

**IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND**

<b>JOHN DOES (BCJJC) 1-6,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>The STATE OF MARYLAND, acting</b>	)	<b>Civil Case No.:</b>
<b>through its agencies, MARYLAND</b>	)	
<b>DEPARTMENT OF JUVENILE</b>	)	<b><u>COMPLAINT</u></b>
<b>SERVICES, and/or DEPARTMENT OF</b>	)	
<b>HEALTH (formerly the</b>	)	<b>Filed:</b>
<b>DEPARTMENT OF HEALTH AND</b>	)	
<b>MENTAL HYGIENE),</b>	)	
	)	
<b>Defendant.</b>	)	

*“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.

**I. INTRODUCTION**

The Department of Juvenile Services (“DJS” or 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,” with a vision of creating “Successful Youth, Strong Leaders, [and] Safer Communities.” The Department provides a laundry list of goals, including 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,” and 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.”

In the name of rehabilitation and reform, the DJS is statutorily authorized to operate centers such as the Baltimore City Juvenile Justice Center (“BCJJC”) where the state may send boys who are in the stages of pre-adjudication and those who are already committed to the care of the DJS. Through the BCJJC, and other facilities like it, the State of Maryland accepts full control of every aspect of the children’s lives, including housing, rehabilitation, feeding, supervision, education, nurture, and, most importantly, personal protection. The DJS claims that the rehabilitation that it provides to the children within its facility walls is crucial to reform them into productive and fulfilled adult citizens, but in actuality, it locks them inside a cage to become the prey of sadistic staff whom they cannot escape. Despite the cursory and superficial goals that the DJS claim to be their core tenants, the children that are involuntarily committed to facilities such as the BCJJC often leave far more damaged than when they entered.

The BCJJC opened on October 30, 2003. Since its doors opened, the facility has been plagued with overpopulation, severe understaffing, overuse of custodial punishments such as confinement and isolation, unacceptably high rates of physical and sexual abuse from staff and youths alike, and worse. The BCJJC’s mission is not to incarcerate youths, but to rehabilitate them. The facility is only successful in the first part of their mission, as life in the facility is far worse than incarceration, so much so that conditions within the facility have created a mental health crisis for the juveniles committed there. Countless failed suicide attempts are overshadowed by the boys who succeeded. Terrifying stories of rape and violence leads the children to fear for their lives. Any attempts at reporting the conditions of the facility are quickly dissuaded by bribery, and if unsuccessful, threats and violence.

During the time that each Plaintiff was in the direct custody, care, control, and direction of the State of Maryland’s Department of Juvenile Services at the BCJJC, its employees, agents, and

contractors exploited their positions of trust and authority to abuse Plaintiffs in horrific ways. Furthermore, these agents, employees, and contractors abandoned any duty they owed to Plaintiffs in protecting them from themselves, other youths, and adults at the facility. Plaintiffs were harassed; groped; forced to masturbate in front of perpetrators; forced to perform oral sex on perpetrators; anally penetrated with fingers and objects; and anally raped. The abuse occurred throughout the facility as a whole. Victims who sought to come forward were coerced into silence through isolation, physical restraints, abuse, or worse. Plaintiffs, and other former residents in a similar situation, were wholly unable to seek help or redress for the injuries they sustained at the BCJJC as their pleas for help were outright ignored until only recently.

This action seeks redress for the horrors and harms exacted on Plaintiffs and others who endured similar abuse for years while they resided at the BCJJC; to recover damages for the abundant and lasting scars, both physical and mental, that Plaintiffs will be forced to carry for the rest of their lives; to punish the perpetrators; and to ensure that this abuse or any like it is never allowed again under the watch of the State of Maryland.

## **II. PARTIES**

### **A. Plaintiffs**

1. All prior paragraphs are restated herein by this reference.
2. Plaintiffs John Does (BCJJC) 1-6 are men who, as children, were placed by the State of Maryland at the BCJJC in Baltimore County, Maryland. Plaintiffs are now adult residents and citizens of various states.
3. Plaintiffs John Does (BCJJC) 1-6 file this Complaint anonymously under the pseudonyms of John Doe pursuant to agreement and stipulation of Maryland's Attorney General.
4. Plaintiffs are all persons who as minors were detained or incarcerated within Maryland's juvenile justice system at the times of the acts complained of herein. Md. Code, Courts

and Judicial Proceedings § 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 violate the Code and breach 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 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, the 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.

## **B. Defendant**

10. All prior paragraphs are restated herein by this reference.

11. 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.

12. From 1969 to 1987, the Juvenile Service 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 to the Department of Health in 2017.

13. 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.

14. 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. Between 1995 and 2003 DJS operated under the name "Department of Juvenile Justice."

### **III. JURISDICTION AND VENUE**

15. All prior paragraphs are restated herein by this reference.

16. 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 12 - 14 above. Each of those agencies conducts or conducted business in Baltimore County, Maryland during the relevant period.

17. Venue in this Court is proper under Md. Code, Cts. & Jud. Proc. § 6-201, because Defendant "carries on a regular business" in Baltimore County.

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

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

20. 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 Government § 12-106(a)(2).

21. 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. Article § 5-117(b).

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

#### **IV. FACTUAL ALLEGATIONS**

##### **A. Structure and Background of the Maryland Juvenile Justice Detention System and the Baltimore City Juvenile Justice Center.**

23. All prior paragraphs are restated herein by this reference.

24. The current Maryland Juvenile Justice Detention System was established nearly two centuries ago with the Maryland State Legislature’s passing of “An Act to Establish a House of Refuge for Juvenile Delinquents” (“the Act”) in 1830.<sup>1</sup>

25. The first house of refuge created by the Act was located in Baltimore City and began operations in 1855.<sup>2</sup> Since then, dozens of similar facilities have been opened under the Act.

26. Since the inception of the Juvenile Justice Detention System, a variety of different state departments have been responsible for the management and operation of these facilities. First

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<sup>1</sup> History of Juvenile Justice in Maryland, Dep’t of Juvenile Services, <https://djs.maryland.gov/Pages/about-us/History.aspx> (last visited Sep. 13, 2023).

<sup>2</sup> *Id.*

was the Department of Education, then the Department of Public Works, then the Juvenile Services Administration within the DHMH, and finally, since 1989, the DJS.<sup>3</sup>

27. In 1995, the Maryland General Assembly re-named DJS the “Department of Juvenile Justice.”<sup>4</sup> DJS operated under this name until 2003, when the General Assembly reverted DJS back to its original name.<sup>5</sup>

28. Within its broader mandate to manage, supervise, and treat youth who are involved in the juvenile justice system in Maryland, DJS is responsible for the operation of Maryland’s secure juvenile detention facilities.<sup>6</sup>

29. DJS is currently the administrative agency of the State charged with setting standards for juvenile detention facilities that are operated both by DJS as well as private agencies.<sup>7</sup>

30. The standards reflect adherence to three critically important central purposes of juvenile detention: 1) to protect the public; 2) to provide a safe, humane, and caring environment for children; and 3) to provide access to required services for children.<sup>8</sup>

31. DJS has a statutory mandate to establish regulations that “prohibit [the] abuse of a child” in its residential facilities and require each DJS residential program to provide “a safe, humane, and caring environment.”<sup>9</sup>

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

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<sup>3</sup> *Id.*

<sup>4</sup> 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).

<sup>5</sup> *Id.*

<sup>6</sup> Detention and Community Supervision, Dep’t of Juvenile Services, <https://djs.maryland.gov/Pages/detention/Detention-Community-Supervision.aspx> (last visited Sep. 13, 2023).

<sup>7</sup> Md. Code Ann., Hum. Servs. § 9-237.

<sup>8</sup> *Id.*, at (b)(1)-(3).

<sup>9</sup> HS § 9-227.

33. The 14th Amendment of the U.S. Constitution requires states to provide confined juveniles with reasonably safe conditions of confinement and to protect juveniles from physical assault and the use of excessive force by staff.<sup>10</sup> The Maryland Constitution provides similar protections to individuals in State custody.<sup>11</sup>

34. 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.”

35. 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,”<sup>12</sup> and on or before the first day of employment with the Department must complete “a federal and State criminal history records check” for each employee.<sup>13</sup>

36. DJS also 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.”<sup>14</sup>

37. DJS promulgated its own regulations, ostensibly to comply with its constitutional and statutory obligations which provide that acts of abuse are prohibited at DJS facilities, including both physical abuse and sexual abuse.<sup>15</sup>

38. DJS regulations also govern the Departments hiring and training practices:

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<sup>10</sup> See *Youngberg v. Romeo*, 457 U.S. 307, 315-24 (1982).

<sup>11</sup> 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).

<sup>12</sup> Md. Code, Hum. Servs § 9-208(1).

<sup>13</sup> Md. Code, Hum. Servs § 9-209(a)(1).

<sup>14</sup> Md. Code, Hum. Servs § 9-207(e).

<sup>15</sup> Md. Code Regs § 16.18.02.01-02.



- a. “Each facility and other program shall maintain a staffing plan that, in accordance with Departmental requirements, provides a safe, humane, and caring environment.”<sup>16</sup>
- 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 (c) Applicable law and regulation.”<sup>17</sup>
- c. “All program staff shall be trained according to the standards set for the applicable position by the Maryland Correctional Training Commission.”<sup>18</sup>
- d. “The Secretary shall adopt and enforce a code of conduct for personnel of the Department,”<sup>19</sup> 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[.]”<sup>20</sup>

39. There are two ways a juvenile may enter the juvenile justice system, either by police arrest or a citizen complaint.

40. This means that once a child is arrested or detained due to a citizen complaint, they are unable to leave the facility until the day their commitment ends.

41. Consistent with its statutory obligations, DJS has implemented regulations for state-operated residential facilities that ostensibly prohibit acts of abuse within state facilities, 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.”<sup>21</sup>

42. The DJS acts as principal, employer, overseer, manager, and operator of the BCJJC.

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<sup>16</sup> Md. Code Regs § 16.05.01.03(A).

<sup>17</sup> Md. Code Regs § 16.05.02.01(B).

<sup>18</sup> Md. Code Regs § 16.05.03.01.

<sup>19</sup> Md. Code Regs § 16.05.04.01.

<sup>20</sup> Md. Code Regs § 16.05.04.02.

<sup>21</sup> Md. Code Regs § 16.18.02.01-02.

43. The BCJJC, opened in 2003, was created to provide children involved in the juvenile justice system an opportunity to become productive and fulfilled adult citizens.

44. The BCJJC facility is a multi-purpose juvenile justice building, housing court rooms, hearing rooms, offices for attorneys and law enforcement, social services departments, and the detention center that holds its juvenile male offenders, largely from Baltimore City.

45. The BCJJC, while operated by the DJS, works closely with the clerk of courts, also located within the BCJJC facility, to provide clerical support to judges at the BCJJC.

46. The DJS controls the charging and prosecution of juvenile criminal cases within the BCJJC, including the booking process arraignments, adjudications, detention reviews, court order reviews, hearings, dispositions, restitution hearings, violation-of-probation hearings, permanency plan reviews, and more.

47. The BCJJC detention center serves both as a pre-adjudication facility as well as a facility for youths who have already been adjudicated and committed to the care of the DJS.

48. When a youth is either arrested by police or detained due to a citizen complaint, they are sent into the BCJJC and do not leave the four walls of the facility until the entirety of the adjudication and incarceration is complete.

49. In a perfect world where the facility remained consistent with its statutory obligations, this system operated by the DJS would raise no issue and would in fact be a cost and space effective solution for the juvenile justice system. However, in reality, the DJS has consistently failed to prevent the systemic physical and sexual abuse of the children within its care for decades.

50. The DJS knew of the incidents and reports described herein, and others, and was aware that the BCJJC failed to meet the minimum conditions required for its facilities by the U.S. and Maryland Constitutions and its own authorizing statutes.

51. The failure to address and remediate the harms identified in the myriad internal and external investigations, as discussed herein, into the abuse and neglect of children at the BCJJC directly enabled the sexual abuse of Plaintiffs.

52. As a result, the juveniles that are sent to BCJJC, even before their adjudication, are trapped in a cesspit of rampant sexual and physical abuse by sadistic youth and staff.

#### **B. The Institutional Abuse Rampant Within the Juvenile Justice System and the BCJJC**

53. All prior paragraphs are restated herein by this reference.

54. The rampant physical and sexual abuse within the BCJJC as well as the juvenile justice system as a whole was well known by faculty staff and juvenile residents, as well as the public due to frequent reviews by state departments, publicized incidents of abuse, and testimonials by former inmates.

55. 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.<sup>22</sup>

56. The U.S. Department of Health and Human Services' 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."<sup>23</sup>

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<sup>22</sup> 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)).

<sup>23</sup> *Id.*

57. In 1973, the National Association for the Advancement of Colored People (NAACP) reached similar conclusions in its report examining the conditions at Maryland’s juvenile detention facilities.

58. The NAACP recommended that Maryland’s Training Schools, including the Montrose School, “be phased out and replaced by a variety of community-based facilities.”<sup>24</sup>

59. 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.<sup>25</sup> 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, rape, and multiple youth suicides.<sup>26</sup>

60. This led to the closure of the Montrose School in 1988, but only alleviated a single symptom of the disease that plagues the overarching juvenile justice system as a whole.

61. State Department reviews of the Maryland Juvenile Justice system have found that the Maryland juvenile detention facilities have the highest rates of sexual abuse nationwide. This alarmingly high rate of abuse indicates that detention facilities across the state have failed to protect youth inmates from sexual abuse, and that they may be liable for the damages suffered by survivors with potential claims.<sup>27</sup>

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<sup>24</sup> *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)).

<sup>25</sup> *Id.* at 10.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* (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)).

62. In 2006, the Civil Rights Division of the Maryland Attorney General’s Office (“the CRD”) investigated the conditions and practices within the BCJJC pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, and the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. The Civil Rights Department had the authority to investigate the facility and seek remedies for any pattern or practice of conduct that violates the constitutional or federal statutory rights of children in juvenile justice institutions.

63. The CRD concluded that a number of conditions and practices at the BCJJC violated the constitutional and federal statutory rights of its youth residents.<sup>28</sup> The BCJJC facility was described as a “dangerous and often chaotic” prison-like environment where the administration has failed to maintain stability and the youth are exposed to rampant abuse of physical, mental, and sexual natures.<sup>29</sup>

64. Specifically, the CRD found that the children confined to the BCJJC suffer significant harm and risk of harm from the facility’s failures to (i) adequately protect children from youth violence, (ii) adequately safeguard youths against suicide, and (iii) adequately provide behavioral health care services.<sup>30</sup>

65. In its report, the CRD stated that “the [BCJJC] experiences unacceptably high levels of youth-on-youth violence” with a rate of youth-on-youth violence being a staggeringly 47% higher than the national average.<sup>31</sup>

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<sup>28</sup> Letter from The Civil Rights Division of The Office of the Maryland State Attorney General to Honorable Robert L. Ehrlich, Jr., 2006, *Investigation of the Baltimore City Juvenile Justice Center in Baltimore, Maryland*, Baltimore, Maryland.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* (According to Performance Based Standards data for the October 2005 semi-annual reporting cycle, the Justice Center reported a rate of assaults per 100 days of youth confinement at 0.745.2 The national field average rate was 0.396.)

66. The CRD found that the violence against its youth inhabitants, both by staff and youth, was both brazen and premeditated.<sup>32</sup>

67. The report states that the system was so ineffective that the aggressors “feel comfortable in orchestrating such activity.”<sup>33</sup>

68. At the time of the CRD’s review of the BCJJC, the BCJJC facility was plagued with chronic and severe understaffing, which contributed to the violent and dangerous conditions within the facility.

69. Understaffing has been an issue within the Maryland Juvenile Justice System for decades, if not centuries. Reports have found that staff at these facilities, such as the BCJJC, work four to five double shifts within a single week, just to ensure that the facility is meeting its staffing ratios.

70. The CRD also reported inadequate and inconsistent monitoring of juveniles and documentation thereof.<sup>34</sup>

71. Youths in seclusion are in significant danger of self-harm as well as sexual and physical assault by facility staff.<sup>35</sup> As a result, generally accepted professional standards and DJS policy require that direct-care staff monitor residents in seclusion every ten minutes and record their rounds on a door sheet or other log. The CRD report found that there was severely insufficient documentation to confirm that the checks at the BCJJC were performed in accordance with DJS policy or within the generally accepted professional standards whatsoever.<sup>36</sup>

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<sup>32</sup> *See Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *See Id.*

<sup>36</sup> *Id.*

72. The CRD found a multitude of discrepancies between the DJS policy and the BCJJC's actions, to wit:

- a. Youths in isolation at the BCJJC were in seclusion for hours at a time without any checks from staff;
- b. There was a significant amount of missing documentation regarding after hour cell-checks by staff;
- c. There were many discrepancies between the unit logbook entries and the door sheets; and
- d. There were apparent gaps in seclusion monitoring and suicide watch monitoring for high risk and known suicidal youths.

73. In sum, the staff at the BCJJC were fully enabled to have free roam of the facility due to an utter lack of oversight by BCJJC management, DJS, and Defendant alike.

74. As a direct result of the dangerous levels of understaffing these facilities, such as the BCJJC, experience, sexual and physical abuse against the youth therein is not only enabled, but has become rampant.

75. In the conclusion of the CRD report, the office of the State Attorney General threatened litigation, stating that if “we are unable to reach a resolution regarding our concerns, the Attorney General is empowered to institute a lawsuit pursuant to CRIPA to correct the deficiencies of the kind identified in this letter.”<sup>37</sup>

76. The CRD report was not new or groundbreaking information, as the public has been aware of the egregious abuse plaguing juvenile detention centers and calling for the closure of these facilities for decades.<sup>38</sup>

77. The public outcry against juvenile detention centers is not the result of state investigations into these facilities. Rather, the outcry is often the catalyst.

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<sup>37</sup> *Id.*

<sup>38</sup> Butts, *Youth Correction Reform: The Maryland and Florida Experience*, (1988).

78. The rampant abuse experienced within these facilities is frequently publicized, and largely shared via testimony by former residents and detainees.

79. Former residents who were victims under the care of these institutions, if they were not dissuaded from doing so by bullying tactics, bribery, or threats, have previously gone to news and media outlets, or, more recently, have gone to social media to search for other victims with similar stories.<sup>39</sup>

80. Former residents of Maryland juvenile institutions have gone to popular social media sites like YouTube to share their story and have found hundreds of comments detailing stories of similar abuse, either experienced or witnessed by former students, residents, and detainees.<sup>40</sup>

81. Before social media outlets were so widely used, gruesome stories of abuse were shared in newspaper articles or other similar media outlets.<sup>41</sup>

82. Each facility currently and previously operated by the DJS has their own distinct and horrendous publicized first-person accounts. The BCJJC, a relatively newer facility, is frequently featured in newspaper and magazine articles detailing the violence that occurs there, to wit:

- a. June 2005: As officers were escorting youths back from recreation, two youths began arguing. Staff directed the youths to separate, but one youth ultimately struck the other youth. During the ensuing melee, the victim fell back splitting the back of his head open;<sup>42</sup>

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<sup>39</sup> See Picturethis43, *Montrose School Alumni?*, YouTube (Oct. 9, 2007) <https://www.youtube.com/watch?v=t0duSEwA0PE>.

<sup>40</sup> *Id.*

<sup>41</sup> See Butts, *Youth Correction Reform: The Maryland and Florida Experience*, (1988).

<sup>42</sup> Letter from The Civil Rights Division of The Office of the Maryland State Attorney General to Honorable Robert L. Ehrlich, Jr., 2006, *Investigation of the Baltimore City Juvenile Justice Center in Baltimore, Maryland*, Baltimore, Maryland.



- b. June 2005: The facility experienced a large-scale group disturbance in three separate units that required the intervention of the Baltimore City Police Department in order to restore order;<sup>43</sup>
- c. July 2005: Six youths repeatedly kicked and punched a victim in the presence of staff without staff intervention;<sup>44</sup>
- d. July 2005: Three youths repeatedly hit and kicked a victim, also in front of staff;
- e. August 2005: One youth struck another youth several times in the face with a closed fist. The victim sustained injuries to his left eye, lip, neck, and shoulder. The victim's left eye was injured so severely that he can no longer see out of that eye. There was no staff intervention;<sup>45</sup>
- f. September 2005: A youth assaulted another youth striking him several times in the face with a closed-fist. The victim sustained injuries to his left eye, which was swollen and bleeding, a laceration to the corner of his left eye and nose, a laceration on the lower lid of his left eye, a bloody nose, and injuries to the back of his head. There was no staff intervention;<sup>46</sup>
- g. September 2005: A youth was placed in seclusion for over 24 hours. During the entire length of seclusion, cell checks were documented for only a two-and-a-half-hour period. A BCJJC report states that this is a well-known breach of protocol and creates a severe risk of self-harm and/or suicide;<sup>47</sup>
- h. October 2008: A youth was placed in seclusion for over 24 hours. During the entire length of seclusion, cell checks were documented for only a two-and-a-half-hour period. A BCJJC report states that this is a well-known breach of protocol and creates a severe risk of self-harm and/or suicide.<sup>48</sup>
- i. October 2009: A 17-year-old individual managed to escape from a juvenile treatment program in Baltimore County during a group outing to the cinema. The teenager spent the night at the residence of a female counselor from the facility, where they engaged in sexual activity.<sup>49</sup>
- j. Unknown date: Inmates obtained matches and cigarettes to set off fire sprinklers to flood unit, then barricaded themselves inside- staff did not intervene for two hours.

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<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

83. Furthermore, there have been countless reports of other and ongoing pervasive failures to protect youth at the BCJJC. These include the overuse 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, inadequate fire safety within both facilities, and extensive environmental security hazards.<sup>50</sup>

84. These publications only scratch the surface of the physical abuse that has occurred within the facility, and wholly excludes the sexual abuse that has occurred at the BCJJC altogether.

85. The rampant sexual abuse within the facility is often underreported for a variety of reasons, including the grotesque nature of the facts as well as the unwillingness of the victims to come forward and share personal details of their abuse.

86. Many of the victims who experienced sexual abuse at facilities such as the BCJJC have not even shared the details of their abuse with those closest to them, such as family and friends.

87. Upon information and belief, incidents of physical and sexual abuse have continued at the BCJJC to this day.

88. This chronic failure to address and remediate the harms identified in reports, investigations, and publicized documents directly enabled the sexual and physical abuse of plaintiffs and left the victims of this abuse far more damaged than when they were committed to the facility.

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<sup>50</sup> *Id.*

### C. The Abuse of Plaintiffs

89. All prior paragraphs are restated herein by this reference.

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

91. Plaintiffs are former residents of the BCJJC detention facility.

92. In their time at the facility, no matter how short or how long, Plaintiffs underwent frequent overuse of solitary confinement, strip searches, beatings, unconstitutional restraints, sexual harassment, sexual assault, and worse.

93. Plaintiffs' experiences at the BCJJC have traumatized them for life and shaped their adult lives.

94. These plaintiffs were thrown into a facility meant to be a last resort and were irreparably harmed in doing so.

#### a. **John Doe (BCJJC) 1**

95. John Doe (BCJJC) 1 was a committed as resident at BCJJC from 2006-2007.

96. When John Doe (BCJJC) 1 was sixteen years old, a female perpetrator began sexually abusing and harassing him.

97. On multiple occasions, the perpetrator stood outside John Doe (BCJJC) 1's cell when no one else was around, making lewd comments toward him and yelling sexually explicit language at him.

98. After verbally assaulting him, the perpetrator entered his cell and forced him to remove his pants and underwear.

99. After stripping him, the perpetrator forcibly performed oral sex on him.

100. John Doe (BCJJC) 1 was forced to endure oral sex by the perpetrator at least six times in his cell.

101. The perpetrator eventually ramped up the abuse, forcing John Doe (BCJJC) 1 to penetrate her vaginally.

102. The perpetrator's abuse was not limited to John Doe (BCJJC) 1's cell; on multiple occasions, the perpetrator caught him in the shower, ripping the curtain open and forcing him to masturbate to completion in front of her.

103. The perpetrator was not the only staff member who assaulted John Doe (BCJJC) 1.

104. Another perpetrator forced John Doe (BCJJC) 1 to show him his genitalia.

105. The perpetrator threatened to take away John doe (BCJJC) 1's privileges, such as recreation or even the basic ability to leave his cell during free time if he disclosed the abuse to anyone.

**b. John Doe (BCJJC) 2**

106. John Doe (BCJJC) 2 was a committed as resident at BCJJC from 2011-2012.

107. John Doe (BCJJC) 2 was sixteen years old when he was assaulted by two separate perpetrators at the BCJJC.

108. Following a youth-on-youth altercation, John Doe (BCJJC) 2 was sent to the office of a commanding officer.

109. The perpetrator began the meeting by screaming at John doe (BCJJC) 2.

110. John Doe (BCJJC) 2 was scared for his life.

111. The perpetrator got close to John Doe (BCJJC) 2 and started patting his arms, slowly proceeding to rub his hand down the John Doe (BCJJC) 2's stomach into his pants, groping his bare genitalia.

112. John Doe (BCJJC) 2 was frozen with fear.

113. After groping John Doe (BCJJC) 2, the perpetrator violently grabbed John Doe (BCJJC) 2's penis and stimulated him before John Doe (BCJJC) 2 mustered the courage to push the perpetrator off and run away.

114. In another incident with the perpetrator, the perpetrator followed John Doe (BCJJC) 2 into the showers and watched him while he showered.

115. The perpetrator entered the shower area and groped John Doe (BCJJC) 2's bare bottom.

116. In an incident with another commanding officer, the perpetrator sequestered John Doe (BCJJC) 2 into his cell for the night, before returning and beginning to wrestle with him.

117. As they were wrestling, the perpetrator slid his hand under John doe (BCJJC) 2's clothing, groped his bare genitalia, and digitally sodomized him.

**c. John Doe (BCJJC) 3**

118. John Doe (BCJJC) 3 was a committed as resident at BCJJC for several months in 2009.

119. John Doe (BCJJC) 3 was sixteen years old when a female perpetrator began sexually assaulting him.

120. John Doe (BCJJC) 3 was under the perpetrator's care and guidance while at BCJJC; she was supposed to be providing him with counseling services.

121. During a counseling session, the perpetrator instructed John Doe (BCJJC) 3 to write her notes.

122. The perpetrator's requests graduated in severity, eventually asking John Doe (BCJJC) 3 to write sex scenes of what she and he would do together.

123. When John Doe (BCJJC) 3 was released from physical custody at BCJJC, but still under the supervision of Defendant, the perpetrator visited his home at nighttime, took off her underwear, and forced him to have sexual intercourse with her.

124. John Doe (BCJJC) 3 recalls that the perpetrator would do this to other boys at the BCJJC, and that she was well known for this behavior by staff and other youths alike.

**d. John Doe (BCJJC) 4**

125. John Doe (BCJJC) 4 was a committed as resident at BCJJC for 2 years.

126. John Doe (BCJJC) 4 was sixteen years old when he was committed to the BCJJC detention center.

127. Within his first 36 hours at the facility, John Doe (BCJJC) 4 was raped twice by two unidentified guards (collectively, the "Unidentified Perpetrators").

128. On his second evening at BCJJC, the Unidentified Perpetrators entered John Doe (BCJJC) 4's cell during dinner time, threw his food away from him, and beat him.

129. After beating him, the Unidentified Perpetrators sodomized/penetrated John Doe (BCJJC) 4.

130. John Doe (BCJJC) 4 screamed for help.

131. Meanwhile, another guard (the "Complicit Perpetrator") stood in the doorway watching these despicable acts take place.

132. Not only did the Complicit Perpetrator ignore John Doe (BCJJC) 4's pleas for help, he masturbated while watching the onslaught continued.

133. When their assault was finished, the Unidentified Perpetrators left the cell, leaving John Doe (BCJJC) 4 lying on the floor pleading for help.

134. The Unidentified Perpetrators returned shortly thereafter and sodomized/penetrated John Doe (BCJJC) 4 again.

135. Due to the injuries resulting from the repeated rapes by the Unidentified Perpetrators, John Doe (BCJJC) 4 underwent surgery to repair his rectum.

**e. John Doe (BCJJC) 5**

136. John Doe (BCJJC) 5 was a committed as resident at BCJJC for less than a year.

137. John Doe (BCJJC) 5 was fifteen years old when he was sexually assaulted at the BCJJC by an officer perpetrator.

138. One of John Doe (BCJJC) 5's duties while a detainee at the BCJJC was cleaning the showers.

139. On one occasion, while he was in the showers cleaning, the perpetrator, who was monitoring John Doe (BCJJC) 5, waited until John Doe (BCJJC) 5 was wet from the cleaning and then began wrestling with him.

140. While wrestling, the perpetrator removed his own clothes.

141. The perpetrator then removed John Doe (BCJJC) 5's clothes and raped him, digitally penetrating him and sodomizing him.

142. On another occasion, the perpetrator appeared behind him John Doe (BCJJC) 5 while he was walking in a hallway alone.

143. The perpetrator forced John Doe (BCJJC) 5 to undress and sodomized him in the hallway.

144. The perpetrator attempted to rape John Doe (BCJJC) 5 a third time, but only stopped because another individual walked into the area where they were at the time.

145. John Doe (BCJJC) 5 also endured sexual abuse by other inmates at BCJJC when he was fifteen years old when he got into a youth-on-you altercation with older inmates and they stripped his clothes, hung him upside down, and sodomized him with a broomstick repeatedly.

146. BCJJC staff took no action whatsoever.

**f. John Doe (BCJJC) 6**

147. John Doe (BCJJC) 6 was a committed as resident at BCJJC for less than 4 months in 2004.

148. John Doe (BCJJC) 6 was fourteen years old when he was sexually assaulted at the BCJJC.

149. A female perpetrator entered his room, grabbed his hands, and forced him to penetrate her with his fingers repeatedly.

150. After the assault, the perpetrator repeatedly told John Doe (BCJJC) 6 to “be ready when I come back” in an aggressive manner.

151. When the perpetrator returned, John Doe (BCJJC) 6 pushed her away and refused to penetrate her, forcing her away from him.

152. John Doe (BCJJC) 6 endured substantially similar encounters with the perpetrator on countless occasions.

**V. JOINT AND SEVERAL LIABILITY**

153. All prior paragraphs are restated herein by this reference.

154. Plaintiffs plead joint and several liability against all Defendants herein 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.

**VI. RESPONDEAT SUPERIOR**

155. All prior paragraphs are restated herein by this reference.

156. 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.

## **VII. IMMUNITIES**

157. All prior paragraphs are restated herein by this reference.

158. While Maryland has waived immunity under the Maryland Child Victims Act and Md. Code, St. Gov't § 12-104, to the extent claims herein trigger any governmental immunities, damages are sought only under and up to the amount of insurance coverage available.

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

## **VIII. LEGAL CAUSES OF ACTION**

### **FIRST CAUSE OF ACTION: NEGLIGENCE**

160. All prior paragraphs are restated herein by this reference.

161. At various relevant times, Defendant was required to appropriately manage, supervise, and treat youth involved in the juvenile justice system in Maryland.<sup>51</sup> It was responsible for all aspects of care, protection and services for youth in their custody, including but not limited to housing, provisions, education, nurture, care and personal safety and protection.

162. 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.

163. These duties and obligations are statutorily mandated and are non-delegable. Even though Defendant has, through the years, contracted with third party providers as agents for some of these services, the ultimate responsibility for oversight, management and operations at all levels of the BCCJS remains with Defendant, as assigned by the Legislature.

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<sup>51</sup> See About (maryland.gov).

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

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

166. 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.

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

168. 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.

169. 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 such as the BCJJC.

170. 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.

171. 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.

172. 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 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. Pro. Cir. Ct. Rule 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.

**SECOND CAUSE OF ACTION: NEGLIGENT HIRING, SUPERVISION, AND  
RETENTION**

173. All prior paragraphs are restated herein by this reference.

174. 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 BCJJC.<sup>52</sup> Md. Code, Human Services § 9-201 et seq.

175. Defendant directly hired individuals at executive levels to oversee, manage and operate juvenile justice facilities including the BCJJC.

176. In addition, Defendant selected and hired both direct employees and third-party agents and providers to oversee, manage, and operate the BCJJC.

177. 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.

178. 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 BCJJC and other facilities under its control.

179. Defendant breached this duty and others by hiring, either directly or through third party providers, unqualified and incompetent executives, providers and staff with known criminal backgrounds and/or readily ascertainable histories of abusing youth in other facilities.

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

181. 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.

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<sup>52</sup> See ¶¶ 32-36.

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

183. 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.

184. 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 BCJJC and other facilities under their control were perpetrating sexual abuse upon residents, including Plaintiffs.

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

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

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

188. 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.

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

190. 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.

191. 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.

192. 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.

193. The acts and omissions of Defendant's staff/agents/employees as well as those of its selected third-party providers are imputable to Defendant.

194. 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, past and continuing into the future;
- b. Severe emotional stress; 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. Pro. Cir. Ct. Rule 2-702 and 2703(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.

**THIRD CAUSE OF ACTION: NEGLIGENT FAILURE TO TRAIN AND EDUCATE**

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

196. 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.

197. 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.

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

199. 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.

200. 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.

201. 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.

202. 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, and/or /agents (direct and third parties) on behaviors constituting sexual abuse by staff and/or among residents;
- c. Failing to properly train or educate its staff, /employees, and/or /agents (direct and third parties) on how to uncover and recognize sexual abuse;
- d. Failing to properly train or educate its staff, /employees, and/or /agents (direct and third parties) on how to monitor the facilities to prevent sexual abuse;
- e. Failing to properly train or educate its staff, /employees, and/or /agents (direct and 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, and/or /agents (direct and third parties) on how to investigate allegations of sexual abuse;
- g. Failing to properly train or educate its staff, /employees, or /agents (direct and 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.

203. 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.

204. 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, past and continuing into the future;
- b. Severe emotional stress; 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. Pro. Cir. Ct. Rule 2-702 and 2703(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.

**FOURTH CAUSE OF ACTION: GROSS NEGLIGENCE**

205. All prior paragraphs are restated herein by this reference.

206. 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.

207. 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.

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

209. 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.

210. 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.

211. 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.

212. 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 staff/employees/agents (direct and third parties) on behaviors constituting sexual abuse by staff and/or among residents;
- c. Failing to properly train or educate staff/employees/agents (direct and third parties) on how to uncover and recognize sexual abuse;
- d. Failing to properly train or educate staff/employees/agents (direct and third parties) on how to monitor the facilities to prevent sexual abuse;
- e. Failing to properly train or educate staff/employees/agents (direct and third parties) on how to establish and maintain proper channels whereby residents could report abuse;
- f. Failing to properly train or educate staff/employees/agents (direct and third parties) on how to investigate allegations of sexual abuse;
- g. Failing to properly train or educate staff/employees/agents (direct and 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.

213. 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.

214. 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, past and continuing into the future;

- b. Severe emotional stress; 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. Pro. Cir. Ct. Rule 2-702 and 2703(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.

**FIFTH CAUSE OF ACTION: SEXUAL ASSAULT AND BATTERY**

215. All prior paragraphs are restated herein by this reference.

216. 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.

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

218. 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.

219. 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.

220. As such, was grossly negligent in failing to perform their statutorily mandated, nondelegable and assumed duties to protect Plaintiffs and other youth from sexual abuse.

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

222. 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, past and continuing into the future;
- b. Severe emotional stress; 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. Pro. Cir. Ct. Rule 2-702 and 2703(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.

**SIXTH CAUSE OF ACTION: PREMISES LIABILITY**

223. All prior paragraphs are restated herein by this reference.

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

225. 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.

226. Defendant knew or should have known of the risk that 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.

227. Defendant had a specific and non-delegable duty to provide reasonable security measures to eliminate conditions contributing to foreseeable harm such as sexual abuse.

228. 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.

229. 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 staff/agents/employees (direct and those of its selected third-party providers) and/or residents who perpetrated upon Plaintiffs.

230. 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.

231. 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 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 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.

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

233. 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.

234. 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, past and continuing into the future;
- b. Severe emotional stress; 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. Pro. Cir. Ct. Rule 2-702 and 2703(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.

**SIXTH CAUSE OF ACTION: ARTICLE 24 MARYLAND DECLARATION OF RIGHTS**  
**– SUBSTANTIVE DUE PROCESS**

235. The proceeding paragraphs are incorporated as though fully set forth herein.

236. The Perpetrators acted under color of the laws of the State of Maryland.

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

238. The Maryland Constitution and principles of *respondeat superior* require Defendant to avoid Constitutional violations by its employees through adequate training and

supervision and by disciplining employees for unlawful conduct. The Perpetrators of repeated acts of sexual abuse against Plaintiffs acted under color of the laws of the State of Maryland in their role as employees, staff, or agents responsible for the management and operation of the BCJJC.

239. All the Perpetrators' actions occurred within the course of their duty and within the scope of their employment at the BCJJC.

240. The Perpetrators repeatedly violated Plaintiffs' rights under Article 24.

241. Defendant is vicariously liable for the Perpetrators' violations of Plaintiffs' rights under Article 24.

242. Thus, Defendant deprived Plaintiffs of their right to bodily autonomy under Article 24 when the Perpetrators repeatedly sexually abused Plaintiffs.

243. As a direct and proximate cause of the Defendants' unconstitutional conduct, Plaintiffs were deprived of their substantive due process rights to bodily autonomy.

244. As a direct and proximate result of Defendants' unconstitutional conduct, or any one or more of them, Plaintiffs were each harmed and suffered losses as follows:

- a. Physical injuries and 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. Pro.



Cir. Ct. Rule 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.

**SEVENTH CAUSE OF ACTION: ARTICLE 24 MARYLAND DECLARATION OF RIGHTS – PATTERN AND PRACTICE (LONGTIN CLAIM)**

245. The proceeding paragraphs are incorporated as though fully set forth herein.

246. It is the custom and practice of Defendant to permit staffers to violate children's substantive due process rights to bodily integrity by physically and sexually abusing them.

247. Defendant failed to properly train and supervise their staffers to prevent those repeated Constitutional violations.

248. That failure to supervise demonstrates gross disregard for and deliberate indifference to Plaintiffs' Constitutional rights.

249. The failure to train BCJJC staffers is so patently obvious from the repeated sexual abuse that Plaintiffs and other children at the BCJJC have experienced for decades.

250. As a result of the failure to train and the permitted pattern of practice at the BCJJC, staffers are allowed to sexually assault children.

251. BCJJC staff fail to report these incidents of reckless and intentional unlawful conduct, and Defendant lacks effective procedures to control or monitor BCJJC staffers who have a pattern or history of unlawful behavior.

252. Defendant caused BCJJC staffers to believe that unlawful sexual abuse would not be aggressively, honestly, and properly investigated.

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

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

255. As a direct and proximate result of Defendant's unconstitutional pattern and practice, Plaintiffs were each harmed and suffered losses as follows:

- a. Physical injuries and 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. Pro. Cir. Ct. Rule 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.

**IX. JURY DEMAND**

Plaintiffs respectfully demand a trial by jury on all issues so triable.

**X. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendant, jointly and severally, as follows:


- A. Enter judgment against Defendants in favor of the Plaintiffs for a sum in excess of \$30,000, jointly and severally;
- B. For a trial by jury on all issues so triable;
- C. That the costs, including expert witness fees, of this action be taxed against Defendants;
- D. Pre-judgment interest and post-judgment interest;

- E. For reasonable attorneys' fees as allowed by law; and
- F. For such other and further relief as the Court deems just and proper.

This the 1st day of October, 2023.

Respectfully submitted,

**BAILEY GLASSER LLP**



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*\*Pro hac vice forthcoming*

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