all in it together.” It is little surprise then, that numerous staff at the Hickey School had prior felony convictions and histories of using excessive force against juveniles.¹ Despite the numerous internal and external investigations that documented serious abuse throughout Maryland’s juvenile

¹ U.S. Dep’t of Justice Civil Rights Division, Investigation of the Cheltenham Youth Facility in Cheltenham, Maryland, and the Charles H. Hickey, Jr. School in Baltimore, Maryland, 6-7 (April 9, 2004).

justice system dating back to at least 1967, the State repeatedly failed to respond or protect the children in its care. Like a fungus, sexual exploitation proliferated in the dark environment fed by years of executive tolerance. It was bad enough that the staff and the supervisors failed. The ultimate failure and blame attaches to the top brass who could have prevented these injustices perpetrated (literally) by the justice system itself but lacked the will or courage to do so.

The cries of some as young as seven years old at the Hickey School were dismissed. Investigations and warnings were ignored. Recommendations and policy changes were not implemented. The entire system failed these youth, and got away with generations of abuse. But with the passage of the Child Victims Act of 2023, at last, the time has come for a measure of justice for these survivors and for public accountability that will bring darkness to light and spark the long-promised overhaul of the juvenile system, which until now, tragically, has never been a State priority.

PARTIES PLAINTIFF

1. Claudia McClain is an adult resident of Baltimore, Maryland who resided at the Hickey School in Baltimore County, Maryland at relevant times herein.

2. Plaintiffs John Does (HS) 1-10 are now adult residents and citizens of Maryland, who resided at the Hickey School in Baltimore County, Maryland at relevant times herein.

3. Plaintiffs John Does (HS) 1-10 file this Complaint under pseudonyms by agreement with and consent of the Attorney General of the State of Maryland. The subject matter of the lawsuit could bring embarrassment and publicity to these Plaintiffs and/or their families. These Plaintiffs are vulnerable to the mental or physical harms of such disclosure.

4. Plaintiffs are all persons who as minors were housed, detained or incarcerated within juvenile justice facilities at the times of the acts complained of herein. The Maryland Code, Md. Code, Cts. & Jud. Proc. § 3-8A-27 (2002), protects court records pertaining to children as confidential. Those records cannot be divulged except by order of the court upon good cause

shown, or other inapplicable circumstances. Here, identification of Plaintiffs by name would automatically breach that confidentiality.

5. Plaintiffs cannot be lawfully forced to disclose protected information as a requisite to asserting their claims for childhood sexual abuse.

6. Further, publication of the intimate and private material this case involves risks serious humiliation and embarrassment to these Plaintiffs and their families. The ability to proceed by pseudonym provides some comfort and assurance as they pursue these claims. For many Plaintiffs, forced disclosure of their identities would amplify and exacerbate the injuries they have suffered. If not permitted to proceed under pseudonyms, these Plaintiffs would be forced to choose between suffering further mental and emotional harm and pursuing their legal rights.

7. Additionally, forced disclosure of Plaintiffs' identities would have a chilling effect on other similarly injured persons who are considering coming forward with their claims. Fear of embarrassment and repercussions in their personal and professional lives may cause them to remain silent regarding their experiences.

8. The public interest in the disclosure of Plaintiffs' identities is minimal.

9. As demonstrated by the Attorney General's stipulation, Defendant would not be unduly prejudiced by allowing Plaintiffs to proceed anonymously. Any potential prejudice will be mitigated by the confidential disclosure of Plaintiffs' actual identities.

PARTY DEFENDANT

10. Defendant, the State of Maryland ("the State" or "Defendant"), enforces Maryland's laws through its Executive Branch, consisting of various officers and agencies as authorized by Maryland's Constitution and its laws. Among the laws enforced by the State of Maryland are those governing the management, supervision and treatment of youth involved in the State's juvenile justice system, which the State has effectuated through several different Departments or Agencies.

11. From 1969 to 1987, the Juvenile Services Agency within the Department of Health

and Mental Hygiene (“DHMH”) was responsible for the management, supervision and treatment of youth who were involved in the juvenile justice system. DHMH was renamed the Department of Health in 2017.

12. In 1987, the Juvenile Services Agency (“JSA”) was reorganized as an independent agency. JSA assumed responsibility from DHMH for the management, supervision and treatment of youth who were involved in the juvenile justice system from 1987 to 1989.

13. In 1989, the State General Assembly established the DJS. DJS assumed responsibility for the management, supervision and treatment of youth who were involved in the juvenile justice system from 1989 to present.²

JURISDICTION AND VENUE

14. During the relevant period, the State of Maryland managed, supervised, and treated youth involved in the State’s juvenile justice system through the agencies listed in paragraphs 1113 above. Each of those agencies conducts or conducted business in Baltimore County, Maryland during the relevant period.

15. Venue in this Court is proper under Md. Code, Cts. & Jud. Proc. § 6-201, because Defendant “carr[ies] on a regular business” in Baltimore County.

16. Venue in this Court is also proper under Md. Code, Cts. & Jud. Proc. § 6-202(8) because Plaintiffs bring negligence and constitutional claims “[w]here the cause of action arose” in Baltimore County, Maryland.

17. Defendant is subject to the Maryland Tort Claims Act.

18. This action arises from claims of sexual abuse as defined in Md. Code, Cts. & Jud. Proc. § 5-117 and is exempt from the Maryland Tort Claims Act requirement to submit claims to the State Treasurer. Md. Code, State Gov’t § 12-106(a)(2).

² Between 1995 and 2003 DJS operated under the name “Department of Juvenile Justice.”

19. Plaintiffs' claims are not time-barred because they arise from incidents of sexual abuse that occurred while the victims were minors. Md. Code, Cts. & Jud. Proc. § 5-117(b).

20. The amount in controversy exceeds the jurisdictional minimum of \$30,000.

FACTUAL ALLEGATIONS

A. Structure and Background of the Maryland Juvenile Justice Detention System and the Charles H. Hickey, Jr. School

21. Maryland's formal juvenile justice system is nearly two centuries old, originating with the legislature's passage of "An Act to Establish a House of Refuge for Juvenile Delinquents" in 1830.³

22. The first "House of Refuge" became operational in December 1855 on Frederick Avenue in Baltimore City. In 1910 the "House of Refuge" was re-named "Maryland School for Boys." One year later, in 1911, the facility was closed and the operations of the Maryland School for Boys was relocated to a site northeast of Baltimore City.⁴

23. This site is the location of the facility now known as the Hickey School. Its current street address is 9700 Old Harford Rd, Parkville, MD 21234.⁵

24. The Hickey School has operated continuously at this location since 1911.⁶ From 1911 through 1984 it operated under the name Maryland School for Boys. It was re-named the Charles H. Hickey, Jr. School in 1985.⁷

25. Several State Departments have held responsibility for the management and

³ History of Juvenile Justice in Maryland, Dep't of Juvenile Services <https://djs.maryland.gov/Pages/aboutus/History.aspx> (last visited Sep. 13, 2023).

⁴ *Id.*

⁵ *Id.*

⁶ Charles H. Hickey, Jr. School, Dep't of Juvenile Services, <https://djs.maryland.gov/Pages/facilities/Charles-H-Hickey-Jr-School.aspx> (last visited Sep. 13, 2023).

⁷ *Id.*

operation of Maryland’s juvenile detention facilities, including the Department of Education, the Department of Public Works, the DHMH, the JSA, and, since 1989, the DJS.⁸

26. In 1995, the Maryland General Assembly re-named DJS the “Department of Juvenile Justice.”⁹ DJS operated under this name until 2003, when the General Assembly reverted DJS back to its original name.¹⁰

27. Within its broader mandate to manage, supervise, and treat youth who are involved in the juvenile justice system in Maryland, DJS is responsible for operation of Maryland’s secure juvenile detention facilities.¹¹

28. DJS currently oversees six juvenile detention centers, including the Hickey School: (1) Baltimore City Juvenile Justice Center, (2) Cheltenham Youth Detention Center, (3) Charles H. Hickey, Jr., School, (4) Alfred D. Noyes Children’s Center (temporarily closed), (5) Lower Eastern Shore Children’s Center, and (6) Western Maryland Children’s Center.¹²

29. DJS also oversees four committed placement centers: (1) Victor Cullen Center, (2) Garrett Children’s Center (temporarily closed), (3) the Green Ridge and Backbone Mountain Youth Centers, and (4) Silver Oak Academy (indefinitely closed).

30. DJS or its predecessors have operated additional juvenile detention and committed placement centers that are now closed, including, but not limited to, the Montrose School closed in 1988,¹³ and the Thomas J.S. Waxter Children’s Center closed in 2022.¹⁴

⁸ History of Juvenile Justice in Maryland, Dep’t of Juvenile Services, <https://djs.maryland.gov/Pages/aboutus/History.aspx> (last visited Sep. 13, 2023).

⁹ Historical Evolution Department of Juvenile Services, Maryland Manual On-Line, <https://msa.maryland.gov/msa/mdmanual/19djj/html/djjh.html> (last visited Sep. 14, 2023).

¹⁰ *Id.*

¹¹ Detention and Community Supervision, Department of Juvenile Services, <https://djs.maryland.gov/Pages/detention/Detention-Community-Supervision.aspx> (last visited Sep. 13, 2023).

¹² Maryland Office of the Attorney General Juvenile Justice Monitoring Unit, 2023 First Quarter Report (2023).

¹³ Historical Evolution Department of Juvenile Services, Maryland Manual On-Line, <https://msa.maryland.gov/msa/mdmanual/19djj/html/djjh.html> (last visited Sep. 14, 2023).

¹⁴ Maryland Office of the Attorney General Juvenile Justice Monitoring Unit, 2023 First Quarter Report (2023).

31. Youth may be detained in secure juvenile detention facilities like the Hickey School while awaiting an adjudicatory hearing for their alleged offense or while awaiting placement in a committed placement center. Youth may be detained in committed placement centers after an adjudicatory decision has been rendered.¹⁵

32. Historically, the Hickey School has functioned as both a detention facility and a committed placement facility.¹⁶ Since 2005, the Hickey School has operated a detention facility for youth awaiting adjudication or placement in a committed placement center and has contracted with a private third party, New Horizons, to operate a commitment center for youth sex offenders.¹⁷

33. Historically, the Hickey School has housed at least as many as 550 youths at one time.¹⁸ The detention facility is currently approved by DJS to house 72 youths;¹⁹ however, the Hickey School population has frequently exceeded this approved limit.²⁰

B. Constitutional and Statutory Obligations Require Protection of Children in the State's Custody

34. Defendant (including DJS) is subject to a litany of constitutional and statutory obligations requiring it to protect the children in its care from physical and sexual abuse.

¹⁵ *Id.*

¹⁶ Greg Garland, Plans to close Hickey school questioned, *Baltimore Sun* (July 13, 2005) <https://www.baltimoresun.com/maryland/bal-md.hickey13jul13-story.html>.

¹⁷ Charles H. Hickey, Jr. School, Dep't of Juvenile Services, <https://djs.maryland.gov/Pages/facilities/Charles-HHickey-Jr-School.aspx> (last accessed Sept. 14, 2023).

¹⁸ Jeffrey A. Butts & Samuel M. Street, Youth Correction Reform: The Maryland and Florida Experience, 25 (1988) <https://jeffreybutts.files.wordpress.com/1988/07/csyp-md.pdf>.

¹⁹ Maryland Office of the Attorney General Juvenile Justice Monitoring Unit, 2023 First Quarter Report (2023).

²⁰ *See, e.g.*, Maryland Office of the Attorney General Juvenile Justice Monitoring Unit, 2011 Annual Report (2023) (observing overcrowding as a major issue and noting that the Hickey School exceeded its DJS-set population capacity of 72 youths on 212 of 365 days during 2011).

35. The Eighth Amendment of the U.S. Constitution requires states to ensure the “reasonable safety” of confined juveniles,²¹ and deliberate indifference to the substantial risk of sexual assault violates confined juveniles’ right to freedom from cruel and unusual punishment.²²

36. The 14th Amendment of the U.S. Constitution requires states to provide confined juveniles with reasonably safe conditions of confinement and must protect juveniles from physical assault and the use of excessive force by staff.²³

37. In 1980, the U.S. Congress bolstered the constitutional rights of both adults and children confined in State institutions through its passage of the Civil Rights of Institutionalized Persons Act (“CRIPA”), enabling the U.S. Department of Justice to bring civil actions against²⁴ State facilities—including juvenile facilities—to ensure the constitutional and statutory rights of confined persons are protected while in State custody.²⁴

38. The Maryland Constitution’s Declaration of Rights provides similar protections to individuals in State custody.²⁵

39. DJS is also statutorily obligated to establish regulations applicable to its residential facilities that “prohibit [the] abuse of a child,” and to adopt regulations that require each State residential program to provide “a safe, humane, and caring environment.”²⁶

40. Consistent with these statutory obligations, DJS has implemented regulations for state-operated residential facilities that ostensibly prohibit acts of abuse within state facilities,

²¹ See *Helling v. McKinney*, 509 U.S. 25, 35 (1993) (“The [Eighth] Amendment, as we have said, requires that inmates be furnished with the basic human needs, one of which is “reasonable safety.”); see also *Youngberg* at 31516 (“It is cruel and unusual punishment to hold convicted criminals in unsafe conditions.”).

²² *Farmer v. Brennan*, 511 U.S. 825 (1994).

²³ See *Youngberg v. Romeo*, 457 U.S. 307, 315-24 (1982).

²⁴ U.S.C. § 1997a (allowing the Attorney General to institute a civil action when persons confined in a state institution are subjected to “egregious or flagrant conditions which deprive such persons of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing such persons to suffer grievous harm, and that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities.”).

²⁵ See *Williams v. Wilzack*, 573 A.2d 809, 814 (Md. 1990) (adopting Supreme Court precedent granting to persons in state custody, safe conditions of confinement on Fourteenth Amendment due process grounds).

²⁶ HS § 9-227.

including the “physical injury of a youth by any employee under circumstances that indicate the youth’s health or welfare is significantly harmed or at risk of being significantly harmed,” and the “sexual abuse of a youth, whether or not physical injuries are sustained.”²⁷

41. DJS has additional non-discretionary statutory obligations related to the hiring and training of its employees. DJS must set “minimum . . . qualifications and standards of training and experience for the positions in the Department,”²⁸ and, on or before the first day of employment, the Department must complete “a federal and State criminal history records check” for each employee.²⁹

42. Finally, DJS has non-discretionary statutory obligations to “adopt a code of conduct for staff of the Department; and . . . require each private agency under contract with the Department to adopt a code of conduct for its staff that is in substantial compliance with the code of conduct for staff of the Department.”³⁰

43. Consistent with these statutory obligations for hiring and training, DJS implemented regulations establishing standards for the Department’s hiring and training practices:

- A. “Each facility and other program shall maintain a staffing plan that, in accordance with Departmental requirements, provides a safe, humane, and caring environment.”³¹
- B. “All direct-care staff and all specialists shall: (1) Demonstrate the potential for working with youth in program settings, as reflected by academic qualifications, personal experience, or a combination of both; and (2) Meet the minimum qualifications, as applicable, set by: (a) The Department of Budget and Management; (b) The Maryland Correctional Training Commission; and

²⁷ Md. Code Regs. § 16.18.02.01-02.

²⁸ Md. Code, Hum. Servs. § 9-208(1).

²⁹ Md. Code, Hum. Servs. § 9-209(a)(1).

³⁰ Md. Code, Hum. Servs. § 9-207(e).

³¹ Md. Code Regs. § 16.05.01.03(A).

(c) Applicable law and regulation.”³²

C. “All program staff shall be trained according to the standards set for the applicable position by the Maryland Correctional Training Commission.”³³

D. “The Secretary shall adopt and enforce a code of conduct for personnel of the Department,”³⁴ and “[e]very private vendor or other person providing services to the Department shall adopt and enforce, as a condition of its contract, grant, or other arrangement with the Department, a code of conduct that is substantially similar to the one adopted by the Secretary[.]”³⁵

44. In 2003, the U.S. Congress passed by unanimous consent in both the House of Representatives and Senate the Prison Rape Elimination Act (“PREA”) for the purposes of, “establish[ing] a zero-tolerance standard for the incidence of prison rape,” “mak[ing] the prevention of prison rape a top priority in each prison system,” “increas[ing] the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape,” and “protect[ing] the Eighth Amendment rights of Federal, State, and local prisoners.”³⁶ The PREA explicitly included juvenile facilities within its scope.³⁷

45. Upon information and belief, over a period of decades, DJS and its predecessors have issued policies, trainings, and other material intending to establish standards and practices for the protection of children in the State’s care from abuse.

46. Despite its constitutional and statutory obligations and guidance, its enacted regulations, and its policies, DJS has failed to prevent the systematic physical and sexual abuse of children within its facilities for decades.

³² Md. Code Regs. § 16.05.02.01(B).

³³ Md. Code Regs. § 16.05.03.01.

³⁴ Md. Code Regs. § 16.05.04.01.

³⁵ Md. Code Regs. § 16.05.04.02.

³⁶ 42 U.S.C. § 15602.

³⁷ 42 U.S.C. § 15609(7) (“The term ‘prison’ . . . includes . . . any juvenile facility used for the custody or care of juvenile inmates.”).

C. Knowledge of Institutional Abuse within the Maryland Juvenile Detention System and the Hickey School

47. The physical and sexual abuse of children within Maryland’s juvenile detention facilities is longstanding and pervasive.

48. In 1967, the U.S. Department of Health, Education and Welfare, the predecessor agency to the U.S. Department of Health and Human Services, conducted a review of Maryland’s juvenile services system.³⁸ Its report described Maryland’s juvenile detention facilities as, “too large,” and recommended that the state “evaluate effective means of reducing the size of [its] institutions.”³⁹

49. In 1973, the National Association for the Advancement of Colored People (NAACP) reached similar conclusions in its report examining conditions at Maryland’s juvenile detention facilities. The NAACP recommended that Maryland’s Training Schools, including the Hickey School, “be phased out and replaced by a variety of community-based facilities.”⁴⁰

50. In 1986, youth residents detained at the Montrose School, a now-closed Maryland juvenile detention facility, filed a class-action lawsuit against the state alleging that conditions within the school violated the civil and constitutional rights of its residents.⁴¹ Among the abusive practices alleged in the lawsuit were the arbitrary and inappropriate use of isolation, an overuse of physical restraints and punishment—including a practice of staff members “body slamming” youth residents to control behavior—and a lack of staff oversight that enabled youth-on-youth sexual violence and rape, and multiple youth suicides.⁴¹

³⁸ Jeffrey A. Butts & Samuel M. Street, *Youth Correction Reform: The Maryland and Florida Experience*, 8 (1988) <https://jeffreybutts.files.wordpress.com/1988/07/csyp-md.pdf> (quoting U.S. Dep’t of Health, Education and Welfare, *A Study and Assessment of Maryland’s Program and Facilities for the Treatment and Control of Juvenile Delinquency* (1967)).

³⁹ *Id.*

⁴⁰ *Id.* at 8-9 (quoting NAACP Legal Defense and Educational Fund, Inc., *A Call for Reform of Maryland’s Training Schools*, A Report by the Task Force on Juvenile Justice (Feb. 1973)). ⁴¹ *Id.* at 10.

⁴¹ *Id.*

51. The State of Maryland announced its intention to close the Montrose School in September 1987 and the last youth left the facility in March 1988.⁴²

52. But violence and abuse within Maryland's juvenile detention facilities was not isolated to the Montrose School.

53. In April 1988, the *Evening Sun* in Baltimore reported on the unusually high number of altercations involving staff and residents at the Hickey School, citing a previously unreleased study by the Maryland Health Department that found 800 Hickey School students had received injuries serious enough to require visits to the infirmary during 1987.⁴³ Additionally, the Maryland State Police investigated 10 accusations of child abuse at Hickey during the same period.⁴⁴

54. In September 1990, University of Maryland law students observed girls detained in a female ward at the Hickey School with "scars, bruises and fairly deep cuts on their arms," and a detained girl lying on the floor in an empty concrete cell with only a blanket.⁴⁵ The girls reported to the visiting law students that the scars, cuts and bruises on their arms were caused by handcuffs and that girls were sometimes handcuffed to their beds.⁴⁶ The girls also reported being placed in seclusion for periods as long as five days and being subjected to strip searches by male security guards. These reports prompted a DJS investigation conducted in October 1990.^{48 47}

55. In 1991, following five superintendent changes in two years, and a report stating that children at the Hickey School "are at imminent risk of physical and emotional damage," Maryland privatized the operation of the facility through a three-year, \$50-million contract with

⁴² *Id.* at 19-23.

⁴³ Michael Wentzel, Jail for Kids Punishment methods eyed as Hickey School Changes, *The Evening Sun* (April 25, 1988)).

⁴⁴ *Id.*

⁴⁵ Laura Lippman, State probes charge of girls' abuse at Hickey, *Baltimore Sun* (Oct. 17, 1990)

<https://www.baltimoresun.com/news/bs-xpm-1990-10-17-1990290143-story.html>.

⁴⁶ *Id.*

⁴⁷ *Id.*

Rebound, Inc. (Rebound).⁴⁸

56. Shortly after Rebound assumed responsibility for the operation of the Hickey School, Michael Myers, a Rebound counselor, reported that he was, “appalled by the conditions,” he found when Rebound arrived at the Hickey School, stating that boys in the punishment unit were locked in individual cells for more than 20 hours a day.⁴⁹ Another volunteer at the Hickey School reported that prior to Rebound, “we used to have a lot of assaults by staff on children.”⁵⁰

57. Rebound’s operation of the Hickey School was brief. In November 1992, DJS announced its intent to terminate its contract with Rebound after only 14 months.⁵¹ DJS spokeswoman Carol P. Hyman summarized Rebound’s tenure at the Hickey School, stating “there were problems.” A Rebound spokesperson conceded, “[w]e struggled with just keeping a lid on the place, trying to prevent assaults and other incidents.”⁵²

58. Maryland continued its experiment with private operation of the Hickey School even after its termination of the Rebound contract. In May 1993, Maryland contracted the operation of the Hickey School to Youth Services International (YSI), a venture established in 1991 by the founder of Jiffy Lube in a failed attempt to win the original Hickey School contract awarded to Rebound.⁵³ YSI operated the Hickey School until March 31, 2004.⁵⁴

59. YSI’s operation of the Hickey School and other juvenile detention facilities in Maryland was marred by continued incidents of abuse.

⁴⁸ Scott Shane, A rough road up from delinquency, at Hickey School, young offenders make progress, but will it matter?, *Baltimore Sun* (Oct. 11, 1992) <https://www.baltimoresun.com/news/bs-xpm-1992-10-11-1992285002story.html>.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Sheridan Lyons, Hickey operator is ousted Move follows free-for-all at juvenile school, *Baltimore Sun* (Nov. 20, 1992) <https://www.baltimoresun.com/news/bs-xpm-1992-11-20-1992325024-story.html>.

⁵² Jim Ross, Jail firm hopes to rebound in Citrus from troubles, *Tampa Bay Times* (Jan. 15, 1995) <https://www.tampabay.com/archive/1995/01/15/jail-firm-hopes-to-rebound-in-citrus-from-troubles/>.

⁵³ Laura Lippman, Jiffy Lube man is picked to run Hickey School Hindman denied contract in 1991, *Baltimore Sun* (May 5, 1993) <https://www.baltimoresun.com/news/bs-xpm-1993-05-05-1993125008-story.html>.

⁵⁴ Dan Fesperman, Hickey Turns a Violent Page, *Baltimore Sun* (Mar. 30, 2004) <https://www.baltimoresun.com/maryland/bal-hickey0330-story.html>.

60. In 1997, a young man filed a federal civil rights claim against YSI arising from an alleged sexual assault perpetrated against him by his roommate while in the custody of the Hickey School as a juvenile between November 10 and December 5, 1993.⁵⁵ He alleged that YSI violated his constitutional rights under the Eighth and Fourteenth Amendments and that YSI's negligence in its failure to train and supervise its employees led to his sexual assault.⁵⁶

61. In 2000, four guards at the Victor Cullen Center, another Maryland juvenile detention facility operated by YSI, were charged with assaulting juveniles. Two others were charged with sexually abusing youths at the center. In 2001, at least six additional guards were terminated following allegations of physical assaults.⁵⁷

62. In September 2002, YSI paid \$792,470 to the State of Maryland to resolve claims arising from its alleged failure to provide training to its employees as required under the terms of its contract for the operation of the Hickey School.⁵⁸ The Hickey School settlement followed an earlier \$600,000 settlement between YSI and the State of Maryland arising from YSI's operation of the Victor Cullen Center.⁶⁰

63. The State's findings that led to the settlement with YSI are documented in a "performance audit" of YSI's operation and management of the Hickey School—including its failures to meet its contractual obligations—between April 2000 and May 2001.⁵⁹ The *Baltimore Sun* reported the findings: "In almost every case, the company failed to provide the required 40 hours of in-service training to staff members employed at the school before the contract. The audit found that of 108 existing employees, only one received full training while 34 got none at all.

⁵⁵ *Burton v. Youth Services International, Inc.*, 176 F.R.D. 517, 519 (D. Md. 1997).

⁵⁶ *Id.*

⁵⁷ Michael Scarcella, State may shut Victor Cullen youth jail, *Baltimore Sun* (Nov. 22, 2001) <https://www.baltimoresun.com/news/bs-xpm-2001-11-22-0111220237-story.html>.

⁵⁸ Prison Legal News, YSI: Another Death, Another Settlement (June 15, 2003) <https://www.prisonlegalnews.org/news/2003/jun/15/ysi-another-death-another-settlement/>.

⁵⁹ Michael Dresser, Contract violations at Hickey settled, *Baltimore Sun* (Sep. 10, 2002) <https://www.baltimoresun.com/news/bs-xpm-2002-09-10-0209100146-story.html>.

Meanwhile, 14 percent of 58 new employees were put on the job before completing their 40 hours.”⁶⁰ In addition to training failures, “[YSI] failed to provide adequate supervision and recordkeeping when juveniles were put on suicide watches,” and “failed to fully staff 19 percent of the posts specified in its contract in fiscal 2000 and 24 percent in fiscal 2001.”⁶¹ The audit further suggested that the staffing shortages were directly related to use-of-force incidents at the Hickey School: “60 percent of ‘incident reports’ - detailing rule violations, use of force or similar matters - occurred on shifts that were short-staffed.”⁶²

64. Despite the observations of the State’s performance audit, DJS allowed YSI to continue to manage and operate the Hickey School.

65. On May 29, 2003, Maryland’s Independent Juvenile Justice Monitor issued a report to the Governor’s Office for Children, Youth and Families documenting 20 cases of abuse and neglect at the Hickey School between January and May 2003.⁶³ The 20 cases included instances of both physical and sexual abuse and questioned the accuracy of the DJS’s incident report database that purported to track child abuse, assaults, and use-of-force incidents within Maryland’s juvenile detention facilities.⁶⁴ While the report revealed “approximately 2.5 documented assault/use-of-force type incidents at Hickey each day,” it emphasized that, “there may be many other cases that go unreported by staff and youth for fear of retaliation.”⁶⁵

66. The following incident descriptions are quoted verbatim from the 2003 Independent Juvenile Justice Monitor report.

A. “On January 5, 2003, a youth set off the sprinkler system on Clinton Hall. Reportedly, the youth was forced to stay in his room to endure the deluge of

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ Philip J. Merson, Independent Juvenile Justice Monitor Special Report on Conditions/Incidents at the Charles Hickey School (May 29, 2003).

⁶⁴ *Id.* at 1.

⁶⁵ *Id.*

water while other youths were evacuated from the area. Staff subsequently pulled the youth from his room, slammed him against the wall and dragged him downstairs where the area was flooded, and the older youths were allowed to beat him up. The youths on the upper floor were forced to return to their rooms, wet, while staff persons came around and beat them with wet slippers.”⁶⁶

- B. “On January 13, 2003 a staff person on Clinton Hall reportedly grabbed a youth by his arm, threw him into a bathroom, and the youth injured his back when he struck a sink.”⁶⁷
- C. “On January 24, 2003 a youth awoled from the facility. He was brought back and a subsequent interview by a DJJ investigator revealed allegations that the youth had been having consensual sex with a female staff person on the detention unit, Clinton Hall.”⁶⁸
- D. “On February 7, 2003 a youth was reported missing and located when he was involved in a car accident in Anne Arundel County. The youth was reportedly driving a car registered to a female staff person at Hickey. There were allegations that the youth and the staff person may be having sexual relations.”⁶⁹
- E. “On March 29, youths on Mandella Hall were reportedly involved in a fight. Staff intervened in the fight and one youth reported that a staff slammed him to the floor, so he tried to break his fall with his hand and his wrist was fractured.
... A review of the DJJ Incident Reporting Database revealed that an incident

⁶⁶ *Id.*

⁶⁷ *Id.* at 2.

⁶⁸ *Id.* at 2.

⁶⁹ at 3.

report labeled as a “youth on youth with minor/no injury” had been forwarded to DJJ from Hickey on 4/11, but a copy of the incident report at Hickey revealed the report was completed on 3/29 at 9:30 PM.”⁷⁰

F. “Youths on Roosevelt Hall allege that on April 4, April 13, and April 18 staff persons had beat them, forced them to hold a live electrical cord in the shower, allowed other youths to beat them, and prevented them from receiving the necessary medical care as a result of the beatings. Other staff persons were reportedly aware of the incidents but failed to notify the appropriate authorities. The youth felt they were forced to lie about their injuries in an effort to prevent retaliation from staff. In September of 2001, the Hickey School had terminated one of the staff persons accused of abuse in this incident after DJJ sustained an investigation of unnecessary use of force. The same staff person went to work at another private facility in Maryland, and that facility was forced to terminate the staff once DJJ found out he was working there. The staff person was then hired by DJJ in 2002, after completing a background check. He began working for DJJ and was also rehired by Hickey because the staff person was cleared to work for DJJ. The staff person resigned his position with DJJ and began working full time with Hickey as a group leader.”⁷¹

G. “The writer reviewed a DJJ Incident Report on 5/12 that alleged a youth was previously sexually abused by staff in the Cheltenham Youth Facility while being detained there between 4/30 and 5/2/03. . .The youth’s public defender wanted some preventative action taken and the youth was court ordered to the Hickey School.”⁷²

⁷⁰ *Id.* at 4.

⁷¹ *Id.* at 5-6.

⁷² at 6.

67. Additional incident reports appear to have been redacted in full from publicly available versions of the 2003 Independent Juvenile Justice Monitor Report. Upon information and belief, earlier reports from the Independent Juvenile Justice Monitor describe similar patterns of abuse and excessive use of force.⁷³

68. The Report concludes, “Youth in state care have the right to be safe and secure in their environment. If DJJ and the Hickey School are unable to ensure their safety, contingency plans must be activated by the Department of Juvenile Justice to care for these youths.”⁷⁴

69. No contingency plans were activated. Despite the observations and recommendations of the 2003 Independent Juvenile Justice Monitor Report, DJS failed to ensure the safety and security of children at the Hickey School in the months and years to come.

70. On February 6, 2004, a Hickey School staff member was charged with assault after allegedly striking a youth who had dropped his food tray.⁷⁵

71. On February 23, 2004, a Hickey School staff member, William Devon Johns, was charged with assault after allegedly punching a student in the face.⁷⁶

72. On April 9, 2004, the U.S. Department of Justice’s Civil Rights Division published the findings of its investigation into conditions at the Cheltenham Youth Facility and the Hickey School in a 51-page report (the “DOJ Report”).⁷⁷ The DOJ conducted its investigation pursuant to CRIPA and found, “major constitutional deficiencies” in both facilities’ failure to protect youth from staff violence, unsafe restraint practices, youth violence, excessive isolation, and other abusive practices.

⁷³ *Id.* at 8 (“Previous reports from this office and recommended corrective actions have not resulted in a satisfactory reduction in these incidents of abuse and assault. The patterns of abuse and excessive force continue.”).

⁷⁴ *Id.* at 9.

⁷⁵ Dan Fesperman, Hickey Turns a Violent Page, *Baltimore Sun* (Mar. 30, 2004) <https://www.baltimoresun.com/maryland/bal-hickey0330-story.html>.

⁷⁶ *Id.*

⁷⁷ U.S. Dep’t of Justice Civil Rights Division, Investigation of the Cheltenham Youth Facility in Cheltenham, Maryland, and the Charles H. Hickey, Jr. School in Baltimore, Maryland (April 9, 2004).

73. The following subset of incidents of physical abuse occurring at the Hickey School are quoted verbatim from the 2004 DOJ Report.

- A. “In a March 2003 incident, a Hickey staff member, breaking up a youth-on-youth fight, hoisted one of the youth in the air and ‘slammed him to the floor,’ injuring his left arm. The facility failed to inform the youth’s parents, who filed a report with Child Protective Services after seeing a cast on their son’s arm on visiting day a week later. Staff reports failed to describe any injuries to the youth. OPRA investigators described the incident as ‘another example of [Hickey] staff trying to conceal incidents.’”⁷⁸
- B. “In a May 2003 incident, Child Protective Services found that a Hickey staff member struck a youth in the face, which another staff member witnessed.”⁷⁹
- C. “In a May 2003 incident, a Hickey staff member assaulted a youth who refused to leave a school classroom. The staff member grabbed the youth around the neck and slammed him against the wall outside the classroom. The youth then threw a plastic chair towards the staff member, but missed him. The staff member slammed the youth to the ground, choking, punching and kicking him. During our visits, we observed injuries to the youth's face and neck.”⁸⁰
- D. “In January 2004, the Maryland State Police filed criminal assault charges against two Hickey staff members for assaulting a youth. A police investigation revealed that the youth, upset because a routine staff search of his room left it in disarray with some items missing, kicked his door. A staff member then slapped the youth in the face with an open hand and attempted to wrestle him to the ground. Although two staff members attempted to intervene to stop the

⁷⁸ *Id.* at 6.

⁷⁹ *Id.* at 5.

⁸⁰ *Id.*

assault, another staff member grabbed the youth from behind and began striking him with a closed fist. The youth was left injured in his room for three hours before being seen by the nurse. Photographs taken by the nurse reportedly depict injuries to the youth's face and body consistent with being grabbed around the neck and being struck in the face.”⁸¹

74. The DOJ Report makes clear that the examples of physical abuse cited in its pages are “representative of recurrent problems at the facilities and are not aberrational.” Additionally, the DOJ Report found that “staff frequently fail[] to provide any detail regarding the incidents [of physical abuse],” and, “[t]he recurrent nature of the incidents reflects a lack of appropriate training, reporting, supervision, and quality assurance practices at Cheltenham and Hickey.”⁸²

75. In addition to a lack of appropriate training and supervision, the DOJ Report identified inappropriate hiring practices at Cheltenham and Hickey. The DOJ’s investigation, “revealed that individuals with felony convictions and histories of excessive force against juveniles may, at times, be hired as staff members at these facilities.” The DOJ investigators found, “several instances where we believe that staff with either felony convictions or previous histories of excessive force in a juvenile detention facility were involved in incidents of abuse.” The DOJ characterized these findings as, “quite obviously, entirely unacceptable.”⁸³

76. The DOJ investigation also identified instances of sexual abuse at both Cheltenham and the Hickey School. The Report’s description of “inappropriate staff-youth relationships” is quoted in full:

- A. “Our investigation revealed incidents of misconduct at both facilities in which female staff were found to have engaged in inappropriate relationships with male youth residents as young as 14 years old. For example, in June 2003, during an investigation of a physical assault by a staff member on a youth at

⁸¹ *Id.*

⁸² *Id.* at 6.

⁸³ *Id.* at 6-7.

Hickey, the staff member admitted to sexual abuse of another youth. In February 2003, a missing youth was found driving a car registered to a female staff person at Hickey. In April 2002, a staff member resigned after it was revealed that she had engaged in sexual intercourse with a youth resident at Cheltenham. Relationships of this variety clearly violate the Constitution. Unfortunately, the facilities have failed to institute adequate measures to prevent incidents such as these from recurring.”⁸⁴

77. Beyond physical and sexual abuse by staff, the DOJ investigation identified myriad other ongoing and pervasive failures to protect youth at Cheltenham and the Hickey School. These included, the use of unsafe restraint practices, failure to protect from harm of youth-on-youth violence, excessive use of disciplinary isolation and lack of procedural protections in the use of disciplinary isolation, denial of access to bathrooms, failure to protect youth at risk of self-harm and suicide, inadequate mental health care, inadequate medical care, inadequate education instruction of youth with disabilities, and inadequate fire safety within both facilities.⁸⁵

78. The DOJ Report concluded with a list of 27 remedial measures to “rectify the identified deficiencies and protect the constitutional and statutory rights of youth confined at Cheltenham and Hickey. The first remedial measure identified in the list is to, “[e]nsure that youth are adequately protected from physical violence committed by staff and other youth, and sexual misconduct by staff.”⁸⁶

79. The findings of the DOJ Report prompted DOJ to initiate a civil action against the State of Maryland related to the conditions it observed at Cheltenham and the Hickey School. The parties settled the matter on June 29, 2005. Underscoring the severity of DOJ’s observations, the first substantive remedial measure appearing in the settlement agreement states: “The State shall

⁸⁴ *Id.* at 13.

⁸⁵ *Id.* at 5-47.

⁸⁶ *Id.* at 48.

take all reasonable measures to assure that youth are protected from violence and other physical or sexual abuse by staff and other youth.”⁸⁷

80. The 2003 and 2004 findings of the Independent Juvenile Justice Monitor and the Department of Justice involving the Hickey School are even more egregious in light of the abuse scandal that rocked the Maryland juvenile justice system in 1999.

81. In December 1999, the *Baltimore Sun* published a four-part series of articles based on its investigation of child abuse at Savage Leadership Challenge, one of three state boot camps in Garrett County, Maryland. The articles in the Bootcamp Series described the Savage Leadership Challenge as, “perhaps the nation’s most violent [bootcamp],” and characterized the violence observed by its reporter and photographer over a five-month period beginning in October 1998 as, “routine.”⁸⁸ The *Baltimore Sun* reported and photographed verbal and physical abuse of children as young as 14 in camp induction rituals as well as day-to-day life. The violence observed included guards throwing shackled children to the ground, and slamming children out of bed, against walls, and through glass windows as part of the bootcamp’s process to “break the kids down, [and] build them up.”⁸⁹

82. Immediately following the publication of the *Baltimore Sun*’s Bootcamp Series, Maryland Governor Parris Glendening announced investigations into the state’s three Garrett County bootcamp programs stating, “[t]he State . . . cannot and will not permit the physical abuse of anyone, juvenile or adult, in any of our facilities. Violence will not be tolerated.”⁹⁰

⁸⁷ Settlement Agreement at 5 *U.S. v. Maryland*, 1:05-cv-01772 (June 29, 2005).

⁸⁸ Todd Richissin, Why are you crying? Answer: ‘My life, sir’, *Baltimore Sun* (Dec. 5, 1999) <https://www.baltimoresun.com/bal-bootcamp-part1-htmlstory.html>.

⁸⁹ *Id.*; Todd Richissin, On graduation day, an illusion of hope, *Baltimore Sun* (Dec. 6, 1999) <https://www.baltimoresun.com/bal-bootcamp-part2-story.html>.

⁹⁰ Todd Richissin, Probes target juvenile camps; Assaults on youth by state guards spur 3 more investigations; ‘No excuse for abuse’, *Baltimore Sun* (Dec. 8, 1999) <https://www.baltimoresun.com/news/bs-xpm-1999-12-089912080144-story.html>.

83. Within two weeks of the Bootcamp Series' publication, the bootcamps were shut down and the DJS Secretary and four other DJS officials were removed from office. Secretary Gilbert de Jesus, Assistant Secretary and Superintendent of Facilities Don Carter, and Assistant Superintendent Jeff Graham resigned at the request of Governor Glendening. DJS Deputy Secretary Jack Nadol refused to resign and was fired.⁹¹

84. Despite the impact of the Bootcamp Series on DJS leadership and the operation of the bootcamps themselves, DJS failed to take meaningful steps to eliminate similar abuse at other state facilities like the Hickey School, as evidenced by continued reports of physical and sexual abuse documented by the *Baltimore Sun* in 2001, the Independent Juvenile Justice Monitor in 2003, and the Department of Justice in 2004.

85. DJS resumed its direct operation of the Hickey School on April 1, 2004.⁹² Upon resuming operations of the facility, DJS found, "an out-of-control wreck of a juvenile detention center where housing units reeked of urine, graffiti covered walls, and locks didn't work on the doors of the rooms of dozens of potentially dangerous offenders."⁹³ DJS Secretary Kenneth C. Montague, Jr. reported that he was, "shocked and surprised," and hadn't realized how bad things were at the Hickey School until YSI left, and conceded that DJS had not monitored its vendors' performance as aggressively as it should.⁹⁴ Only upon resuming responsibility for operation of the Hickey School did DJS learn that at least forty former YSI employees did not meet DJS's minimum

⁹¹ Daniel LeDuc, Top Juvenile Officials Ousted Md. Probe Shows Teens Abused at Boot Camps, *Washington Post* (Dec. 16, 1999)

⁹² Dan Fesperman, Hickey Turns a Violent Page, *Baltimore Sun* (Mar. 30, 2004)
<https://www.baltimoresun.com/maryland/bal-hickey0330-story.html>.

⁹³ Jeff Barker, Conditions at Hickey shocked Md. Officials, *Baltimore Sun* (May 27, 2004)
<https://www.baltimoresun.com/maryland/bal-conditions0527-story.html>.

⁹⁴ *Id.*

hiring standards,⁹⁵ and DJS officials reported that YSI personnel records for the 320member staff were missing.⁹⁶

86. Just over a year after DJS resumed responsibility for operations at the Hickey School, on July 1, 2005, Maryland Governor Robert Ehrlich announced his intention to close the facility, describing conditions at the facility as, “intolerable,” “a violation of constitutional rights,” and “a living model in what a system should not become.”⁹⁷

87. Less than two weeks after Governor Ehrlich’s announcement, DJS Secretary Montague clarified that only a portion of the school, a 130-bed long-term residential program for post-disposition youths would be closed by November 30, 2005.⁹⁸ A 72-bed detention center for pre-disposition youths, as well as a 26-bed program for youth sex offenders, would continue to operate indefinitely.⁹⁹ The detention center for pre-disposition youths remains in operation today as does a secure program for youth sex offenders operated by a private vendor, New Directions.¹⁰⁰

88. Despite DJS’s direct operation of the Hickey School and the reduction in size of its youth population, questions regarding DJS and its management of the Hickey School continued.

89. A June 22, 2007 Juvenile Justice Monitoring Unit Special Report regarding a May 2007 escape from the Hickey School recommended closure of the facility stating: “The Hickey campus resembles an adult prison – it was built to serve as a large congregate care “reform” or “training” school – this model has been known to be ineffective in rehabilitating youth or reducing recidivism for decades. The interior violates both federal and state standards for newly constructed

⁹⁵ Jeff Barker, 40 employed at Hickey fail to make grade, *Baltimore Sun* (May 8, 2004)

<https://www.baltimoresun.com/maryland/bal-employees0508-story.html>.

⁹⁶ Jeff Barker, Conditions at Hickey shocked Md. Officials, *Baltimore Sun* (May 27, 2004)

<https://www.baltimoresun.com/maryland/bal-conditions0527-story.html>.

⁹⁷ Andrew A. Green, Oft-criticized youth facility to be closed, *Baltimore Sun* (July 1, 2005)

<https://www.baltimoresun.com/maryland/bal-te.md.hickey01jul01-story.html>.

⁹⁸ Greg Garland, Plans to close Hickey school questioned, *Baltimore Sun* (July 13, 2005)

<https://www.baltimoresun.com/maryland/bal-md.hickey13jul13-story.html>.

⁹⁹ *Id.*

¹⁰⁰ Charles H. Hickey, Jr. School, Dep’t of Juvenile Services, <https://djs.maryland.gov/Pages/facilities/Charles-HHickey-Jr-School.aspx> (last visited Sep. 13, 2023).

facilities. Youth sleep in small locked cells with no furniture except for a bed and mattress. Beds are not suicide proof, and youth do attempt suicide in the facility. Rooms lack toilet facilities and youth must rely on staff to release them from locked rooms to use toilet facilities. There is no other way to describe the facility than to say it is a ‘jail for children.’”¹⁰¹ In no uncertain terms, the Special Report stated: “We believe no amount of renovations, no matter how extensive, will ever make the Hickey facility appropriate for the housing of youth.”¹⁰²

90. Only months later, on October 11, 2007, a Juvenile Justice Monitoring Unit Special Report regarding an escape from the Hickey School in September 2007 reiterated its recommendation to close the facility, choosing to simply quote its June recommendations in full.¹⁰³

91. On December 13, 2007, the DJS Director of Detention, Chris Perkins, resigned from his position after a report issued by the Montana Department of Health and Human Services revealed that Perkins, “directly abused or neglected youth under his care,” while running the military-style Swan Valley Youth Academy.¹⁰⁴

92. Less than one month later, on January 12, 2008, reporting by the *Baltimore Sun* revealed that the Superintendent of the Hickey School, Wallis Norman, had previously resigned under threat of dismissal from a superintendent role at a juvenile detention facility for trying to hide allegations of assault made by an incarcerated youth in his care.¹⁰⁵ DJS did not remove Norman from his position as Superintendent.¹⁰⁶

¹⁰¹ State of Maryland Office of the Attorney General Juvenile Justice Monitoring Unit, Charles H. Hickey, Jr. School Special Report (Oct. 11, 2007) (quoting State of Maryland Office of the Attorney General Juvenile Justice Monitoring Unit, Charles H. Hickey, Jr. School Special Report (June 22, 2007) <https://www.marylandattorneygeneral.gov/JJM%20Documents/Hickey%20Special%20Report%20Final102507.pdf>.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Greg Garland, Juvenile services official resigns, *Baltimore Sun* (Dec. 14, 2007) <https://www.baltimoresun.com/news/bs-xpm-2007-12-14-0712140084-story.html>.

¹⁰⁵ Gadi Dechter, Head of Hickey forced out in Ga., *Baltimore Sun* (Jan. 12, 2008) <https://www.baltimoresun.com/news/bs-xpm-2008-01-12-0801120147-story.html>.

¹⁰⁶ Gadi Dechter, Chief of Hickey School to keep post, *Baltimore Sun* (Feb. 23, 2008) <https://www.baltimoresun.com/news/bs-xpm-2008-02-23-0802230227-story.html>.

93. In 2009, Tyra M. Greenfield, a counselor at the New Directions Program, a privately-run secure program for youth sex offenders operating at the Hickey School, was charged with sexual child abuse following an incident in which she had sex with a child in her care at her home following his escape from the Hickey School.¹⁰⁷

94. Upon information and belief, incidents of physical and sexual abuse have continued to occur at the Hickey School to the present day.

95. From 2010 to the present day the Juvenile Justice Monitoring Unit within the Office of the Attorney General has issued quarterly reports on incidents within Maryland's juvenile detention facilities. These quarterly reports do not categorize incidents of staff physical or sexual abuse. However, the Reports document a troubling volume of incidents involving the restraint of youths as well as incidents of suicide ideation, gestures, attempts or behavior within the Hickey School and throughout Maryland's juvenile detention facilities.¹⁰⁸

96. DJS knew of the incidents and reports described above, and others, and was aware that the Hickey School and its other facilities failed to meet the minimum conditions required for its facilities by the U.S. and Maryland Constitutions, its own authorizing statutes, and its own regulations and policies.

97. The failure to address and remediate the harms identified in the myriad internal and external investigations into the abuse and neglect of children at the Hickey School and other facilities directly enabled the sexual abuse of Plaintiffs.

D. The Prevalence and Effects of Sexual Assault in Juvenile Facilities

98. On September 4, 2003, President George W. Bush signed PREA into law, following its passage by unanimous consent in both the U.S. House of Representatives and Senate. Incorporated

¹⁰⁷ Ben Nuckols, Escaped Juvenile Had Sex with Counselor, *News 4 Washington* (Oct. 1, 2009)

<https://www.nbcwashington.com/news/local/escaped-juvenile-had-sex-with-counselor-police/1858044/>.

¹⁰⁸ See, e.g., Maryland Office of the Attorney General Juvenile Justice Monitoring Unit, 2011 Annual Report (2011) (reporting 254 incidents involving the restraint of youths and 66 incidents of suicide ideation, gesture, attempt or behavior at the Hickey School in 2011).

into the law is a detailed list of Congressional findings regarding the prevalence and consequences of sexual assault within U.S. carceral institutions.¹⁰⁹ Congress' relevant findings are quoted in full:

- A. “[E]xperts have conservatively estimated that at least 13 percent of the inmates in the United States have been sexually assaulted in prison. Many inmates have suffered repeated assaults.”¹¹⁰
- B. “Young first-time offenders are at increased risk of sexual victimization.”¹¹¹
- C. “Most prison staff are not adequately trained or prepared to prevent, report, or treat inmate sexual assaults.”¹¹²
- D. “Prison rape often goes unreported, and inmate victims often receive inadequate treatment for the severe physical and psychological effects of sexual assault—if they receive treatment at all.”¹¹³
- E. “Victims of prison rape suffer severe physical and psychological effects that hinder their ability to integrate into the community and maintain stable employment upon their release from prison. They are thus more likely to become homeless and/or require government assistance.”¹¹⁴
- F. “[T]he high incidence of prison rape . . . increases mental health care expenditures, both inside and outside of prison systems, by substantially increasing the rate of post-traumatic stress disorder, depression, suicide, and the exacerbation of existing mental illnesses among current and former inmates[.]”¹¹⁵

¹⁰⁹ 42 U.S.C. § 15601.

¹¹⁰ 42 U.S.C. § 15601(2).

¹¹¹ 42 U.S.C. § 15601(4).

¹¹² 42 U.S.C. § 15601(5).

¹¹³ 42 U.S.C. § 15601(6).

¹¹⁴ 42 U.S.C. § 15601(11).

¹¹⁵ 42 U.S.C. § 15601(14)(D).

99. While undoubtedly accurate, Congress's findings do not adequately express the trauma and lasting consequences suffered by survivors of the Hickey School.

E. Abuse of Plaintiffs

100. In each case, Defendant's staff/agents/employees (the perpetrators described below) gained access to Plaintiffs by virtue of their confinement in Defendant's facilities. The perpetrators used their positions of trust, power and authority over Plaintiffs to sexually abuse them.

101. **Claudia McClain** was 13 years old when she was placed at Hickey in or around 1987 for stealing bicycles and other minor offenses. Her first sexual experience was a rape by a male staff perpetrator shortly after her arrival. She was raped and sodomized over 15 times by staff perpetrators during her time at Hickey and other DJS facilities, often under threat that she would be placed "in the hole" (a room with only a mattress, where she was sometimes left naked for hours or days) if she resisted. Claudia recalls that some of her friends and co-residents within the institutions committed suicide as a result of similar sexual abuse. Claudia remembers lying in bed fearfully listening to the sounds of others being raped, and waiting for the key to her own room to turn as the perpetrators let themselves in, telling her she "knew what time it was." Claudia herself attempted suicide within these institutions was later committed to a medical center to treat her resultant mental disorders. To this day, Claudia is in treatment and hates men.

102. **John Doe 1 (HS)** was sent to Hickey at age 15 in or around 1985 after charges of auto theft. During his six- to eight-month stay, a male staff perpetrator first lured him with care packages of essential items such as soap, washcloths, candy, and incidentals. This perpetrator then began anally raping John Doe 1(HS) and demanding fellatio on a weekly basis. When John Doe 1 (HS) cried out, the perpetrator covered his mouth. He often threatened John Doe 1 (HS) that if he did not comply, or if he reported the abuse, he would be sent to "big jail." John Doe 1 (HS) lived in constant fear of not only this sexual abuse, but that the perpetrator might send him to the even worse scenario of adult prison. John Doe 1 (HS) recalls that other staff knew and covered for each

other's perverted acts so widely that the Hickey School was a "breeding ground" for sexual abuse of residents.

103. **John Doe 2 (HS)** was 14 years old in or around 2000 when he was placed in DJS custody pending transfer to a foster care home. Over the next two years, John Doe 2 (HS) was placed in various DJS facilities, including Cheltenham, Victor Cullen, and the Hickey School. He was raped and sodomized by male staff in these facilities several times a week for some 15 months, and was also and forced to engage in group sexual acts with other youth residents and perpetrators on multiple occasions. His perpetrators beat and threatened to kill their victims if they told. When John Doe 2 (HS) resisted, he was placed in a locked isolation room where he was left naked and deprived of food. When he courageously reported the abuse, his assailant learned he had done so, and the abuse escalated to the point John Doe 2 (HS) thought he would die, and wanted to die. Since his release, John Doe 2 (HS) has attempted suicide three times and remains in therapy.

104. **John Doe 3 (HS)** was placed at Hickey at age 15 in 2005, and was forcibly sodomized by a male staff perpetrator on more than 10 occasions. This perpetrator forced his penis down John Doe 3 (HS)'s throat to the point he could hardly breathe, and would force John Doe 3 (HS) to swallow his semen so no one would know. John Doe 3 (HS) would return to his room and vomit. He reported the sexual abuse to the infirmary nurse, but nothing was done to stop it or protect him. The perpetrator threatened to kill him and also threatened to harm his family or friends. John Doe 3 suffers depression and anxiety as a result of these incidents.

105. **John Doe 4 (HS)** was 14 years old when he was sent to Hickey in or around 1984 after participating in a store break-in. He was sodomized and masturbated by a male staff perpetrator over 15 times. The officer would often page John Doe 4 (HS) (and other residents) out of school for tasks such as buffing floors or cutting grass in order to get them alone, and would then assault them behind locked doors while instructing them to keep the abuse quiet. Other staff observed this practice but never seemed to question it, although John Doe 4 (HS) and his fellow residents lived in fear of being summoned. In addition to his physical injuries, John Doe 4 (HS)

suffers nightmares and depression, because “I’ll never forget his face.” He isolates himself and finds it hard to trust others.

106. **John Doe 5 (HS)** was placed at Hickey in or around 1995 at age 15 for an assault charge. During his 9-month stay, he was victimized by a female staff perpetrator who groped his genitals and demanded he penetrate her with his fingers. This perpetrator told John Doe 5 (HS) that no one would ever believe him if he told. This abuse and manipulation left John Doe 5 (HS) vulnerable to abuse from other older females later in life, as he normalized this behavior. To this day, John Doe 5 sees his perpetrator’s face when he closes his eyes.

107. **John Doe 6 (HS)** was placed at Hickey in 1979 at age 15 for behavioral issues. He was sexually abused over 15 times by two separate male staff who forced him to undress, performed oral copulation and fondling of his and their genitals while variously threatening him with a longer sentence and loss of privileges if he did not comply. These perpetrators also bribed John Doe 6 (HS) with food to keep him quiet and to permit the continuation of abuse. John Doe 6 (HS) suffers ongoing guilt, shame, and depression from the abuse.

108. **John Doe 7 (HS)** was placed at Hickey in 2007 at age 14 after fighting and drug charges. During his 9-month stay, he was assaulted at least 10 times by an adult male staff member who masturbated him and penetrated him with his fingers. This has caused John Doe 7 (HS) long term emotional trauma.

109. **John Doe 8 (HS)** was placed at Hickey at the age of 12 in or around 2004 for assault and fighting in school. During his six-month stay, he was anally raped by three male staff separately on three occasions. Two of these staff accessed him at night in his bed, restrained him violently and covered his face with a blanket. John Doe 8 (HS) lived in constant fear that these acts would be repeated, because the lock on his door did not work. The third staff approached John Doe 8 (HS) in the shower and then raped him in his room. These perpetrators threatened to harm John Doe 8 (HS) if he did not keep the abuse a secret. John Doe 8 (HS) has contemplated

suicide and self-harm, and faces anger, trust issues, and depression as he attempts to move on with his life.

110. **John Doe 9 (HS)** was 14 when he was placed at Hickey on two occasions. Over the course of 9 months, he was abused more than 20 times by three male staff who grabbed his penis bare-handed, forced him to touch their penises, inserted their bare fingers in his anus, kissed him and bribed him with cigarettes. John Doe 9 (HS) says, “My door would be open at night...I could hear this happening to other boys, and there was nothing I could do to stop it. I live now in a prison inside my head...a life of pain, fear, loss, tragedy, shame, hospitalization for suicide attempts and chronic mental health issues as a result from my time and abuse at Hickey, the house of horrors.”

111. **John Doe 10 (HS)** was 7 years old when he was placed at Hickey in 1962. On some 10 occasions, his male staff perpetrator pulled John Doe 10 (HS)’s pants down, spanked him, and forced John Doe 10 (HS) to sit on his lap bare-bottomed while the perpetrator had his own pants unzipped and genitals out. John Doe 10 (HS) recalls feeling the perpetrator’s erect penis and wetness on his bottom. He says now, “I have been struggling all my life with the things that happened to me in those facilities.”

112. As concisely stated by Maryland Attorney General Anthony G. Brown, “Our judicial system should provide a means for victims who have suffered these harms to seek damages from the people and institutions responsible for them.”¹¹⁶

JOINT AND SEVERAL LIABILITY

113. Plaintiffs plead joint and several liability pursuant to Md. Code, Cts. & Jud. Proc. § 3-1403 such that the Defendant and any future parties joined to this action are liable for the full amount of any judgment or verdict entered herein.

¹¹⁶ Maryland Office of the Attorney General, Attorney General’s Report on Child Sexual Abuse in the Archdiocese of Baltimore Interim Public Release (April 2023) Redacted by Order of the Circuit Court for Baltimore City, 20 (April 2023).

RESPONDEAT SUPERIOR

114. As principal and/or employer of perpetrators and other offending parties described herein, Defendant is liable for their wrongful acts and omissions under the doctrine of *respondeat superior* and other vicarious liability principles found in the Second Restatement of Agency. Defendant maintained at all times a non-delegable duty to youth in the care and custody of facilities it was charged with managing, overseeing, and operating.

IMMUNITIES

115. While Maryland has partially waived immunity under the Maryland Tort Claims Act as amended by Child Victims Act, Md. Code, State Gov't § 12-104(a), to the extent claims herein trigger any governmental immunities, damages are sought only under and up to the amount of insurance coverage available.

116. Each event complained of by each Plaintiff herein caused a distinct injury, and is pled as a separate incident or occurrence.

COUNT I: NEGLIGENCE

117. The preceding paragraphs are incorporated by reference as if set forth in their entirety herein.

118. At various relevant times, Defendant was required to appropriately manage, supervise, and treat youth involved in the juvenile justice system in Maryland. It was responsible for all aspects of care, protection and services for youth in its custody, including but not limited to housing, provisions, education, nurture, care and personal safety and protection.

119. Given this level of control over residents' lives, Defendant stood *in loco parentis* and owed Plaintiffs a heightened duty of care akin to special care or a fiduciary level of care.

120. These duties and obligations are statutorily mandated and are non-delegable. Even though Defendant has, through the years, contracted with third party providers (such as YSI and Rebound) as agents for some of these services, the ultimate responsibility for oversight,

management and operations at all levels of the Hickey School remains with Defendant, as assigned by the Legislature.

121. These duties and obligations require Defendant to meet applicable standards of care for facilities such as the Hickey School under its operation and control.

122. These duties and obligations extended to all youth residents, and specifically to Plaintiffs.

123. Defendant breached each of these and other duties in one or more of the following ways:

- A. Failing to properly manage and staff facilities;
- B. Failing to supervise youth to ensure they were protected from sexual abuse, both by staff and by fellow youth, while at each facility;
- C. Failing to provide an environment that was free from sexual abuse;
- D. Failing to investigate and respond to youth complaints of sexual abuse;
- E. Failing to provide medical treatment, therapy and/or counseling for youth who were sexually abused in a facility;
- F. Failing to rectify and eliminate sexual abuse, including but not limited to terminating perpetrators and those who knew and contributed to tolerance of the abuse;
- G. Such other failures as may become apparent through further investigation and discovery.

124. Defendant directly breached these duties required by statute and/or applicable standards of care.

125. Defendant was also negligent in selecting and contracting with third-party providers, whom it failed to properly vet to ensure suitability for the critical services to be provided.

126. The exact services those third parties were contracted to provide are currently unknown to Plaintiffs, who lack access to those contracts, but upon information and belief, such services included direct supervision, personal protection and care of youth at Defendant's facilities including, but not limited to, the Hickey School. *See* ¶¶ 55-58, *supra*.

127. These third-party providers breached the standards of care applicable to their services to youth, more specifically by hiring, failing to supervise, and continuously retaining unfit staff who perpetrated upon youth as set forth with specificity above.

128. The acts and omissions of any third-party providers selected and paid by Defendant are imputable to Defendant as principal/employer and holder of these non-delegable duties.

129. As a direct and proximate result of these breaches, or any one or more of them, Plaintiffs were each harmed and suffered losses as follows:

- A. Physical injuries and/or disfigurement, past and continuing into the future;
- B. Severe emotional distress, past and continuing into the future;
- C. Expenses relating to medical care and treatment, past and continuing into the future;
- D. Lost wages and lost opportunities, past and continuing into the future;
- E. Other economic losses, past and continuing into the future;
- F. Loss of enjoyment of life, past and continuing into the future;
- G. Litigation costs and expenses;
- H. Prejudgment and post judgment interests at the legally proscribed rates;
- I. Plaintiffs seek an award of attorney's fees as permissible by Md. R. Civ. P. Cir. Ct. 2-702 and 2-703(b) and other applicable authorities; and
- J. Such other relief as the Court may deem appropriate or as may be uncovered through further investigation and discovery.

COUNT II: NEGLIGENT HIRING, SUPERVISION, AND RETENTION

130. The preceding paragraphs are incorporated by reference as if set forth in their entirety herein.

131. Defendant had statutory, mandated, non-delegable duties in regard to hiring staff at all levels within its management and operation of juvenile justice facilities, including the Hickey School. *See* ¶¶ 41-43, *supra*; Md. Code, Hum. Servs. §§ 9-206 *et seq.*

132. Defendant directly hired individuals at executive levels to oversee, manage and operate juvenile justice facilities including the Hickey School.

133. In addition, Defendant selected and hired both direct employees and third-party agents and providers (such as YSL, Rebound, and possibly others) to oversee, manage, and operate the Hickey School.

134. Defendant paid those employees, agents and/or providers to undertake these tasks, directly or indirectly, such that Defendant stood in the place of a principal and employer as to each of them.

135. Defendant had a non-delegable duty to ensure that only qualified and competent staff were hired at all levels to serve and protect the residents at the Hickey School and other facilities under its control.

136. Defendant breached this duty and others by hiring, either directly or through third-party providers, not only unqualified and incompetent executives, providers and staff, but in some cases dangerous individuals with known criminal backgrounds and/or readily ascertainable histories of abusing youth in other facilities. *See* ¶¶ 66.F, 75, 85, *supra*.

137. Defendant had actual or constructive knowledge of these providers' and individuals' incompetence and/or dangerous propensities.

138. Defendant would have known of these providers' and individuals' proclivities if they had undertaken an appropriate background search in connection with hiring them or vetting them prior to granting them access to youth (including Plaintiffs) in their care.

139. Defendant had a further non-delegable duty to monitor and supervise staff at all levels within its operation of the Hickey School and other facilities under its control to ensure that services and protections were afforded to youth in its care, including Plaintiffs.

140. Defendant breached this duty by failing to monitor and supervise their direct staff and the performance of third-party providers and their staff to ensure that sexual abuse was not occurring.

141. Defendant and/or its selected third-party providers breached this duty by failing to investigate complaints both by youth residents and by independent evaluators that staff and youth at the Hickey School and other facilities under their control were perpetrating sexual abuse upon residents, including Plaintiffs.

142. Defendant and/or its selected third-party providers each had a duty to retain only safe and qualified staff/employees/agents to serve youth in their care, and to terminate any staff who sexually abused a youth.

143. Defendant and/or its selected third-party providers breached this duty by continuously retaining both its direct staff members and providers' staff/employees/agents whom they knew or should have known had dangerous propensities and/or had sexually abused youth.

144. Each of these breaches violated Defendant's statutorily mandated duties and applicable standards of care, as well as standards of care applicable to the providers.

145. Defendant had the power to terminate its direct employees and, at minimum, power to terminate its contract with any third-party provider who failed to protect youth from sexual abuse.

146. Defendant failed to exercise this power and was negligent in both the supervision and retention of its direct staff/employees/agents and those of the third-party providers with whom it contracted.

147. Defendant failed to promptly terminate the contracts with its third-party providers despite actual or constructive knowledge of the sexual abuse the providers' staff were perpetrating upon youth, including Plaintiffs.

148. Had Defendant acted appropriately and not failed in any one or more of the above duties of hiring, supervising, and/or retaining proper staff, the harm to Plaintiffs would have been prevented and they would not have been injured.

149. Had Defendant's selected third-party providers acted appropriately and not failed in any one or more of the above duties of hiring, supervising and/or retaining proper staff, the harm to Plaintiffs would have been prevented and they would not have been injured.

150. The acts and omissions of Defendant's staff/employees/agents and those of third-party providers are imputable to Defendant.

151. As a direct and proximate result of these breaches, or any one or more of them, Plaintiffs were each harmed and suffered losses as follows:

- A. Physical injuries and/or disfigurement, past and continuing into the future;
- B. Severe emotional distress; past and continuing into the future;
- C. Expenses relating to medical care and treatment, past and continuing into the future;
- D. Lost wages and lost opportunities, past and continuing into the future;
- E. Other economic losses, past and continuing into the future;
- F. Loss of enjoyment of life, past and continuing into the future;
- G. Litigation costs and expenses;
- H. Prejudgment and post judgment interests at the legally proscribed rates;
- I. Plaintiffs seek an award of attorney's fees as permissible by Md. R. Civ. P. Cir. Ct. 2-702 and 2-703(b) and other applicable authorities; and
- J. Such other relief as the Court may deem appropriate or as may be uncovered through further investigation and discovery.

COUNT III: NEGLIGENT FAILURE TO TRAIN AND EDUCATE

152. The preceding paragraphs are incorporated by reference as if set forth in their entirety herein.

153. Defendant, as custodian *in loco parentis* of Plaintiffs, owed a special duty of care and/or was in a fiduciary relationship with Plaintiffs, who were vulnerable, otherwise unaccompanied minors in its residential facilities.

154. Defendant also had a special duty of care to ensure Plaintiffs' safety and well-being due to Defendant's non-delegable and non-discretionary duties as the state agency charged with overseeing Maryland's juvenile detention centers.

155. Among those duties, Defendant had a duty to take reasonable measures to protect the Plaintiffs and other children from sexual abuse.

156. Defendant also had a duty to properly train and educate its staff/employees/agents at all levels to protect Plaintiffs and to prevent them from being sexually abused.

157. While Defendant was permitted to hire third-party providers to carry out its work, Defendant retained at all times a duty to ensure that the staff of third-party providers were properly trained in regard to protecting children from sexual abuse.

158. Because these duties originate by statute and at the direction of the Maryland Legislature, Defendant cannot fully abdicate the ultimate responsibility to protect minors in its care, even when it hires third-party providers.

159. Defendant or others acting on its behalf or under its direction or control (both direct and third-party providers), breached these duties to Plaintiffs by, among other things:

- A. Failing to protect Plaintiffs from sexual abuse while in its facilities;
- B. Failing to properly train or educate its staff/employees/agents (direct and those of third parties) on behaviors constituting sexual abuse by staff and/or among residents;
- C. Failing to properly train or educate its staff/employees/agents (direct and those of third parties) on how to uncover and recognize sexual abuse;
- D. Failing to properly train or educate its staff/employees/agents (both direct and those of third parties) on how to monitor the facilities to prevent sexual abuse;

- E. Failing to properly train or educate its staff/employees/agent (both direct and those of third parties) on how to establish and maintain proper channels whereby residents could report abuse;
- F. Failing to properly train or educate its staff/employees/agents (both direct and those of third parties) on how to investigate allegations of sexual abuse;
- G. Failing to properly train or educate its staff/employees/agents (both direct and those of third parties) on how to respond to, document, and report allegations of sexual abuse; and
- H. In such other ways as may become apparent through further investigation and discovery.

160. Defendant knew or should have known, and it was foreseeable in these circumstances, that it had created an opportunity for vulnerable children (including Plaintiffs) to be sexually abused.

161. As a direct and proximate result of these breaches, or any one or more of them, Plaintiffs were each harmed and suffered losses as follows:

- A. Physical injuries and/or disfigurement, past and continuing into the future;
- B. Severe emotional distress; past and continuing into the future;
- C. Expenses relating to medical care and treatment, past and continuing into the future;
- D. Lost wages and lost opportunities, past and continuing into the future;
- E. Other economic losses, past and continuing into the future;
- F. Loss of enjoyment of life, past and continuing into the future;
- G. Litigation costs and expenses;
- H. Prejudgment and post judgment interests at the legally proscribed rates;
- I. Plaintiffs seek an award of attorney's fees as permissible by Md. R. Civ. P. Cir. Ct. 2-702 and 2-703(b) and other applicable authorities; and

J. Such other relief as the Court may deem appropriate or as may be uncovered through further investigation and discovery.

COUNT IV: GROSS NEGLIGENCE

162. The preceding paragraphs are incorporated by reference as if set forth in their entirety herein.

163. Defendant maintained at all times a manifest duty to hire safe and qualified individuals, to supervise them properly, and to terminate any employee or staff who posed a danger to or sexually abused a youth. This was equally true in regard to direct hires and anyone employed by third party providers.

164. In turn, all third-party providers had a duty to hire and retain only qualified staff to serve youth in Defendant's facilities.

165. Defendant and its selected third-party providers, separately and jointly, intentionally failed to act on literally decades of complaints and allegations both from youth residents and independent evaluators which informed them that numerous staff had, and were continuing to, perpetrate sexual abuse upon the youth in their care.

166. These failures were in reckless disregard of the grave consequences to youth, including Plaintiffs, which damaged them in body, mind, and their abilities to thrive and enjoy normal lives, as set forth with particularity above.

167. As such, Defendant and its selected third-party providers, or one or more of them, were grossly negligent in failing to perform their statutorily mandated, nondelegable and assumed duties to protect Plaintiffs and other youth from sexual abuse.

168. As a result of this gross negligence, the sexual abuse at the Hickey School was tolerated, and proliferated among more and more staff as years went on.

169. As a direct and proximate result of these breaches, or any one or more of them, Plaintiffs were each harmed and suffered losses as follows:

A. Physical injuries and/or disfigurement, past and continuing into the future;

- B. Severe emotional distress; past and continuing into the future;
- C. Expenses relating to medical care and treatment, past and continuing into the future;
- D. Lost wages and lost opportunities, past and continuing into the future;
- E. Other economic losses, past and continuing into the future;
- F. Loss of enjoyment of life, past and continuing into the future;
- G. Litigation costs and expenses;
- H. Punitive damages;
- I. Prejudgment and post judgment interests at the legally proscribed rates;
- J. Plaintiffs seek an award of attorney's fees as permissible by Md. R. Civ. P. Cir. Ct. 2-702 and 2-703(b) and other applicable authorities; and
- K. Such other relief as the Court may deem appropriate or as may be uncovered through further investigation and discovery.

COUNT V: PREMISES LIABILITY

170. The preceding paragraphs are incorporated by reference as if set forth in their entirety herein.

171. Plaintiffs were tenants or invitees of Defendant while within its residential custody and on its premises.

172. As such, Defendant owed Plaintiffs a duty of reasonable care under all circumstances in the management, oversight, and operation of its facilities/premises. This included a duty to employ reasonable measures to protect Plaintiffs against foreseeable dangers such as sexual abuse by staff and/or other residents.

173. Defendant knew or should have known of the risk that its staff/employees/agents (either its direct hires, or those of its selected third-party providers) might sexually abuse tenants/invitees such as Plaintiffs, and therefore had a duty to take reasonable measures to eliminate the conditions contributing to sexual abuse.

174. Defendant had a specific and non-delegable duty to provide reasonable security

measures to eliminate conditions contributing to foreseeable harm such as sexual abuse.

175. Defendant had prior knowledge of sexual abuse occurring on the premises of its various facilities, as evidenced by past events cited above. This created a duty to eliminate the risk that sexual abuse would recur.

176. In the alternative, Defendant had a duty to prevent sexual abuse by specific persons whom it knew or should have known had sexual predatory tendencies; those being its staff/employees/agents (direct and those of its selected third-party providers) and/or residents who perpetrated sexual abuse upon Plaintiffs.

177. In the alternative, Defendant had a duty to prevent sexual abuse of residents based on its knowledge of like events occurring within its various facilities (and others staffed by its selected third-party providers) prior to the actual sexual abuse of Plaintiffs, all of which made imminent harm foreseeable.

178. Defendant breached its duties and created a foreseeable risk of harm by, among other things:

- A. Failing to properly protect Plaintiffs, then minors, from sexual abuse;
- B. Failing to properly vet third-party providers (entities) to ensure they and their staff did not present a risk of sexually abusing Plaintiffs and other minor residents entrusted in their care;
- C. Failing to properly vet its own direct staff/employees/agents, and those of its selected third-party providers, to ensure they did not present a risk of sexually abusing Plaintiffs and other minor residents entrusted in their care;
- D. Failing to investigate, correct, and/or otherwise rectify the openly pervasive environment of sexual abuse of its residents;
- E. Ignoring and/or otherwise failing to properly address complaints about numerous instances of sexual abuse occurring in and among its facilities;

- F. Failing to promptly report Plaintiffs' sexual assaults to the authorities, which would have triggered a law enforcement response and prevention of further sexual abuse;
- G. Failing to take any action to prevent retaliation against residents who reported sexual abuse, which in turn led to under-reporting and further proliferation of the abuse;
- H. Failing to conduct an exit interview with residents when they left Defendant's facilities, which would have identified sexual abusers and prevented further abuse;
- I. Failing to supervise, monitor, and/or train staff to handle reports of sexual abuse appropriately and adequately; and,
- J. In such other ways as may become apparent through further investigation and discovery.

179. Defendant knew or should have known that its acts and omissions created an opportunity and unreasonable risk for Plaintiffs to be sexually abused.

180. Defendant's conduct was wanton, malicious, or oppressive, or Defendant disregarded or exhibited reckless indifference to the foreseeable risks of harm and acted with ill will, hatred, hostility, a bad motive, or the intent to abuse its power.

181. As a direct and proximate result of these breaches, or any one or more of them, Plaintiffs were each harmed and suffered losses as follows:

- A. Physical injuries and/or disfigurement, past and continuing into the future;
- B. Severe emotional distress; past and continuing into the future;
- C. Expenses relating to medical care and treatment, past and continuing into the future;
- D. Lost wages and lost opportunities, past and continuing into the future;
- E. Other economic losses, past and continuing into the future;

- F. Loss of enjoyment of life, past and continuing into the future;
- G. Litigation costs and expenses;
- H. Prejudgment and post judgment interests at the legally proscribed rates;
- I. Plaintiffs seek an award of attorney's fees as permissible by Md. R. Civ. P. Cir. Ct. 2-702 and 2-703(b) and other applicable authorities; and
- J. Such other relief as the Court may deem appropriate or as may be uncovered through further investigation and discovery.

**COUNT VI: ARTICLE 24 MARYLAND DECLARATION OF RIGHTS –
SUBSTANTIVE DUE PROCESS**

178. The preceding paragraphs are incorporated by reference as if set forth in their entirety herein.

179. Plaintiffs have a substantive due process right to bodily autonomy under Article 24 of the Maryland Declaration of Rights.

180. Those who engaged in repeated acts of sexual abuse against Plaintiffs acted under color of Maryland state law in their roles as staff/employees/agents, or in roles responsible for the management, oversight and operation of the Hickey School.

181. These individuals' actions occurred within the course of their duty and within the scope of their employment.

182. These individuals repeatedly violated Plaintiffs' rights under Article 24.

183. Defendant is vicariously liable for these individuals' violations of Plaintiffs' Article 24 rights under the doctrine of *respondeat superior* and other principles found in the Restatement (Second) of Agency.

184. Defendant therefore deprived Plaintiffs of their right to bodily autonomy under Article 24 when its staff/employees/agents repeatedly sexually abused Plaintiffs.

185. As a direct and proximate cause of Defendant's unconstitutional conduct, Plaintiffs were deprived of their substantive due process right to bodily autonomy.

186. As a direct and proximate result of these breaches, or any one or more of them, Plaintiffs were each harmed and suffered losses as follows:

- A. Physical injuries and/or disfigurement, past and continuing into the future;
- B. Severe emotional distress; past and continuing into the future;
- C. Expenses relating to medical care and treatment, past and continuing into the future;
- D. Lost wages and lost opportunities, past and continuing into the future;
- E. Other economic losses, past and continuing into the future;
- F. Loss of enjoyment of life, past and continuing into the future;
- G. Litigation costs and expenses;
- H. Prejudgment and post judgment interests at the legally proscribed rates;
- I. Plaintiffs seek an award of attorney's fees as permissible by Md. R. Civ. P. Cir. Ct. 2-702 and 2-703(b) and other applicable authorities; and
- J. Such other relief as the Court may deem appropriate or as may be uncovered through further investigation and discovery.

**COUNT VII: ARTICLE 24 MARYLAND DECLARATION OF RIGHTS – PATTERN
AND PRACTICE (LONGTIN CLAIM)**

187. The preceding paragraphs are incorporated by reference as if set forth in their entirety herein.

188. It is the custom and practice of the Defendant to permit its staff/employees/agents to violate children's substantive due process rights to bodily integrity by physically and sexually abusing them.

189. Defendant failed to properly train and supervise its staff/employees/agents to prevent those repeated Constitutional violations.

190. Defendant's failure to properly train and supervise its staff/employees/agents demonstrates a gross disregard for and deliberate indifference to Plaintiffs' Constitutional rights.

191. Defendant's failure to train and supervise staff/employees/agents is patently obvious from the repeated sexual abuse that Plaintiffs and other children in its facilities have experienced for decades.

192. Defendant's failure to train and supervise and its permitted patterns of practice within its facilities resulted in staff/employees/agents sexually abusing children.

193. Defendant's staff/employees/agents failed to report these incidents of reckless and intentional unlawful conduct, and Defendant lacked effective procedures to control or monitor those individuals who had a pattern or history of unlawful behavior.

194. Defendant caused its staff/employees/agents to believe that unlawful sexual abuse would not be aggressively, honestly, and properly investigated.

195. Defendant should have foreseen that such a policy would promote illegal and unconstitutional behavior.

196. This custom and practice directly and proximately caused Plaintiffs' Constitutional injury.

197. As a direct and proximate result of these breaches, or any one or more of them, Plaintiffs were each harmed and suffered losses as follows:

- A. Physical injuries and/or disfigurement, past and continuing into the future;
- B. Severe emotional distress; past and continuing into the future;
- C. Expenses relating to medical care and treatment, past and continuing into the future;
- D. Lost wages and lost opportunities, past and continuing into the future;
- E. Other economic losses, past and continuing into the future;
- F. Loss of enjoyment of life, past and continuing into the future;
- G. Litigation costs and expenses;
- H. Prejudgment and post judgment interests at the legally proscribed rates;

- I. Plaintiffs seek an award of attorney's fees as permissible by Md. R. Civ. P. Cir. Ct. 2-702 and 2-703(b) and other applicable authorities; and
- J. Such other relief as the Court may deem appropriate or as may be uncovered through further investigation and discovery.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against the Defendant in an amount to be determined by a jury, inclusive of all compensatory damages, punitive damages where allowed by law, and pre- and post-judgment interest, together with court costs, attorney's fees and expenses, and such further relief as the Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY PURSUANT TO MD. R. CIV. P. CIR. CT. 2-325.

This the 1st day of October, 2023.

Respectfully submitted,

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