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Big Brothers Big Sisters of America

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

John CD Doe, a single man,

Plaintiff,

vs.

Big Brothers Big Sisters of America, a
District of Columbia, non-profit
corporation; Big Brothers Big Sisters of
Central Arizona, an Arizona corporation;
John Doe 1-100; Jane Doe 1-100; and
Black & White Corporations 1-100,

Defendants.

Case No. CV2020-014920

**DEFENDANT BIG BROTHERS
BIG SISTERS OF AMERICA'S
AMENDED ANSWER TO PLAINTIFF'S
FIRST AMENDED COMPLAINT**

(Assigned to the Honorable Bradley Astrowsky)

Defendant Big Brothers Big Sisters of America ("BBBS America" or "Defendant"),
for its Amended Answer to Plaintiff's First Amended Complaint ("Complaint"), admits,
denies and affirmatively alleges as follows:

JURISDICTION

1. Defendant is without sufficient knowledge or information to admit or deny the
allegations contained in Paragraph 1 of the Complaint and therefore denies same and demands
strict proof thereof.

2. Responding to the allegations contained in Paragraph 2 of the Complaint,
Defendant admits it is a nonprofit corporation registered in the District of Columbia and that

1 it was formed pursuant to PL85-870, 85th Congress, S. 3728 (September 2, 1958), as amended
2 by PL 95-167, 95th Congress S. 2208 (November 11, 1977) when Big Sisters International
3 and Big Brothers of America merged, forming Big Brothers Big Sisters of America. *See*
4 **Exhibits 1 and 2**, respectively, attached hereto. Defendant further admits its principal place
5 of business is located at 2502 North Rocky Point Dr. Suite 550, Tampa, FL and that
6 Defendant is currently registered as a foreign charitable corporation with the Arizona
7 Corporation Commission as of 2015. Defendant denies the remaining allegations contained
8 in Paragraph 2 of the Complaint.

9 3. Defendant denies the allegations contained in Paragraph 3 of the Complaint.
10 Defendant affirmatively alleges that Big Brothers Big Sisters of America was incorporated
11 for the purpose set forth in PL85-870, 85th Congress, S. 3728 (September 2, 1958), as
12 amended by PL 95-167, 95th Congress S. 2208 (November 11, 1977). *See* **Exhibits 1 and 2**,
13 attached hereto.

14 4. Defendant denies the allegations contained in Paragraph 4 of the Complaint.

15 5. Responding to the allegations contained in Paragraph 5 of the Complaint,
16 Defendant admits that Defendant Big Brothers Big Sisters of Central Arizona is an Arizona
17 nonprofit corporation that has its principal place of business in Maricopa County, Arizona.
18 BBBS America is without sufficient knowledge or information to admit or deny the
19 remaining allegations contained in Paragraph 5 of the Complaint and, therefore, denies same
20 and demands strict proof thereof.

21 6. Defendant BBBS America is without sufficient knowledge or information to
22 admit or deny the allegations contained in Paragraph 6 of the Complaint and, therefore, denies
23 same and demands strict proof thereof.

24 7. Defendant BBBS America is without sufficient knowledge or information to
25 admit or deny the allegations contained in Paragraph 7 of the Complaint and, therefore, denies
26 same and demands strict proof thereof.

27 8. Defendant denies the allegations made against it in Paragraph 8 of the
28 Complaint. Defendant is without sufficient knowledge or information to admit or deny the

1 remaining allegations contained in Paragraph 8 of the Complaint and, therefore, denies same
2 and demands strict proof thereof.

3 9. Defendant denies the allegations made against it in Paragraph 9 of the
4 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
5 remaining allegations contained in Paragraph 9 of the Complaint and, therefore, denies same
6 and demands strict proof thereof.

7 10. Defendant denies the allegations made against it in Paragraph 10 of the
8 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
9 remaining allegations contained in Paragraph 10 of the Complaint and, therefore, denies same
10 and demands strict proof thereof.

11 11. Defendant BBBS America is without sufficient knowledge or information to
12 admit or deny the allegations contained in Paragraph 11 of the Complaint and, therefore,
13 denies same and demands strict proof thereof.

14 12. Defendant denies the allegations made against it in Paragraph 12 of the
15 Complaint, specifically including the allegation that it had any role in assigning, placing,
16 pairing, partnering, introducing and/or matching Italo Arbulu with Plaintiff. Defendant is
17 without sufficient knowledge or information to admit or deny the remaining allegations
18 contained in Paragraph 15 of the Complaint and, therefore, denies same and demands strict
19 proof thereof.

20 13. Defendant denies the allegations made against it in Paragraph 13 of the
21 Complaint, specifically including the allegation that Italo Arbulu ever acted within the course
22 and scope of any employment or agency with Defendant, or acted with actual or apparent
23 authority of Defendant. Defendant is without sufficient knowledge or information to admit
24 or deny the remaining allegations contained in Paragraph 13 of the Complaint and, therefore,
25 denies same and demands strict proof thereof.

26 14. Defendant denies the allegations made against it in Paragraph 14 of the
27 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
28 remaining allegations contained in Paragraph 14 of the Complaint and, therefore, denies same

1 and demands strict proof thereof.

2 15. Defendant denies the allegations made against it in Paragraph 15 of the
3 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
4 remaining allegations contained in Paragraph 15 of the Complaint and, therefore, denies same
5 and demands strict proof thereof.

6 16. Defendant denies the allegations contained in Paragraph 16 of the Complaint.
7 Defendant BBBS America affirmatively alleges BBBS of Central Arizona is an independent
8 affiliated member of BBBS America, and denies that either of the organizations is a
9 successor-in-interest or alter ego of the other.

10 17. Defendant denies the allegations made against it in Paragraph 17 of the
11 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
12 remaining allegations contained in Paragraph 17 of the Complaint and, therefore, denies same
13 and demands strict proof thereof.

14 18. Defendant denies the allegations made against it in Paragraph 18 of the
15 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
16 remaining allegations contained in Paragraph 18 of the Complaint and, therefore, denies same
17 and demands strict proof thereof.

18 GENERAL ALLEGATIONS

19 19. Defendant incorporates its answers to all other Paragraphs of the Complaint as
20 if fully set forth herein.

21 20. Responding to Paragraph 20 of the Complaint, Defendant admits that on or
22 before 1977, Big Brothers of America issued a memorandum which referenced a National
23 Clearinghouse for Information on Sexual Child Abuse, attached hereto as Exhibit 3, and a
24 memorandum addressing the issue of child molestation, attached hereto as Exhibit 4.
25 Defendant affirmatively alleges that Exhibits 3 and 4 speak for themselves. Defendant
26 denies all remaining allegations contained in Paragraph 20 of the Complaint.
27
28

1 21. Responding to Paragraph 21 of the Complaint, Defendant admits that a national
2 program of insurance existed for Big Brothers/Big Sisters affiliate members. Defendant is
3 without sufficient knowledge or information to admit or deny the remaining allegations
4 contained in Paragraph 21 of the Complaint and, therefore, denies same and demands strict
5 proof thereof.

6 22. Responding to Paragraph 22 of the Complaint, Defendant admits that in
7 approximately 1982, Donald L. Wolff authored a document entitled “Child Sexual Abuse,”
8 known as the “Wolff Report,” which Defendant provided to affiliate members. A copy of the
9 Wolff Report is attached hereto as **Exhibit 5** and speaks for itself. Defendant denies all
10 allegations of Paragraph 25 inconsistent with the Wolff Report. Defendant is without
11 sufficient information to admit or deny the remaining allegations contained in Paragraph 22
12 of the Complaint and, therefore, denies same and demands strict proof thereof.

13 23. Responding to Paragraph 23 of the Complaint, Defendant admits that the
14 Young Lawyers Division of the American Bar Association Center on Children and the Law
15 published an article titled “Analysis of Molestation Allegation Reports” dated December
16 1991 (the “Young Lawyers Report”). Defendant affirmatively alleges that the Young
17 Lawyers Report speaks for itself. Defendant is without sufficient information to admit or
18 deny the remaining allegations contained in Paragraph 23 of the Complaint and, therefore,
19 denies same and demands strict proof thereof.

20 24. Responding to Paragraph 24, of the Complaint, Defendant admits that it makes
21 training available to its affiliates and that at the time pertinent to the allegations in this case,
22 it had a membership affiliate agreement (“MAA”) with Valley Big Brothers, wherein, among
23 other things, Valley Big Brothers agreed to maintain membership standards developed by the
24 affiliate network in the form then in effect. BBBS America asserts that the membership
25 affiliation agreement, attached hereto as **Exhibit 6**, speaks for itself and denies the allegations
26 of Paragraph 24 of the Complaint inconsistent therewith. Defendant denies the remaining
27 allegations contained in Paragraph 24 of the Complaint.
28

1 25. Responding to Paragraph 25 of the Complaint, Defendant admits that in
2 accepting affiliation with BBBS America in 1981, Valley Big Brothers agreed to the terms
3 of its MAA, attached hereto as **Exhibit 6**. Defendant affirmatively alleges **Exhibit 6** speaks
4 for itself and denies the allegations contained in Paragraph 25 inconsistent therewith.
5 Defendant BBBS America is without sufficient knowledge or information to admit or deny
6 the remaining allegations of Paragraph 25 of the Complaint, which are vague as to time, and
7 therefore denies same and demands strict proof thereof.

8 26. Responding to Paragraph 26 of the Complaint, Defendant BBBS America
9 alleges that at the times relevant to the alleged events in the Complaint, the terms and
10 conditions of Valley Big Brothers' affiliation with Big Brothers of America were contained
11 in the MAA attached hereto as **Exhibit 6**. Defendant BBBS America alleges that the
12 applicable MAA speaks for itself and denies all allegations of Paragraph 26 inconsistent
13 therewith. Defendant BBBS America further denies that the language in Paragraph 26 of the
14 Complaint is contained in the applicable MAA.

15 27. Defendant denies the allegations contained in Paragraph 27 of the Complaint.

16 28. Responding to Paragraph 28 of the Complaint, Defendant admits that at the
17 times relevant to the allegations contained in the Complaint, Big Brothers of America had
18 developed certain training programs that were implemented to some of its member affiliates.
19 Defendant denies the remaining allegations contained in Paragraph 28 of the Complaint.

20 29. Responding to Paragraph 29 of the Complaint, Defendant admits that in the
21 time period relevant to the allegations of the Complaint, Big Brothers of America, together
22 with affiliated members and organizations, established standards for screening volunteers.
23 Defendant denies the remaining allegations contained in Paragraph 29 of the Complaint.

24 30. Defendant denies the allegations made against it in Paragraph 30 of the
25 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
26 remaining allegations contained in Paragraph 30 of the Complaint and, therefore, denies same
27 and demands strict proof thereof.

1 31. Responding to Paragraph 31 of the Complaint, Defendant denies the allegation
2 that the program in which Plaintiff was allegedly enrolled was Defendant's program.
3 Defendant is without sufficient knowledge or information to admit or deny the remaining
4 allegations contained in Paragraph 31 of the Complaint and, therefore, denies same and
5 demands strict proof thereof.

6 32. Responding to Paragraph 32 of the Complaint, Defendant denies the allegation
7 that the program in which Plaintiff was allegedly enrolled was Defendant's program.
8 Defendant is without sufficient knowledge or information to admit or deny the remaining
9 allegations contained in Paragraph 32 of the Complaint and, therefore, denies same and
10 demands strict proof thereof.

11 33. Responding to Paragraph 33 of the Complaint, Defendant denies the allegations
12 made against it. Defendant is without sufficient knowledge or information to admit or deny
13 the remaining allegations contained in Paragraph 33 of the Complaint and, therefore, denies
14 same and demands strict proof thereof.

15 34. Responding to Paragraph 34 of the Complaint, Defendant denies the allegations
16 made against it. Defendant is without sufficient knowledge or information to admit or deny
17 the remaining allegations contained in Paragraph 34 of the Complaint and, therefore, denies
18 same and demands strict proof thereof.

19 35. Responding to Paragraph 35 of the Complaint, Defendant denies the allegations
20 made against it. Defendant is without sufficient knowledge or information to admit or deny
21 the remaining allegations contained in Paragraph 35 of the Complaint and, therefore, denies
22 same and demands strict proof thereof.

23 36. Responding to Paragraph 36 of the Complaint, Defendant denies the allegations
24 made against it. Defendant is without sufficient knowledge or information to admit or deny
25 the remaining allegations contained in Paragraph 36 of the Complaint and, therefore, denies
26 same and demands strict proof thereof.

37. Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph 37 of the Complaint and, therefore, denies same and demands strict proof thereof.

38. Responding to Paragraph 38 of the Complaint, Defendant denies the allegations made against it. Defendant is without sufficient knowledge or information to admit or deny the remaining allegations contained in Paragraph 38 of the Complaint and, therefore, denies same and demands strict proof thereof.

COUNT I
SEXUAL ASSAULT / SEXUAL ABUSE / SEXUAL CONDUCT WITH A MINOR
(A.R.S. § 13-1405 and the common law)

39. Responding to Paragraph 39 of the Complaint, Defendant incorporates its responses to all other paragraphs of its Answer as if fully set forth herein.

40. Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph 40 of the Complaint and, therefore, denies same and demands strict proof thereof.

41. Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph 41 of the Complaint and, therefore, denies same and demands strict proof thereof.

42. Defendant denies the allegations made against it in Paragraph 42 of the Complaint. Defendant is without sufficient knowledge or information to admit or deny the remaining allegations contained in Paragraph 42 of the Complaint and, therefore, denies same and demands strict proof thereof.

43. Defendant denies the allegations made against it in Paragraph 43 of the Complaint. Defendant is without sufficient knowledge or information to admit or deny the remaining allegations contained in Paragraph 43 of the Complaint and, therefore, denies same and demands strict proof thereof.

44. Defendant denies the allegations made against it in Paragraph 44 of the Complaint. Defendant is without sufficient knowledge or information to admit or deny the

1 remaining allegations contained in Paragraph 44 of the Complaint and, therefore, denies same
2 and demands strict proof thereof.

3 45. Responding to Paragraph 45 of the Complaint, Defendant denies that BBBS
4 America committed any wrongful acts or that it was the direct or proximate cause of any
5 injury alleged by Plaintiff. Defendant is without sufficient knowledge or information to admit
6 or deny the remaining allegations contained in Paragraph 45 of the Complaint and, therefore,
7 denies same and demands strict proof thereof.

8 46. The allegations contained in Paragraph 46 of the Complaint are legal
9 conclusions to which no response is required. In an abundance of caution and for avoidance
10 of doubt in the event a response is deemed necessary, Defendant denies the allegations
11 contained in Paragraph 46.

12
13 **COUNT II**
14 **NEGLIGENCE AGAINST DEFENDANTS BIG BROTHERS BIG SISTERS OF**
15 **AMERICA & BIG BROTHERS BIG SISTERS OF CENTRAL ARIZONA**

16 47. Responding to Paragraph 47 of the Complaint, Defendant incorporates its
17 responses to all other paragraphs of its Answer as if fully set forth herein.

18 48. Responding to Paragraph 48 of the Complaint, Defendant denies that it owed
19 any duty to Plaintiff. Defendant is without sufficient knowledge or information to admit or
20 deny the remaining allegations contained in Paragraph 48 of the Complaint and, therefore,
21 denies same and demands strict proof thereof.

22 49. Responding to Paragraph 49 of the Complaint, Defendant denies that it owed a
23 duty to Plaintiff and denies that it had a special relationship with Plaintiff. Defendant is without
24 sufficient knowledge or information to admit or deny the remaining allegations contained in
25 Paragraph 49 of the Complaint and, therefore, denies same and demands strict proof thereof.
26 Defendant affirmatively alleges that it had no relationship whatsoever with Plaintiff.

27 50. Responding to Paragraph 50 of the Complaint, Defendant denies that it owed
28 any duty to Plaintiff and denies that it had a special relationship with Plaintiff, Plaintiff's
parents and/or other parents. Defendant is without sufficient knowledge or information to

1 admit or deny the remaining allegations contained in Paragraph 50 of the Complaint and,
2 therefore, denies same and demands strict proof thereof.

3 51. Responding to Paragraph 51 of the Complaint, Defendant denies that it owed any
4 duty to Plaintiff and denies that it had a special relationship with Italo Arbulu. Defendant is
5 without sufficient knowledge or information to admit or deny the remaining allegations contained
6 in Paragraph 51 of the Complaint and, therefore, denies same and demands strict proof thereof.
7 Defendant affirmatively alleges that it had no relationship whatsoever with Italo Arbulu.

8 52. Defendant denies the allegations made against it in Paragraph 52 of the
9 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
10 remaining allegations contained in Paragraph 52 of the Complaint and, therefore, denies same
11 and demands strict proof thereof.

12 53. Defendant denies the allegations made against it in Paragraph 53 of the
13 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
14 remaining allegations contained in Paragraph 53 of the Complaint and, therefore, denies same
15 and demands strict proof thereof.

16 54. Defendant denies the allegations made against it in Paragraph 54 of the
17 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
18 remaining allegations contained in Paragraph 54 of the Complaint and, therefore, denies same
19 and demands strict proof thereof.

20 55. Defendant denies the allegations made against it in Paragraph 55 of the
21 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
22 remaining allegations contained in Paragraph 55 of the Complaint and, therefore, denies same
23 and demands strict proof thereof.

24 56. Defendant denies the allegations made against it in Paragraph 56 of the
25 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
26 remaining allegations contained in Paragraph 56 of the Complaint and, therefore, denies same
27 and demands strict proof thereof.
28

1 57. Defendant denies the allegations made against it in Paragraph 57 of the
2 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
3 remaining allegations contained in Paragraph 57 of the Complaint and, therefore, denies same
4 and demands strict proof thereof.

5 58. Defendant denies the allegations made against it in Paragraph 58 of the
6 Complaint, including all of its subparagraphs. Defendant is without sufficient knowledge or
7 information to admit or deny the remaining allegations contained in Paragraph 58 of the
8 Complaint including all of its subparagraphs and, therefore, denies same and demands strict
9 proof thereof.

10 59. Defendant denies the allegations made against it in Paragraph 59 of the
11 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
12 remaining allegations contained in Paragraph 59 of the Complaint and, therefore, denies same
13 and demands strict proof thereof.

14 60. Defendant denies the allegations made against it in Paragraph 60 of the
15 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
16 remaining allegations contained in Paragraph 60 of the Complaint and, therefore, denies same
17 and demands strict proof thereof.

18 61. Defendant denies the allegations made against it in Paragraph 61 of the
19 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
20 remaining allegations contained in Paragraph 61 of the Complaint and, therefore, denies same
21 and demands strict proof thereof.

22 62. Defendant denies the allegations made against it in Paragraph 62 of the
23 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
24 remaining allegations contained in Paragraph 62 of the Complaint and, therefore, denies same
25 and demands strict proof thereof.

26 63. Defendant denies the allegations made against it in Paragraph 63 of the
27 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
28

1 remaining allegations contained in Paragraph 63 of the Complaint and, therefore, denies same
2 and demands strict proof thereof.

3 64. Defendant denies the allegations made against it in Paragraph 64 of the
4 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
5 remaining allegations contained in Paragraph 64 of the Complaint and, therefore, denies same
6 and demands strict proof thereof.

7 65. Defendant denies the allegations made against it in Paragraph 65 of the
8 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
9 remaining allegations contained in Paragraph 65 of the Complaint and, therefore, denies same
10 and demands strict proof thereof.

11 66. Defendant denies the allegations made against it in Paragraph 66 of the
12 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
13 remaining allegations contained in Paragraph 66 of the Complaint and, therefore, denies same
14 and demands strict proof thereof.

15 67. Defendant denies the allegations made against it in Paragraph 67 of the
16 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
17 remaining allegations contained in Paragraph 67 of the Complaint and, therefore, denies same
18 and demands strict proof thereof.

19 68. Defendant denies the allegations made against it in Paragraph 68 of the
20 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
21 remaining allegations contained in Paragraph 68 of the Complaint and, therefore, denies same
22 and demands strict proof thereof.

23 69. Defendant denies the allegations made against it in Paragraph 69 of the
24 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
25 remaining allegations contained in Paragraph 69 of the Complaint and, therefore, denies same
26 and demands strict proof thereof.

27 70. Defendant denies the allegations made against it in Paragraph 70 of the
28 Complaint. Defendant is without sufficient knowledge or information to admit or deny the

1 remaining allegations contained in Paragraph 70 of the Complaint and, therefore, denies same
2 and demands strict proof thereof.

3
4 **COUNT III**
5 **NEGLIGENT TRAINING AND SUPERVISION OF EMPLOYEES**
6 **AGAINST DEFENDANTS BIG BROTHERS BIG SISTERS OF AMERICA**
7 **& BIG BROTHERS BIG SISTERS OF CENTRAL ARIZONA**

8 71. Responding to Paragraph 71 of the Complaint, Defendant incorporates its
9 responses to all other paragraphs of its Answer as if fully set forth herein.

10 72. Defendant denies the allegations made against it in Paragraph 72 of the
11 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
12 remaining allegations contained in Paragraph 72 of the Complaint and, therefore, denies same
13 and demands strict proof thereof.

14 73. Defendant denies the allegations made against it in Paragraph 73 of the Complaint.
15 Defendant is without sufficient knowledge or information to admit or deny the remaining
16 allegations contained in Paragraph 73 of the Complaint and, therefore, denies same and demands
17 strict proof thereof. Defendant affirmatively alleges that it never had an employment or agency
18 relationship with Italo Arbulu.

19 74. Defendant denies the allegations made against it in Paragraph 74 of the Complaint.
20 Defendant is without sufficient knowledge or information to admit or deny the remaining
21 allegations contained in Paragraph 74 of the Complaint and, therefore, denies same and demands
22 strict proof thereof. Defendant affirmatively alleges that it owed no duty to Plaintiff.

23 75. Defendant denies the allegations made against it in Paragraph 75 of the Complaint.
24 Defendant is without sufficient knowledge or information to admit or deny the remaining
25 allegations contained in Paragraph 75 of the Complaint and, therefore, denies same and demands
26 strict proof thereof. Defendant affirmatively alleges that it owed no duty to Plaintiff.

27 76. Defendant denies the allegations made against it in Paragraph 76 of the Complaint.
28 Defendant is without sufficient knowledge or information to admit or deny the remaining

1 allegations contained in Paragraph 76 of the Complaint and, therefore, denies same and demands
2 strict proof thereof. Defendant affirmatively alleges that it owed no duty to Plaintiff.

3 77. Defendant denies the allegations made against it in Paragraph 77 of the
4 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
5 remaining allegations contained in Paragraph 77 of the Complaint and, therefore, denies same
6 and demands strict proof thereof.

7 78. Defendant denies the allegations made against it in Paragraph 78 of the
8 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
9 remaining allegations contained in Paragraph 78 of the Complaint and, therefore, denies same
10 and demands strict proof thereof.

11
12 **COUNT IV**
13 **NEGLIGENT RETENTION OF EMPLOYEES / AGENTS**
14 **AGAINST DEFENDANTS BIG BROTHERS BIG SISTERS OF AMERICA**
15 **& BIG BROTHERS BIG SISTERS OF CENTRAL ARIZONA**

16 79. Responding to Paragraph 79 of the Complaint, Defendant incorporates its
17 responses to all other paragraphs of its Answer as if fully set forth herein.

18 80. Defendant denies the allegations made against it in Paragraph 80 of the
19 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
20 remaining allegations contained in Paragraph 80 of the Complaint and, therefore, denies same
21 and demands strict proof thereof. Defendant affirmatively alleges that it did not ever employ,
supervise, authorize or control Italo Arbulu and had no duty to do so.

22 81. Defendant denies the allegations made against it in Paragraph 81 of the
23 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
24 remaining allegations contained in Paragraph 81 of the Complaint and, therefore, denies same
25 and demands strict proof thereof.

26 82. Defendant denies the allegations made against it in Paragraph 82 of the
27 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
28

1 remaining allegations contained in Paragraph 82 of the Complaint and, therefore, denies same
2 and demands strict proof thereof.

3 83. Defendant denies the allegations made against it in Paragraph 83 of the
4 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
5 remaining allegations contained in Paragraph 83 of the Complaint and, therefore, denies same
6 and demands strict proof thereof.

7 84. Responding to Paragraph 84 of the Complaint, Defendant denies that BBBS
8 America committed any wrongful acts or that it was the direct or proximate cause of any
9 injury alleged by Plaintiff. Defendant is without sufficient knowledge or information to admit
10 or deny the remaining allegations contained in Paragraph 84 of the Complaint and, therefore,
11 denies same and demands strict proof thereof.

12
13 **COUNT V**
14 **BREACH OF FIDUCIARY DUTY**
15 **(All Defendants)**

16 85. Responding to Paragraph 85 of the Complaint, Defendant incorporates its
17 responses to all other paragraphs of its Answer as if fully set forth herein.

18 86. Defendant denies the allegations made against it in Paragraph 86 of the
19 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
20 remaining allegations contained in Paragraph 86 of the Complaint and, therefore, denies same
21 and demands strict proof thereof. Defendant affirmatively alleges that it did not have a special
22 relationship with Plaintiff, and was not and never has been Plaintiff's friend, mentor, guide,
23 protector or fiduciary.

24 87. Defendant denies the allegations made against it in Paragraph 87 of the
25 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
26 remaining allegations contained in Paragraph 87 of the Complaint and, therefore, denies same
27 and demands strict proof thereof.

28 88. Responding to Paragraph 88 of the Complaint, Defendant denies that BBBS
America committed any breach of fiduciary duty or that it was the direct or proximate cause

1 of any injury alleged by Plaintiff. Defendant denies the allegations made against it in
2 Paragraph 88 of the Complaint. Defendant is without sufficient knowledge or information to
3 admit or deny the remaining allegations contained in Paragraph 88 of the Complaint and,
4 therefore, denies same and demands strict proof thereof.

5 **COUNT VI**
6 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
7 **(All Defendants)**

8 89. Responding to Paragraph 89 of the Complaint, Defendant incorporates its
9 responses to all other paragraphs of its Answer as if fully set forth herein.

10 90. Defendant denies the allegations made against it in Paragraph 90 of the
11 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
12 remaining allegations contained in Paragraph 90 of the Complaint and, therefore, denies same
13 and demands strict proof thereof.

14 91. Responding to Paragraph 91 of the Complaint, Defendant denies that BBBS
15 America committed any wrongful acts or that it was the direct or proximate cause of any
16 injury alleged by Plaintiff. Defendant denies the allegations made against it in Paragraph 91
17 of the Complaint. Defendant is without sufficient knowledge or information to admit or deny
18 the remaining allegations contained in Paragraph 91 of the Complaint and, therefore, denies
19 same and demands strict proof thereof.

20 **COUNT VII**
21 **ENDANGERMENT**
22 **(All Defendants)**

23 92. Responding to Paragraph 92 of the Complaint, Defendant incorporates its
24 responses to all other paragraphs of its Answer as if fully set forth herein.

25 93. Defendant denies the allegations made against it in Paragraph 93 of the
26 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
27 remaining allegations contained in Paragraph 93 of the Complaint and, therefore, denies same
28 and demands strict proof thereof.

94. Defendant denies the allegations made against it in Paragraph 94 of the Complaint. Defendant is without sufficient knowledge or information to admit or deny the remaining allegations contained in Paragraph 94 of the Complaint and, therefore, denies same and demands strict proof thereof.

95. Defendant denies the allegations made against it in Paragraph 95 of the Complaint. Defendant is without sufficient knowledge or information to admit or deny the remaining allegations contained in Paragraph 95 of the Complaint and, therefore, denies same and demands strict proof thereof.

96. Defendant denies the allegations made against it in Paragraph 96 of the Complaint. Defendant is without sufficient knowledge or information to admit or deny the remaining allegations contained in Paragraph 96 of the Complaint and, therefore, denies same and demands strict proof thereof.

97. Defendant denies the allegations made against it in Paragraph 97 of the Complaint. Defendant is without sufficient knowledge or information to admit or deny the remaining allegations contained in Paragraph 97 of the Complaint and, therefore, denies same and demands strict proof thereof.

98. Defendant denies the allegations made against it in Paragraph 98 of the Complaint. Defendant is without sufficient knowledge or information to admit or deny the remaining allegations contained in Paragraph 98 of the Complaint and, therefore, denies same and demands strict proof thereof.

**COUNT VIII
CHILD ABUSE
(A.R.S. § 13-3623 and the common law)
(All Defendants)**

99. Responding to Paragraph 99 of the Complaint, Defendant incorporates its responses to all other paragraphs of its Answer as if fully set forth herein.

100. Defendant denies the allegations made against it in Paragraph 100 of the Complaint. Defendant is without sufficient knowledge or information to admit or deny the

1 remaining allegations contained in Paragraph 100 of the Complaint and, therefore, denies
2 same and demands strict proof thereof.

3 101. Defendant denies the allegations made against it in Paragraph 101 of the
4 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
5 remaining allegations contained in Paragraph 101 of the Complaint and, therefore, denies
6 same and demands strict proof thereof.

7 102. Defendant denies the allegations made against it in Paragraph 102 of the
8 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
9 remaining allegations contained in Paragraph 102 of the Complaint and, therefore, denies
10 same and demands strict proof thereof.

11 103. Defendant denies the allegations made against it in Paragraph 103 of the
12 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
13 remaining allegations contained in Paragraph 103 of the Complaint and, therefore, denies
14 same and demands strict proof thereof.

15 104. Defendant denies the allegations made against it in Paragraph 104 of the
16 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
17 remaining allegations contained in Paragraph 104 of the Complaint and, therefore, denies
18 same and demands strict proof thereof.

19 105. Defendant denies the allegations made against it in Paragraph 105 of the
20 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
21 remaining allegations contained in Paragraph 105 of the Complaint and, therefore, denies
22 same and demands strict proof thereof.

23
24 **COUNT IX**
25 **ASSAULT**
26 **(A.R.S. §§ 13-1204, 13-1203, and the common law)**
27 **(All Defendants)**

28 106. Responding to Paragraph 106 of the Complaint, Defendant incorporates its
responses to all other paragraphs of its Answer as if fully set forth herein.

1 107. Defendant is without sufficient knowledge or information to admit or deny the
2 allegations contained in Paragraph 107 of the Complaint and, therefore, denies same and
3 demands strict proof thereof.

4 108. Defendant denies the allegations made against it in Paragraph 108 of the
5 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
6 remaining allegations contained in Paragraph 108 of the Complaint and, therefore, denies
7 same and demands strict proof thereof.

8 109. Defendant denies the allegations made against it in Paragraph 109 of the
9 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
10 remaining allegations contained in Paragraph 109 of the Complaint and, therefore, denies
11 same and demands strict proof thereof.

12 110. Defendant denies the allegations made against it in Paragraph 110 of the
13 Complaint. Defendant is without sufficient knowledge or information to admit or deny the
14 remaining allegations contained in Paragraph 110 of the Complaint and, therefore, denies
15 same and demands strict proof thereof.

16 111. The allegations contained in Paragraph 111 of the Complaint are legal
17 conclusions to which no response is required. In an abundance of caution and for avoidance
18 of doubt in the event a response to Paragraph 111 is deemed necessary, Defendant denies the
19 allegations.

20 112. Responding to Paragraph 112 of the Complaint, Defendant denies that BBBS
21 America abused Plaintiff or that it was the direct or proximate cause of any injury alleged by
22 Plaintiff. Defendant denies the allegations made against it in Paragraph 112 of the Complaint.
23 Defendant is without sufficient knowledge or information to admit or deny the remaining
24 allegations contained in Paragraph 112 of the Complaint and, therefore, denies same and
25 demands strict proof thereof.

26

27

28

PRAYER FOR RELIEF

1
2 1. Defendant denies the allegations of the Complaint set forth in the Prayer for
3 Relief. Specifically,

- 4 a. Defendant denies that Plaintiff is entitled to the relief set forth in Paragraph 1(a)
5 of the Complaint's Prayer for Relief;
- 6 b. Defendant denies that Plaintiff is entitled to the relief set forth in Paragraph 1(b)
7 of the Complaint's Prayer for Relief;
- 8 c. Defendant denies that Plaintiff is entitled to the relief set forth in Paragraph 1(c)
9 of the Complaint's Prayer for Relief;
- 10 d. Defendant denies that Plaintiff is entitled to the relief set forth in Paragraph 1(d)
11 of the Complaint's Prayer for Relief ;
- 12 e. Defendant denies that Plaintiff is entitled to the relief set forth in Paragraph 1(e)
13 of the Complaint's Prayer for Relief, which relief is prohibited by the
14 applicability provisions of A.R.S. § 12-514 set forth in H.B. 2466, Sec. 3 (May
15 27, 2019);
- 16 f. Defendant denies that Plaintiff is entitled to any relief requested in Paragraph
17 1(f) of the Complaint's Prayer for Relief.

AFFIRMATIVE DEFENSES

18
19
20 For its affirmative defenses to Plaintiff's Complaint, Defendant alleges as follows,
21 individually and in the alternative:

- 22 1. Each and every allegation of the Complaint not expressly admitted herein is
23 denied.
- 24 2. The Complaint, and each cause of action alleged therein, fails to state a claim
25 for which relief can be granted.
- 26 3. Defendant asserts that Plaintiff's alleged injuries and damages, if any, were
27 directly and proximately caused or contributed to by the negligence of third parties who were
28 responsible for Plaintiff's care and supervision, including but not limited to his mother, or

1 others who had a legal duty or responsibility for the care and/or custody of Plaintiff (the
2 “Responsible Custodians”).

3 4. Defendant asserts that Plaintiff’s alleged injuries and damages, if any, were
4 directly and proximately caused in whole or in part by other parties or by non-parties at fault,
5 over whom Defendant BBBS America has no control and to whom Defendant BBBS America
6 may apportion fault at the time of trial, including but not limited to Plaintiff’s alleged
7 perpetrator, Italo Arbulu, who was not an agent of and was not acting within the scope of any
8 employment with or actual or apparent authority on behalf of Defendant or any of its
9 affiliates. Defendant further reserves the right to argue that Plaintiff or other third parties
10 may have caused or contributed to his alleged injuries and damages and may be
11 comparatively, if not wholly, at fault.

12 5. Plaintiff and/or other parties or non-parties to this lawsuit caused and/or
13 contributed to each of Plaintiff’s alleged injuries, damages, losses and costs, thereby requiring
14 the application of principles of comparative fault.

15 6. The doctrine of *respondeat superior* does not apply to the alleged conduct of
16 Italo Arbulu, because Defendant had no relationship with him and it cannot be held
17 vicariously liable for sexual abuse, sexual conduct or other for torts as alleged in Plaintiff’s
18 Complaint. To the extent any such alleged conduct occurred, it was the act of an individual
19 who was acting solely for personal motives unrelated to the furtherance of the business of
20 Defendant or its affiliate members.

21 7. Plaintiff’s claims are barred, in whole or in part, by waiver, laches, and/or
22 estoppel. Plaintiff unreasonably delayed in providing notice and in commencing and
23 prosecuting this action which caused unfair prejudice to Defendant, thus barring any recovery
24 against BBBS America under the equitable doctrines of waiver, laches and/or estoppel.

25 Plaintiff’s failure to assert claims against Defendant before the expiration of the statute
26 of limitations is inconsistent with his assertion of the claims in his Complaint. Defendant
27 relied on the absence of claims by the expiration of the statute of limitations in conducting its
28 business. Defendant has suffered prejudice as a result of Plaintiff’s unreasonable delay in

1 bringing claims that were waived or had expired decades ago.

2 8. Plaintiff's claims are barred, in whole or in part, by the statute of limitations.

3 9. Plaintiff's claims are barred in whole or in part to the extent that Plaintiff or
4 any parent, guardian or other authorized agent on his behalf waived or released liability.

5 10. Any recovery on Plaintiff's Complaint or cause of action alleged therein, is
6 barred in whole or in part by Plaintiff's failure to mitigate his damages, if any. Defendant
7 alleges that to the extent evidence shows Plaintiff failed to mitigate his damages and/or that
8 Plaintiff's alleged damages may be the result of a pre-existing condition, recovery (if any)
9 would be reduced accordingly. In the alternative, to the extent Plaintiff has mitigated his
10 damages, any recovery on his Complaint, or any cause of action alleged therein, is barred in
11 whole or in part by such mitigation of damages.

12 11. Defendant affirmatively alleges that it complied with all legal and industry
13 standards applicable at the time of the events alleged in Plaintiff's Complaint.

14 12. Defendant contends that the sole and /or proximate cause of the damages
15 claimed by Plaintiff was and is due to the willful and intentional acts of persons or entities
16 other than Defendant.

17 13. Plaintiff's claims are barred, in whole or in part, by A.R.S. § 12-514 or its
18 applicability and definition provisions set forth in H.B. 2466 (May 27, 2019).

19 14. Plaintiff must prove each and every element of every one of his claims by clear
20 and convincing evidence pursuant to A.R.S. § 12-514 and its applicability and definitions
21 provisions, H.B. 2466 (May 27, 2019).

22 15. Plaintiff's claims for punitive damages are barred in their entirety by A.R.S. §
23 12-514 and its applicability and definitions provisions, H.B. 2466 (May 27, 2019).

24 16. Plaintiff's claims are barred, in whole or in part, by A.R.S. § 12-505 and violate
25 the Due Process and Equal Protection clauses of the Arizona and Federal Constitutions.

26 17. Defendant did not authorize, consent to, ratify, direct or participate in any of
27 the allegedly wrongful or negligent conduct that forms the basis of Plaintiff's Complaint.
28 Defendant was not responsible for supervising and thus did not supervise any employees or

1 volunteers of BBBS of Southern Arizona or any other affiliate member. Defendant also was
2 not responsible for training and thus did not supervise the training of any affiliate volunteers.
3 Italo Arbulu was not a volunteer, employee or agent of BBBS America.

4 18. Defendant did not know or otherwise have actual notice of any misconduct that
5 create an unreasonable risk of sexual conduct (as defined in applicability provision to A.R.S.
6 § 12-514) or sexual contact (as defined in applicability provision to A.R.S. § 12-514) with a
7 minor by any employee, volunteer, representative or agent.

8 19. Italo Arbulu was never, at any time, an employee, volunteer, representative or
9 agent of Defendant.

10 20. Defendant BBBS America does not presently know all facts relating to the
11 allegations of Plaintiff's Complaint or Defendants' respective defenses. Defendant BBBS
12 America therefore reserves its right to amend this Answer to allege additional affirmative
13 defenses should it later discover or identify facts supporting such defenses.

14 21. Defendant BBBS America specifically denies negligence, causation, and
15 damages.

16 22. Plaintiff has failed to state a claim for which relief may be granted based on
17 any purported special relationship or violation of public policy, and to the extent Plaintiff
18 seeks to impose vicarious liability for heinous and personal acts which are utterly contrary to
19 public policy, such conduct should be punishable upon only the perpetrator.

20 23. To the extent evidence reveals that Plaintiff or his parents or guardians withheld
21 information from Defendant that could have afforded better protection for not only Plaintiff
22 but others generally, they may be designated as parties or non-parties at fault.

23 24. Plaintiff bears the burden of proving each and every element of each of his
24 claims with clear and convincing evidence.

25 25. Numerous defenses, both affirmative and otherwise, may arise as a result of
26 discovery. Therefore, pursuant to the Arizona Rules of Civil Procedure, Defendant reserves the
27 right to amend its Answer to assert further affirmative defenses upon completion of discovery
28 and incorporates all defenses enumerated in Rules 8 and 12, Ariz. R. Civ. P., by reference herein.

1 WHEREFORE, having fully answered Plaintiff's Complaint, Defendant demands trial
2 by jury as to all triable issues and prays for relief as follows:

- 3 a. That the Court enter judgment in BBBS America's favor and dismiss Plaintiff's
4 Complaint in its entirety, with prejudice, and that Plaintiff take nothing thereby;
5 b. Award Defendant BBBS America its taxable costs and any other remedies
6 afforded under Arizona law; and
7 c. For such other relief as this Court deems just and proper.

8 DATED this 1st day of July, 2022.

9
10 BERKE LAW FIRM, PLLC

11 By /s/ Stacey F. Gottlieb

12 Lori V. Berke
13 Stacey F. Gottlieb
Attorneys for Defendant
Big Brothers Big Sisters of America

14 The foregoing document was e-filed
15 with the Clerk of Court this 1st day
16 of July, 2022, and a copy e-served via
AZTurboCourt to:

17 Robert E. Pastor
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Phoenix, AZ 85012
19 pastor@mlpattorneys.com

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23 David L. Abney
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P.O. Box 50351
25 Phoenix, Arizona 85076
abneymaturin@aol.com

26 Attorneys for Plaintiff
27

28 By /s/ Stacey F. Gottlieb

EXHIBIT 1

EXHIBIT 1

Public Law 85-870

AN ACT

To incorporate the Big Brothers of America.

September 2, 1958
[S. 3728]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following persons: Charles G. Berwind, Philadelphia, Pennsylvania; Mark Willcox, Junior, Philadelphia, Pennsylvania; Earle S. Thompson, New York, New York; Archie O. Dawson, New York, New York; Isadore A. Wyner, New York, New York; and their successors, are hereby created and declared to be a body corporate of the District of Columbia, where its legal domicile shall be, by the name of the Big Brothers of America (hereinafter referred to as the corporation) and by such name shall be known and have perpetual succession and the powers, limitations, and restrictions herein contained.

Big Brothers of
America, incorpo-
ration.

COMPLETION OF ORGANIZATION

SEC. 2. A majority of the persons named in the first section of this Act are authorized to complete the organization of the corporation by the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts (including the selection of officers and employees in accordance with such constitution and bylaws) as may be necessary for such purpose.

PURPOSES OF THE CORPORATION

SEC. 3. The purposes of the corporation shall be to aid and assist boys throughout the United States of America and Canada in the solution of their social and economic problems, and assist in their health, educational and character development; to promote the use of the techniques of such assistance developed by the corporation, by other lay and professional agencies and workers, to receive, invest, and disburse funds and to hold property for the purposes of the corporation.

CORPORATE POWERS

SEC. 4. The corporation shall have power—

- (1) to have succession by its corporate name;
- (2) to sue and be sued, complain, and defend in any court of competent jurisdiction;
- (3) to adopt, use, and alter a corporate seal;
- (4) to choose such officers, managers, agents, and employees as the business of the corporation may require;
- (5) to adopt, amend, and alter a constitution and bylaws, not inconsistent with the laws of the United States or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;
- (6) to contract and be contracted with;
- (7) to take by lease, gift, purchase, grant, devise, or bequest from any private corporation, association, partnership, firm, or individual and to hold any property, real, personal, or mixed, necessary or convenient for attaining the objects and carrying into effect the purposes of the corporation, subject, however, to applicable provisions of law of any State (A) governing the amount or kind of property which may be held by, or (B) otherwise limiting or controlling the ownership of property by, a corporation operating in such State;

(8) to transfer, convey, lease, sublease, encumber, and otherwise alienate real, personal, or mixed property; and

(9) to borrow money for the purposes of the corporation, issue bonds therefor, and secure the same by mortgage, deed of trust, pledge, or otherwise, subject in every case to all applicable provisions of Federal and State laws.

PRINCIPAL OFFICE: SCOPE OF ACTIVITIES: DISTRICT OF COLUMBIA AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Philadelphia, Pennsylvania, or in such other place as may be later determined by the board of directors, but the activities of the corporation shall not be confined to that place, but may be conducted throughout the various States, Territories, and possessions of the United States and in Canada to the extent permitted by Canadian laws.

(b) The corporation shall have in the District of Columbia at all times a designated agent authorized to accept service of process for the corporation; and notice to or service upon such agent, or mailed to the business address of such agent, shall be deemed notice to or service upon the corporation.

MEMBERSHIP

SEC. 6. Eligibility for membership in the corporation and the rights, privileges, and designations of classes of members shall, except as provided in this Act, be determined as the constitution and bylaws of the corporation may provide. Each member of the corporation shall have the right to one vote on each matter submitted to a vote at all meetings of the members of the corporation.

BOARD OF DIRECTORS: COMPOSITION, RESPONSIBILITIES

SEC. 7. (a) Upon the enactment of this Act the membership of the initial board of directors of the corporation shall consist of the present members of the board of directors of the Big Brothers of America, Incorporated, the corporation described in section 16 of this Act, or such of them as may then be living and are qualified members of said board of directors, to wit:

Justice Tom Clark, Washington, D. C. (honorary);
Honorable Stuart Garson, Ottawa, Ontario, Canada (honorary);
Honorable Luther W. Youngdahl, Washington, District of Columbia (honorary);

Charles G. Berwind, Philadelphia, Pennsylvania;
Henry J. Benisch, Brooklyn, New York;
DeVere Bobier, Flint, Michigan;
J. Carroll Brown, Lansing, Michigan;
Fielding T. Childress, Saint Louis, Missouri;
Guy de Puyjalon, Ottawa, Ontario, Canada;
Robert E. Curry, New York City, New York;
Jere Gillette, Detroit, Michigan;
Benjamin van D. Hedges, New York City, New York;
Honorable Thomas C. Hennings, Junior, Washington, District of Columbia;

Doctor Kenneth D. Johnson, New York City, New York;
Charles B. Levinson, Cincinnati, Ohio;
Walter H. Levy, Providence, Rhode Island;
Richard Loud, Boston, Massachusetts;
George O. Ludecke, Junior, Minneapolis, Minnesota;
Charles E. McMartin, Saginaw, Michigan;
John McShain, Philadelphia, Pennsylvania;
John E. Mangrum, Dallas, Texas;

George Miller, Los Angeles, California;
Nicholas C. Mueller, Baltimore, Maryland;
Herbert Myerberg, Baltimore, Maryland;
Thomas J. Potts, Columbus, Ohio;
Norfleet H. Rand, Saint Louis, Missouri;
G. Ruhland Rebmann, Junior, Philadelphia, Pennsylvania;
James B. Reese, Los Angeles, California;
Sanford Reider, Cleveland, Ohio;
Thomas A. Rogers, Denver, Colorado;
Robert N. Rosenthal, Cincinnati, Ohio;
Canon John Samuel, Hamilton, Ontario, Canada;
Maurice Schwarz, Junior, Los Angeles, California;
Isadore M. Scott, Philadelphia, Pennsylvania;
Milton Seaman, New York City, New York;
Nathaniel Sharf, Boston, Massachusetts;
Jay C. Standish, Cleveland, Ohio;
Donald W. Thornburgh, Philadelphia, Pennsylvania;
Robert L. Walston, Houston, Texas;
J. Austin White, Cincinnati, Ohio;
Meredith Willson, Los Angeles, California;
Paul Wilson, Detroit, Michigan; and
E. N. Zeigler, Florence, South Carolina.

(b) Thereafter the board of directors of the corporation shall consist of such number as may be prescribed in the constitution of the corporation, and the members of such board shall be selected in such manner (including the filling of vacancies), and shall serve for such terms, as may be prescribed in the constitution and bylaws of the corporation.

(c) The board of directors shall be the managing body of the corporation and shall have such powers, duties, and responsibilities as may be prescribed in the constitution and bylaws of the corporation.

OFFICERS: ELECTION AND DUTIES OF OFFICERS

SEC. 8. (a) The officers of the corporation shall be a chairman of the board of directors, a president, one or more vice presidents (as may be prescribed in the constitution and bylaws of the corporation), a secretary, and a treasurer.

(b) The officers of the corporation shall be elected in such manner and for such terms and with such duties as may be prescribed in the constitution and bylaws of the corporation.

USE OF INCOME: LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any of its members, directors, or officers as such, or be distributable to any of them during the life of the corporation or upon its dissolution or final liquidation. Nothing in this subsection, however, shall be construed to prevent the payment of compensation to officers of the corporation in amounts approved by the board of directors of the corporation.

(b) The corporation shall not make loans to its officers, directors, or employees. Any director who votes for or assents to the making of a loan or advance to an officer, director, or employee of the corporation, and any officer who participates in the making of such a loan or advance, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation, and its officers and directors as such, shall not contribute to or otherwise support or assist any political party or candidate for public office.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

BOOKS AND RECORDS: INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having any authority under the board of directors; and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. (a) The financial transactions shall be audited annually by an independent certified public accountant in accordance with the principles and procedures applicable to commercial corporate transactions. The audit shall be conducted at the place or places where the accounts of the corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things or property belonging to or in use by the corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(b) A report of such audit shall be made by the corporation to the Congress not later than six months following the close of each year for which the audit is made. The report shall set forth the scope of the audit and shall include a verification by the person or persons conducting the audit of statements of (1) assets and liabilities, (2) capital and surplus or deficit, (3) surplus or deficit analysis, (4) income and expense, and (5) sources and application of funds. Such report shall not be printed as a public document.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 15. The corporation and its subordinate divisions shall have the sole and exclusive right to use the name, The Big Brothers of America. The corporation shall have the exclusive and sole right to use or to allow or refuse the use of such emblems, seals, and badges as have heretofore been used by the predecessor New York corporation, Big Brothers of America, Incorporated, described in section 16 of this title and the right to which may be transferred to the corporation.

TRANSFER OF ASSETS

SEC. 16. The corporation may acquire the assets of the Big Brothers of America, Inc., a corporation organized under the laws of the State of New York, upon discharging or satisfactorily providing for the payment and discharge of all of the liability of such corporation and upon complying with all laws of the State of New York applicable thereto.

USE OF ASSETS ON DISSOLUTION OR LIQUIDATION

SEC. 17. Upon dissolution or final liquidation of the corporation, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets, if any, of the corporation shall be distributed in accordance with the determination of the board of directors of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 18. The right to alter, amend, or repeal this Act is expressly reserved.

Approved September 2, 1958.

Public Law 85-871

AN ACT

To amend the War Orphans' Educational Assistance Act of 1956 to permit the Administrator of Veterans' Affairs to make payments with respect to special restorative training, or specialized courses of vocational training, for younger persons than those with respect to whom the Administrator may now make such payments, and for other purposes.

September 2, 1958
[H. R. 13559]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the War Orphans' Educational Assistance Act of 1956 is amended by—

(1) redesignating clauses (2) and (3) of subsection (a) of section 203 of such Act as clauses (3) and (4), respectively; and by inserting after clause (1) a new clause (2) as follows:

"(2) if he has a mental or physical handicap, and the Administrator determines that his best interests will be served by pursuing a program of special restorative training under title IV, or a specialized course of vocational training under title III, such period may begin before his eighteenth birthday, but not before his fourteenth birthday;"

(2) inserting "(1)" in subsection (a) of section 312 after the words "such course", and adding the following phrase before the period at the end of that subsection: ", or (2) is approved for the enrollment of the particular individual under the provisions of section 314"; and

(3) adding at the end of title III a new section 314, as follows:

"SPECIALIZED VOCATIONAL TRAINING COURSES

"SEC. 314. Notwithstanding the provisions of subsections (b) and (c) of section 312, the Administrator may approve a specialized course of vocational training leading to a predetermined vocational objective for the enrollment of an eligible person under this title if he finds that such course, either alone or when combined with other courses, constitutes a program of education which is suitable for that person and is required because of a mental or physical handicap."

Approved September 2, 1958.

War Orphans
Educational As-
sistance Act of
1956, amendments.
70 Stat. 411.
38 USC 1031
note.

38 USC 1072.

EXHIBIT 2

EXHIBIT 2

Public Law 95-167

95th Congress

An Act

To amend the Federal charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes.

Nov. 11, 1977

[S. 2208]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled “An Act to incorporate the Big Brothers of America”, approved September 2, 1958 (36 U.S.C. 881 et seq.) is amended—

Big Brothers of America.
Federal charter, amendment.

- (1) by inserting “(a)” before “the following”;
- (2) by striking out “Big Brothers of America” and inserting in lieu thereof “Big Brothers—Big Sisters of America”; and
- (3) by adding at the end thereof the following new subsection:

“(b) This Act may be cited as the ‘Big Brothers—Big Sisters of America’.”
- (b) Section 3 of such Act (36 U.S.C. 883) is amended—
 - (1) by striking out “boys” and inserting in lieu thereof “individuals”; and
 - (2) by striking out “and Canada”.
- (c) Section 5(a) of such Act (36 U.S.C. 885(a)) is amended by striking out “and in Canada to the extent permitted by Canadian laws”.
- (d) Section 7(a) of such Act (36 U.S.C. 887(a)) is amended by striking out “section 16” and inserting in lieu thereof “section 16(a)”.
- (e) Section 15 of such Act (36 U.S.C. 895) is amended—
 - (1) by striking out “the name, The Big Brothers of America” and inserting in lieu thereof the following: “any of the following names: The Big Brothers of America; Big Sisters International, Incorporated; Big Sisters of America; Big Brothers; Big Sisters; Big Brothers—Big Sisters of America; and Big Sisters—Big Brothers”; and
 - (2) by striking out “section 16 of this title” and inserting in lieu thereof the following: “section 16(a) of this Act, and by the District of Columbia corporation, Big Sisters International, Incorporated, described in section 16(b) of this Act,”.
- (f) Section 16 of such Act (36 U.S.C. 896) is amended—
 - (1) by inserting “(a)” before “The corporation”; and
 - (2) by adding at the end thereof the following new subsection:

“(b) The corporation may acquire the assets of Big Sisters International, Incorporated, a corporation organized under the laws of the District of Columbia, upon discharging or satisfactorily providing for the payment and discharge of all of the liability of such corporation and upon complying with all laws of the District of Columbia applicable thereto.”.

EXHIBIT 3

EXHIBIT 3



BBA Private

TO: Presidents, All Affiliated Agencies
Executive Directors, All Affiliated Agencies
BBA Board of Directors

FROM: L.P. Reade, Executive Vice President, BBA

DATE: January 14, 1977

RE: BBA National Clearinghouse for Information on Sexual Child Abuse

As a result of the unfortunate situation in the West and indications that the condition, although small in numbers, may not be isolated, it is necessary to gather data surrounding the incidence of such child exploitation and abuse on the part of volunteers and parents. Many states now have laws which follow the federal "Model Child Abuse and Neglect" statute outline and require reporting of such cases to proper authorities. Many of these state laws include sexual abuse along with other physical and psychological abuse. In order to 1) determine the incidence level; 2) analyze the patterns (if any) of this behavior; 3) develop National policy; and 4) provide guidance on volunteer selection and predictability, BBA National Headquarters asks that each Agency send a written report to Philadelphia on each case which has occurred in the last six (6) months and any which might occur in the future.

This report should include:

- 1) Complete case files (intake, match and supervision) on the volunteer child(ren) and parent(s) involved in any incident (any identification material such as names, addresses, photographs, etc. should be deleted on the photocopy to BBA).
- 2) A descriptive report of the specific exploitive and/or abuse actions which have occurred, which were carried out by the volunteer or parent (these may be police reports, agency files, child protective services investigations, etc.).
- 3) A summary report on how the situation was handled by the agency including:
 - a) Actions with the volunteer
 - b) Actions with the child
 - c) Actions with the parent
 - d) Response of Agency Staff

MEMORANDUM MEMORANDUM MEMORANDUM MEMORANDUM

Page 2

- e) Response of Agency Board
- f) Response of community (media, funding sources, social work community, etc. - include photocopies of news articles if possible).

BBA is developing a relationship with professionals and volunteers in the field of sexual child abuse and will be reviewing these reports, in confidentiality, in order to develop a data base for future training and workshops at Regional and Annual Meetings (no agency names will be reported in any material prepared).

This is a very difficult and sensitive issue with which to deal. Suffice it to say that ignoring it won't make it go away. Rather, by studying the nature of these occurrences and the individuals and organizations involved, we can really develop methods of protecting the children with whom we deal. Your earnest and complete help in this matter is solicited. Thank you.

Please address all material to L.P. Reade, Executive Vice President, BBA, and mark PRIVATE and CONFIDENTIAL.

LPR:mer

EXHIBIT 4

EXHIBIT 4



MEMORANDUM

BIG BROTHERS/BIG SISTERS OF AMERICA

TO: All Affiliated Agencies' Board Presidents and Executive Directors

FROM: The Agency and Program Services Committee of the
National Board of Directors of BB/BSA

RE: Issue of Child Molestation in BB/BS Agencies

A concerted effort at the National Organization to determine the incidence level of sexual child abuse, to analyze the pattern of this behavior, to develop National Policy and to provide guidance on volunteer selection and predictability was initiated by BBA in January 1977. Each affiliated agency was requested by BBA to submit a written report on each incident of sexual child abuse, if any, which had occurred in the last six months.

Agencies submitted and have continued to submit to BB/BSA pertinent information on child molestation incidences in their agencies.

Concurrent with this development, BB/BSA had conducted staff training workshops on the subject of child molestation. These workshops take place at Regional Conferences and at the National Conferences as well.

The cases of child molestation which BB/BSA has been made aware of, can provide us with some insights into the problem. We remain cautious in making generalizations based on specific cases, as a "profile" of the child molester can not be conclusively determined. We offer the limited information we have with this word of caution in mind and do so with the hope that it will provide us with greater light on this subject, and assist us in formulating policies to deal with this issue.

All incidences of child molestation which have been reported to BB/BSA occurred between Big Brothers and Little Brothers; in one case the incident occurred between an applicant and boy on the waiting list. All little brothers were under age 15. Generally, the agencies became aware of an incident of abuse through the boy's parent. In each instance, two or three favorable references were received for the Big Brother. The characteristics of the Big Brothers involved are too diverse and the information received is too scant to make generalizations, except to say that these men appeared to be "good Big Brothers" in that they saw their Little Brothers regularly; in fact, from the caseworkers' remarks, they tended to see their Little Brothers more than 3-4 hours per week, in addition to maintaining friendly contact with the agency.

None of the little brothers were adjudicated delinquent, and in all reported cases, the father was absent.

All incidences occurred between Caucasian BB's and LB's.

Citizen Board Development Program



Although a growing volume of literature exists on child abuse, there is not a great deal of literature available which fits with the BB/BS relationship. The research conducted by Dr. Groth and Mrs. Burgess on sexual offenders of children can provide us with some insights into the characteristics of offenders. Dr. Groth describes sexual offenders within two general categories. One, younger-teenage to early twenties, for whom the usual sexual preference is for children. The other, older-late twenties to forties, more established in terms of job and marriage, for whom adult heterosexual relations is the usual preference and the act of molestation occurs out of a life stress situation. These men are not homosexual as they do not prefer relations with adult men.

According to this research, these men overinvest in their relationships with children; are more involved with children than the norm; have few peer relationships; claim they love the child and in fact do many things for the child; do not lead an overtly deviant lifestyle; prefer children who have not developed sexually e.g. those under the age of puberty and are exploitable due to their need for companionship.

According to Dr. Groth, very rarely do molesters confess to their actions, rather they must be discovered by others, and the act of child molestation is one which they are likely to repeat.

From the specific cases BB/BSA has been made aware of and from the research conducted in this area, we can not expect to wholly prevent child molestation. However, we can strive to ensure that we are doing everything within our power as a professional youth serving organization to be cognizant of the potential for child molestation, and to screen, match and supervise BBs and LBs with the knowledge of that possibility.

In practice, this does not call for unusual or extreme action. What is indicated is a reinforcement of screening, matching, and supervision procedures in addition to further training in the area of child sexual abuse. We make the following recommendations:

Screening:

1. That a police check for all applicants be routinely conducted (unless otherwise specified by law);
2. That a minimum of 3 references must be obtained from volunteer applicants; which should include (if applicable) the applicant's employer, someone known since childhood, and someone from community or social organizations which the applicant has been involved in. References should have known applicant for at least one year. In addition, we suggest two additional personal references;
3. That a minimum of two interviews be conducted by the staff worker with the volunteer applicant and that the content of these interviews deal in detail with the emotional, social, and sexual lifestyle of the applicant in addition to obtaining the demographic data. The interview should include an explanation by the caseworker that the agency is concerned about child molestation; (that any incident of child molestation) reported to the agency will be reported to the Protective Services of the county Department of Social Services for further investigation and that when an accusation has been made the match will be terminated. Further, the staff work shown inform the applicant that the agency is not responsible for determining guilt or innocence if an accusation is made, but is responsible for protecting the best interests of the child.

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This explanation is provided as a statement of routine agency policy; it is not selectively applied. The applicant should be made aware of this. Just as plane crashes are rare; each airline informs the passengers of the possibility of a crash and what measures will be taken should one occur, so must the applicant be informed that although rare and not expected of any particular applicant, the agency's policy is to inform all applicants of the possibility and the measures which will follow. The contents of these interviews must be documented in the applicant's case record.

4. *That a minimum of two interviews be conducted with the parent and child. The parent is provided with the same statement of policy on child molestation as the volunteer.*

Supervision:

That a minimum of three phone contacts occur between volunteer, parent and child in the first six weeks and that an in-person interview is held with volunteer, parent and child at the end of six weeks. Further, that monthly contact with volunteer, parent, and child and at least two in-person meetings take place up to twelve months and during the 12 to 24 month period at least bi-annually meetings and quarterly contacts take place.

The content of these contacts, with the parent and child should include questions regarding how the BB/BS demonstrates his/her affection for the child.

All contacts are documented and placed in the appropriate case file.

Training:

We suggest that staff, volunteers and parents involved in BB/BS's programs receive training in the area of child sexual abuse.

This training can take place in the form of regional workshops, attendance at National Conference workshops on the subject in addition to in-service agency workshops.

It is our conviction that the use of these procedural guidelines will be worthy additions to the professional quality of service we provide to children and will further aid us in preventing and reducing incidents of child molestations in our agencies.

Thank you for your cooperation on this serious issue.

EXHIBIT 5

EXHIBIT 5

CHILD SEXUAL ABUSE

by

DONALD L. WOLFF
NATIONAL VICE PRESIDENT, PROGRAM
BIG BROTHERS/BIG SISTERS OF AMERICA

ISSUED BY



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LEGAL REPORT - CHILD SEXUAL ABUSE
BIG BROTHERS/BIG SISTERS OF AMERICA

INTRODUCTION

As you know, the reported number of child abuse/molestation instances have been increasing. Unfortunately, we who are in the field of providing service, particularly volunteer service, to young children in our community are faced with the knowledge as well as the problem that said service attracts those who may abuse our children as well as those whose motives are pure. It is my intention that this paper assist you in the detection and selective process, supervision, the allegation and investigative procedures, prosecution and trial of the alleged abuser, as well as the agency itself, insurance availability and the role of the Executive Director and professional staff with the child, parent, volunteer, board, media/press and the community.

Although the vast majority of reported cases and agency experiences have been with males as the abusers, we should treat the subject of child abuse in nonsexist terms. Recent studies do indicate that females also sexually abuse children. In West Virginia a recently published study indicates that 13% of those who were victims were assaulted

by females.¹ We have had one reported case with a Big Sister which resulted in prosecution so we are concerned with the issue of sexual assault on both a male and female issue. Any reference hereafter which seems to deal only with the male sex should be considered for both sexes.

As former legal counsel to the national board of directors for BB/BSA, and as a former chief trial assistant, prosecuting attorney and present criminal defense lawyer, I hope to draw on many past experiences. You are reminded and cautioned, however, that there are few absolutes in this area and we are still in the very early stages of the learning process. I wish to acknowledge the contributions of other individuals who have added source material and their own experiences to this project. Sexual Assault of Children and Adolescents by Ann W. Burgess, A. Nicholas Groth, Lynda Lytle Holmstrom, and Suzanne M. Sgroi, Lexington Books/D.C. Heath, 1978; Robert E. Longo MRC; President, Sexual Assault Research Association, Inc; Region VI PSC, Hal Smith, Chrm., Bill Hobson, BB/BS of Greater Hartford, Inc., Hartford County; John B. Pearson, Director, District I; Jo Alexander, Executive Director, BB/BS of Orange County, CA; Ernie Hatfield, Executive Director, BB/BS of Lexington, KY; John Wertz, Legal Counsel to Board of Directors, BB/BSA and David W. Bahlmann, Executive Vice President,

¹ LeRoy G. Schultz & Preston Jones, Jr., Sexual Abuse of Children: Issues for Social Services and Health Professionals, Child Welfare, Vol. LXII, Number 2, March/April 1983.

BB/BSA, and all District Directors, Lynn Klein, Margaret Slack and Jack Holtman.

DETECTION AND SELECTION PROCESS

Unfortunately, no one has as yet been able to design an accurate or satisfactory "profile" on the potential child abuser or molester. Until we discover the elusive "profile" we are left with much speculation and guesswork. It is also necessary to recognize our concern that most volunteers will not tolerate or accept unreasonable pre-selection intrusions upon their privacy and their individual rights. We are driven, to some degree, by pressures to increase the number of our matches and likewise to decrease the number of the children on our waiting lists. Yet we must somehow balance the need to increase and retain our worthy volunteers with the public trust given us to protect the children to the best of our professional ability and judgment.

Composition of the local Board of Directors can be most useful to the professional staff in the detection and selection process of our Big Brother applicants. I recommend every board be composed of or have access to some of the following professional persons: child psychologist; psychiatrist or therapist; personnel manager or one experienced in interviewing techniques and psychology; local insurance agent;

public relations expert or local TV/newspaper personality; trial lawyer as well as a lawyer dealing with contracts, personnel problems, and other business related matters and a local police official or board of police commissioner. The above, to name only a few, could as board members or as a "program committee" assist professional staff in the application process and improving interviewing techniques. Screening will still be done by the professional staff, but it will be better prepared with this kind of board support.

Police reports are, in my opinion, absolutely necessary where permitted by local law. The reports should be requested from local, state and federal sources in the area where the applicant has resided during at least the past five years. It may be argued that we are only entitled to know conviction information, but I believe that arrests for child abuse-molestation type offenses are material information as well. The application should request any and all conviction information and additional arrest information in this limited abuse category. Where the agency cannot receive the information on their own, then the applicant should be required to obtain his/her own record check as a part of the application. You must verify and consider residence information along with the police check, for if an applicant has only resided in your community a short time, then the background check will in and of itself be insufficient if it does not include prior residence information

and police checks from those prior areas. In a recent case, the local agency failed to discover a child molestation conviction in a neighboring community because the applicant had moved and no check in the prior location was requested. This is so even though a clear police check was obtained in the new community. Local police officials can be and are very important and useful active, auxiliary or honorary board members. Letters of reference are a required procedure, but many agencies do not follow-up on these letters to verify their accuracy. Some agencies may not even closely study the letters themselves, but rather merely check-off the necessary requirements. In one case recently a review of the letter of reference document disclosed child-like handwriting and many misspelled words. This should have at least put the agency on notice that the letter was suspicious. One letter revealed upon reading that the writer was a "girlfirend" of the applicant. These letters of reference will be closely scrutinized by lawyers in the event the applicant is later discovered to be an abuser and they should be closely scrutinized by staff upon their receipt.

In an attempt to identify characteristics of the potential child abuser, I refer you to authorities such as A. Nicholas Groth, Ph.D., Director, Forensic Mental Health Department, Harrington Memorial Hospital, Southbridge, Massachusetts, and

co-director of the St. Joseph Institute for the Treatment and Control of the Child Sexual Abuse in West Hartford, CT., who has written:

"In contrast to the notion that the child molester is an old man, we found all our clients had committed their first known offense before the age of 40; over 80 per cent were first offenders by the age of 30 and almost 5 percent had committed their first sexual assault before they reached adolescence. Rather than being a stranger, the majority of offenders knew their victims at least casually. Likewise the role of alcohol in the commission of the offense appears to be overemphasized. Less than one-third of our clients could be described as alcohol or drug dependent. The majority did not abuse alcohol or drugs and were not intoxicated at the time of their offenses."²

Almost all experts agree that the child abuser is not homosexual and is generally considered bisexual with heterosexual relationships. In a recent study it was found that of those who had sexual relationships with boys between the ages of 12 and 15, slightly more than half either will marry or are already married.

Dr. Groth has classified into two groups those adults who have become sexually involved with children. They are the fixated child offender and the regressed child offender.

² Sexual assault of Children and Adolescents, Ann Wolbert Burgess, A. Nicholas Groth, Lynoa Lytle Holmstrom & Suzanne M. Sgrui. Lexington books, p.4.

"The fixated child offender is a person who has, from adolescence, been sexually attracted primarily or exclusively to significantly younger people, and this attraction has persisted throughout his life, regardless of what other sexual experience he has had. As a teenager the offender tends to avoid the usual patternization of socialization with age mates typical of adolescents, such as dating and competitive sports, and as an adult he generally does not initiate or actively pursue mature sexual relationships. Sexual thoughts and fantasies about children or young adolescents preoccupy the offender, and interest in them often reaches the level of an obsession. The offender appears sexually 'addicted' to children.

A regressed child offender is a person who originally preferred peers or adult partners for sexual gratification. However, when these adult relationships became conflictual in some important respect, the adult became replaced by the child as the focus of this person's sexual interests and desires. Typically this offender is married and a situation develops that threatens this relationship. Feeling overwhelmed by the resulting stress, this man becomes involved sexually with a child."³

Generally it is agreed that child molestation type offenses do not involve physical force for the commission of the offense. In fact the reverse is more often true. The offender usually entices through indoctrination the child into the sexual behavior through either persuasion or entrapment in which the child is caused to feel indebted or obligated. Since we deal with boys and girls who may have no adequate role model or parental figure in their lives, it is very characteristic to shower the child with new found approval.

³ Ibid.

affection and attention with the new relationship. Money, gifts and new, exiting adventures for the child with this new friend all could be ways to pressure the child into approval for otherwise reluctant behavior. Clearly our clients are a "high risk" for the potential abuser. The pedophilic applicant will generally try to encourage overnight visits, weekend stays at his home, or trips which involve travel very early in the relationship. The caseworker should be attuned to this type behavior and I generally recommend that staff approval be obtained before home visits and travel with the volunteer are approved. Although the preceeding would best be placed under "supervision" or "detection" sections, this subject can and should be discussed during screening. So, too, should you discuss during screening and orientation with the applicant that our clients are instructed about child abuse and they will report to us any improper behavior which in turn will be reported to the authorities for investigation and prosecution. This will serve to give notice and may even scare off the knowing abuser in advance.

Dr. Groth indicates that these offenders share some common psychological traits or characteristics. These tend to be a sense of isolation or alienation from others and ineptitude in negotiating interpersonal relationships, deep-seated feelings of inadequacy, and a tendency to experience themselves as helpless victims of an overpowering environment.

"The child offender appears handicapped by poor impulse control, especially in regard to sexuality; poor ability to tolerate frustration or to delay immediate gratification of his needs; and low self esteem. He is relatively helpless in meeting psychological life demands and appears to be concerned only with his own needs and feelings. There is relative insensitivity or unawareness of the needs and feelings of others and little insight into or understanding of his own behavior. In essence, he is a psychological child in the physical guise of an adult."⁴

We have learned through experience that we cannot identify in advance those who we subsequently learn are child abusers. These offenders have been well respected and active persons in our communities. Many offenders have come to us with outstanding recommendations and references and have engaged in other community activities such as school teacher, scout leader, little league coach and professional people, just to mention a few.

The following information has been provided to help identify persons who might be prone to sexually abuse the children in our program.

1. If the individual is over 25 years old and single, especially if never married.
2. If there is evidence of a non-traditional lifestyle, i.e., has not participated in competitive sports, absence of normal peer relationships, associates and circle of friends are young people, absence of a dating relationship if individual is not married.

⁴ Ibid.

3. Presence of sexual abuse or neglect in the individual's background.

4. Characteristic immaturity; person is shy, withdrawn, passive, non-assertive.

5. If the individual is married, is the spouse inadequate, handicapped, or of such character that the individual applicant has to go elsewhere to have his needs met?

6. Work history: Is the individual's work history unstable or has he tended to seek jobs where he has little or no responsibility or is always told what to do?

7. Does the individual have a psychiatric history, or one where he has had contact with mental health agencies or personnel?

8. Is the individual one who has difficulty making decisions, non-assertive and generally obedient to all requests?

9. Does the person have a criminal background which is verifiable by police or FBI reports?

10. Person is overinvested in children, overidentifies with children, or does he have specific requirements in terms of the type of child he prefers to be around. How effective is the person in setting limits with children? Does volunteer prefer to be around a certain type of child? Relinquishes

adult role and responsibility, tends to become more like the child.

11. Places a premium on doing one to one activities with the child versus social activities with other people, low visibility activities preferred to group activity.

12. Are the activities he does with children visible to others?

13. Does the individual become more animated around children, i.e. the persons eyes light up, person becomes more expressive versus being shy, passive and quiet around adults?

14. Does the person display any signs of anxiety about adult sexuality, i.e. does he talk about sexuality, does not date.

15. How often does the individual describe children as clean, innocent, pure, especially in comparing children to adults?

16. Adverse or extremely judgmental attitude towards homosexuality, revulsion.

17. How much of the individual's other life activities bring them into contact with children such as, i.e. scouting, church activities, teaching, general over-investment in working with children?

18. Failure to set limits for child - overindulges child, allows child to act without constructive supervision.

19. Describes desired match very specifically - emphasizing interest in children with certain physical or emotional characteristics, e.g. wants "clean cut" kid, one with no brothers or sisters.
20. Overly anxious to obtain match.
21. Moved around a lot.
22. Scapegoat as child or claim of deficient parenting.
23. Indefinite reasons for dissatisfaction with other youth activities.
24. Exclusive interest in child who has reached puberty.
25. Complains of distant father yet idolized mother.
26. Premature separation from service.
27. Abuse of alcohol or drugs.
28. Low self esteem.
29. Major disappointments in life.
30. Never been married.
31. Live alone or with parent/parents.
32. Want to work with child who is in great need of a Big Brother/Sister-deprived-little concern on the part of mother or guardian.
33. Concentrates on children between the ages of 8 and 12.
34. Children chosen tend to be small, frail children.

35. Volunteer provides own graphic physical description of child desired. This is often a sign of being sexually fixated on a specific or particular type of child.

36. Volunteer has hobbies and interests very appealing to children.

Now that we have examined some of the many possible tell-tale or warning signs, the following are recommended screening procedures to utilize for discovering these warning signals:

1. Make a home visit; see how the individual lives his or her life away from work.

As many of you know, I have long been an advocate of home visits of our applicants. Such a visit would verify application information concerning the home environment and, furthermore, present the social worker with an excellent opportunity to observe firsthand the applicant's living conditions. Items for specific interest should be pictures of youthful persons, overemphasis in photography equipment, and video equipment, swimming pool and gym-type facilities.

2. During the application interview present situations in which the applicant is asked how he/she would handle inappropriate behaviors on the part of the child, and observe how the volunteer presents handling such situations, i.e., how would the volunteer handle the child reporting that he or she

had been sexually abused, physically abused, etc.

3. Get reference from other agencies that the individual may have worked with, i.e. clergy, school, work and scouting.

4. Require children and parents in the program to go through an orientation where they are instructed as to how to identify and report inappropriate behavior of volunteers or others, how to say 'no' to requests that violate organizational rules or go against child's values. There should be additional training given in this area at further meetings.

5. Have volunteers go through an orientation type program where they are informed that children in the program have been instructed to report any kind of abuse and further informed as to what kinds of behavior are considered to be appropriate. Again, volunteers should be advised that we must and will report all alleged incidents and we will recommend prosecution in all abuse situations.

6. Interview family members of the potential volunteer and attempt to secure other's opinions on the volunteer's behavior and attitude, particularly the spouse.

7. Instruct volunteers how to work with children who have been sexually abused, physically abused and neglected.

8. Follow-up procedures in which meetings with both the volunteer and the child occur separately; document number of contacts and contents of remarks for both child, parent and volunteer. Have the child's mother fill-out periodic

questionnaires to determine her impression of the volunteer and her involvement in the program.

9. Incorporate training concerning sexual abuse into caseworker orientation and establish training workshops.

The above lists of warning signs and recommended screening techniques are a compilation of reviewed material.⁵ See the Bibliography for more complete list of resource materials. This information should be used as part of a total screening process knowing that isolated conditions may not be indicative of potential molestations without more.

One organization which openly admits to favoring sexual relationships between adults and children is NAMBLA, which is the North American Man/Boy Love Association. This group was formed in the late 70's and, although it represents a small number of men, I have been hesitant to emphasize their importance. However, I do recommend that questions in the applications or questions by the interviewer include inquiry as to membership in this organization, familiarity with concepts, sympathy with its goals and aims.

⁵ Robert E. Longo, President, Sexual Assault Research Association, Inc., Melrose, Florida;
Bill Hobson, Board of Directors, BB/BS of Greater Hartford, Inc;
Region VI, Professional Staff Council, Hal Smith, Chairman.

SUPERVISION

The area of detection of molestations through proper supervision is an extremely critical area. While most agencies are aware of the need to screen out the potential abuser, few are knowledgeable on how to detect those who will get through even the most severe screening procedure. Here again there is no foolproof or positive detection device, but the following is a list of characteristics and behaviors common to both the abused child and the potential abuser.

Areas to watch during supervision to detect occurrence of molestation:⁶

1. Volunteer is anxious to have child spend the night or overnight trips early in the match. Camping seems to be a repeated pattern of risk.
2. Volunteer finds his/her own child and comes to the agency to have the match legitimized.
3. Volunteer involves other children other than own on outings with his/her matched child.
4. Majority of activities at volunteer's home or apartment.
5. Volunteer is very cooperative with his/her caseworker, stops by the office to talk.
6. The match seems to have more outings in the evening hours.
7. Volunteer shows child sex magazines, adult movies, or wants to introduce ideas of sex "education" to the child.

⁶ Sexual Assault of Children and Adolescents, Ann Wolbert Burgess, A. Nicholas Groth, Lynoa Lytle Holmstrom & Suzanne M. Sgrui, Lexington Books.

8. Any rapid or significant change in the child's behavior at home, with volunteer, in school performance, etc.
9. Volunteer is going through stressful period in own life.
10. Volunteer or child wants to terminate the match without specified reasons.
11. Excessive physical contact with the child, i.e. wrestling, tickling or touching.
12. Volunteer asking child to pose for pictures.
13. Volunteer does not seem to respond to child's complaints about too much sedentary time, i.e. spending time in front of television at volunteer's apartment.
14. Over investment in child - arguing or threatening mother to take child away.
15. Volunteer gets into "childish" arguments with child, acting at the child's level, not adult.
16. Excessive or expensive gifts giving, particularly gift giving not associated with birthdays and religious holidays.
17. Child becomes secretive about match activities.
18. Sudden unexplained changes in relationship between volunteer and child.
19. Volunteer involves other adults on outings with child.
20. Volunteer expresses strong need to exercise discipline or authority over child.
21. Volunteer who does not want to leave town to take another job because he/she does not want to leave child.
22. Mother of child is uncomfortable about the volunteer.
23. Volunteer fails to set limits on child's behavior - over indulgence.
24. Volunteer allows child to do many things that usually are for other children. Volunteer lacks sense of age appropriate limits.

25. Volunteer involves child with other adult.
26. Volunteer violates agency rules or mother's wishes.
27. When the caseworker is uneasy or has a hunch about the match. When this occurs, go with your "gut" and terminate the match.

How to identify the child who has been sexually abused:

Not all children who are sexually abused will tell someone what has happened to them. This is most likely to occur when the child does not have trusting relationships, fears being punished for the activity, or has been instructed or threatened not to tell anyone by the offender. The following list of items are warning signals and behaviors that may indicate that the child in question has been the victim of sexual abuse/assault.

1. Most children do not possess the language to tell us that they have been sexually abused. They may make certain comments, however, that we need to inquire about more closely, i.e. "Mr. Jones bothers me", "I don't like Mr. Jones anymore". "Mr. Jones and I have a special secret, Mr. Jones told me not to tell", "Don't leave me alone with Mr. Jones", "I don't want to go with Mr. Jones to the store", and so forth.

If the child makes statements such as these and you are not sure why the child is saying them or don't understand what the child means, INQUIRE!

2. Many children will exhibit any number of behaviors

that may indicate that he/she has been sexually abused such as:

- Age inappropriate sexual behavior.
- Age inappropriate questions or statements pertaining to sex.
- Reluctance to go to certain places such as the park, school, neighbor's house, or a particular area of the child's home.
- Avoidance of persons he or she has typically enjoyed being around in the past.
- Child does not want to be left alone.
- Child has problems in school, cannot concentrate in class, avoids peers, arrogant behavior, etc.
- Child begins to dislike or turn against parent.
- Fear of the dark.
- New fears not present in past behavior.
- Regressed behavior, child begins to display behaviors that were present when the child was younger.
- Shy and withdrawn, child spends more time alone.
- Recent disruptive or aggressive behavior toward adults or older adolescents.
- Recent poor peer relationships - absence of friends - gender role confusion
- Recent inappropriate sexual self-consciousness, or pseudo seductive behavior.
- Recent sexual promiscuity or frequent masturbation.
- Recent inappropriate sexual behavior with dolls or toys.
- Young girl assumes maternal responsibilities inappropriate for age and family circumstances.

3. Physical symptoms that are often present in children who have been abused:

- Sharp increase or decrease in appetite.
- Sleep problems, i.e. nightmares, inability to fall asleep. Wakes up and cannot go back to sleep, bed-wetting when it was not present before, does not want to sleep in the dark.
- Irritable, cranky, arrogant.
- Presence of venereal disease or fear of same.
- Injury, trauma, or irritation to the genital areas including the rectum.
- Any unusual behaviors that were not present in the child's history.

Any of these warning signals and symptoms should be taken seriously by the parent or volunteer as evidence of possible sexual abuse, or child abuse in general. Run-away behavior, truancy from school - wanting to change schools suddenly, etc. are all indicators that something may be wrong in the child's life.

During the match, the child should be aware of and told to report any of the following:

- Unusual requests by volunteer.
- Things that go against family rules.
- Anything that involves a secret.
- Unearned special favors from volunteer.
- Bullying
- Vulnerable situations.
- Games involving sex and touch.
- Going on outings with other kids or staying with volunteer at his place or elsewhere with other kids.

When the caseworker, parent or volunteer sees the above signs or symptoms then there should be proper follow-through procedures. Certainly the child should be talked and listened to and I do further recommend the use of a trained child psychologist to help communicate with the child at this time. The agency is encouraged to seek out such a research person in the community. One agency recently identified a potential molester through skilled supervision. After initial staff interviews with the mother, the police were brought in and steered the volunteer into treatment before any molestation occurred. It is our hope and desire that our agencies will serve as a helpmate for discerning potential abusers before we become the target and our kids the victims.

Careful supervision is most important to assure a proper and healthy match. In my personal opinion, this type supervision cannot be properly assured by mere telephone or non personal questionnaire contact with the child, parent or volunteer. Periodic personal contact is strongly recommended.

ALLEGATION AND INVESTIGATIVE PROCEDURES

The allegation that the child has been abused by the volunteer arises in many different ways. The most common of which is for the parent to notify the agency concerning the allegation. It is also very common to learn of the accusation through the police and prosecution authorities when investigating the criminal complaint.

When the matter is brought to our attention, it is essential to report the allegation immediately to the proper authorities. This is required by state law in every jurisdiction. When the allegation is reported to us from whatever source an accurate written report should be immediately prepared and filed. I have recommended in every instance that the match, if still in existence, should be immediately suspended, if not revoked, pending further investigation by either the authorities or the office itself. The staff should arrange an appointment with the child, parent and volunteer so that separate interviews can be conducted as soon as practicably possible. These interviews should be for the purpose of ascertaining the facts surrounding the allegation and for the suspension of all activities between

the volunteer and the child pending further investigation. It is important for staff to understand that it should not assume the role of police, prosecutor or defense lawyer in these situations. Rather, it should always be kept in mind that the agency is concerned first and foremost with the protection of the child and the best interests and welfare of that child. With the increasing number of reported abuse situations and legal complications which result from those accusations, it is natural to expect that many of our agency personnel will act in a defensive manner once the accusation is reported. However, I can't stress enough the importance that professional staff not act defensively, but rather that it acts in a positive manner so as to inform the child that it believes and trusts that child and that it is concerned and caring on behalf of that child and the experience.

It is extremely important that we support the child and the parent immediately concerning the accusation and assure them of our cooperation in the subsequent procedures. The manner and method in which we follow-up on the reported accusation will have important and critical impact, not only on the child and the parent but on the entire, unfortunate situation. It is very important that the child and parent be reassured that we are going to work this problem out together and that we will do our best to protect and support that child.

As soon as practically possible, the issue of professional

assistance for assessment for the child and parent should be discussed and considered. If the agency has professional persons available for assessment and intervention concerning the experience, then those should be offered to the child and the parent free of charge or at as reasonable a rate as possible under the circumstances as soon as possible. If such facilities are not available to the agency, then the agency should seek out cooperating community mental health agencies, family and youth services or other child protective services in the community. Cooperation with the police and prosecuting authorities is essential; however, both the agency professional and the law enforcement professional must realize the "privileged" nature of the records of BB/BS work. I have long recommended that the subpoena power of the prosecution be requested and recommended to protect our agencies in their desire to cooperate with the authorities. The records and case files dealing with the volunteer as well as the child should not be presented to the investigating authorities without first having obtained a legal subpoena properly issued. When the records are subpoenaed and turned over to the authorities, make certain that complete copies are made of all documents so that you can continue to retain for your own benefit a copy of the records released through the subpoena process.

During the follow-up interview with the volunteer, emphasize the immediate suspension of all contacts with the child and advise the volunteer concerning the child's complaint in such a way as to leave no doubt concerning the supporting role of the agency for that child. Remember, it is not the role of the agency staff member to judge the accused

volunteer and we should conduct a fair, fact-finding investigation and recommend support services to the volunteer as well. In some recent cases the investigation has revealed not only allegations against the accused volunteer, but also against others brought into the program upon their recommendations. It is therefore recommended that your investigation include this possibility.

Recent experiences have involved accusations against caseworkers, executive directors, board members, staff and volunteers who work with children on the waiting lists, as well as active volunteers. We also have had several experiences where the child was molested by others outside our program and reported only to the Big Brother/Sister. When the child or parent reports this allegation to our volunteer, we should aid them in every possible way. It is still our responsibility to report these allegations immediately, but a conflict situation can occur when the child/parent doesn't want the incident reported. There are other instances of abuse which may come to our attention such as parental abuse, improper living conditions and violating health and welfare regulations. Volunteers should receive orientation on how to handle these delicate situations.

As part of your supervision, you may learn from the child that an abuse or molestation has occurred. We have had many children report these outside incidents to their Big Brothers,

Big Sisters and the professional staff. In one case recently the child reported the molestation to the volunteer because the volunteer was the only one the child could trust. We need to be prepared to deal with the child victim of abuse. This abuse may occur outside our activities, yet the child will look to us for help and support.

When the child brings this abuse to your attention:

- Support the child - you will do your best to protect.
- Comfort the child - express your sadness and your anger at the abuser - place responsibility of abuser.
- Believe the child and show this belief, both orally and visibly.
- Advise child - not his/her fault - help avoid guilt feelings.
- Reassure child "we will work this out together". Be understanding and supportive. Do not reject, punish disapprove of the child.
- Report to police and/or abuse hotline. Remember we are mandated reporters.
- Seek professional assistance with children and family services, mental health agencies, child protections agencies and medical and mental professionals.

Occasionally I receive inquiries concerning the activities of a former volunteer whose illegal activity is not related to our program. When information becomes known that a former big

brother has been charged or convicted of an abuse with someone not in our program, do we have a legal or moral obligation to notify the former little brother's mother? There may be no legal obligations to inform the little brother or his mother of this information, but I have consistently advised executive directors to personally contact the mother. There is always the possibility that a former volunteer will recontact the child and it can be argued that if we have information of this nature and don't share it with the volunteer's former match or parent of the child, then we could be held negligent should a later additional abuse occur. Our obligation to protect our kids certainly dictates that we inform the participants in our program even if they are no longer involved in the program. It is proper police procedure for investigators to contact such persons for information so why not contact them first in such a way that will best serve the client and the agency. In such a situation recently those mothers contacted were very appreciative and surprised that the agency cared enough to contact them, even though they did not believe the charge and felt no improper conduct occurred with their children. These comments were properly noted in the case files.

With the advent of new programs such as cross gender and couples matching, we must consider these same potential problems with additional care.

PRESS/MEDIA RELATIONS

As soon as an abuse situation has been officially alleged and reported, it is likely to receive much media attention. The staff of the agency will likely be contacted immediately for comment and reaction. At this crucial time in the proceedings, it has been my advice to be friendly and appear cooperative; however, no official position statement is advised. I generally support the following:

"BB/BS of _____, is most concerned with the welfare of the child and all children in our program. We are cooperating with the investigation and we have suspended the match (or the individual) pending the investigation."

Media reaction is sometimes very critical of the incident and our program. Our position is defensible and can and should be properly told at the right time, but that time is not when the incident is first reported. I have participated in many TV programs where the opportunity is given to defend/present our program. Most media persons are responsible and they will be responsive to the needs of the community in the continuation of our program and in the important realization that no perfect system for detection of potential abusers yet exists. The public needs to know

that we faithfully and properly serve hundreds of thousands of children from single parent homes with the help of our volunteers in every community. We are concerned and we continue to study and evaluate new and improved methods of selecting these volunteers. Consult your "emergency press kit" where we suggest assigning one official spokesperson to speak for the agency.

PROSECUTION AND TRIAL

During the trial of the accused, it may be likely that the agency will be involved either as a witness for the child/victim or the accused. The official position of the agency should remain unchanged in its support and concern for the welfare of the child. However, professional staff may be involved for either party in the "search for the truth" and should be a willing participant upon the delivery of a proper subpoena to appear in court and testify truthfully to matters within personal knowledge or to produce required records.

Agency personnel should be careful to avoid placing the agency in an adversarial position with the child and for that reason should be reluctant to appear as character witnesses for the accused, particularly when requested to serve as witnesses as to the reputation for truthfulness and veracity. Furthermore, requests of the accused for staff to appear personally or write letters of reference for the accused during the sentencing procedures in extenuation and mitigation should be denied.

LAWSUITS AGAINST THE AGENCY

As a result of an alleged child abuse, a lawsuit may sometimes be filed by the parent and the child against both the agency and the alleged abuser. This lawsuit is usually filed in the form of a complaint or a petition, and generally filed in a state circuit court of general jurisdiction. The petition will normally allege that the accused was an agent and representative of the agency and that the agency owed a duty to the child and the mother to provide responsible, adult care and supervision while the said minor child was under the care, control and supervision of its agent. The lawsuit alleges professional negligence in that the agency failed to properly screen its applicants for suitability to undertake the care and guidance of the child, by negligently accepting the accused into the program after it knew, or should have known, that he/she was not a suitable person to offer care and guidance to said minor child. It is generally asserted that the injuries and damages are continuing and it cannot be said with any certainty that the injuries and damages will not be permanent. The negligence which is alleged is said to constitute wilfull and wanton disregard for the rights and safety of the minor children enrolled in the program and, therefore, the plaintiffs will additionally seek punitive damages in addition to actual damages. These lawsuits are generally for very large sums of money and, therefore, agencies should be adequately covered by the proper insurance program which will be discussed later

in this paper.

The accused is prosecuted for criminal charges or sued for the civil action of assault and battery; however, the agency is sued on the grounds of negligence in the selection of the accused and his/her placement into the program. Generally, the plaintiffs are seeking monetary damages which could only be awarded through an adequate insurance program, for most often the accused is unable to satisfy any substantial monetary judgment.

For many years agencies performing a charitable service were not subject to lawsuits of this nature because the courts and the law protected them under the doctrine of "charitable immunity". This doctrine, in short, merely protected all agencies performing a charitable service from being sued, but that doctrine has now been abolished in most, if not all, jurisdictions and, therefore, our agencies are potentially liable for all such litigation.

It is important to emphasize here that not every abuse situation will result in a lawsuit against either the accused or the agency and in most cases the attitude, actions and support of the agency can be very important in the determination as to whether or not there will be a lawsuit filed against the agency. When the lawsuit is filed, legal advice must be sought immediately. In this connection, it is important to state that

the local board of directors should have a local legal counsel as well as some lawyers on the board itself. I do not recommend that the legal counsel to the board be a member of the local board itself. Further, I recommend that legal counsel be responsible for providing or acquiring legal advice to the agency concerning this area of litigation. When the agency is insured, the insurer must be notified of the abuse complaint in the first instance and of the lawsuit when it was filed and, as a part of the policy, the insurance company may provide legal counsel since it may also be financially responsible in the outcome of the litigation.

To date, no case has yet litigated to conclusion the issue of negligence of the agency. This is so because most cases have resulted in a compromised settlement prior to the completion of the case. The issue as to whether or not the lawsuit should be settled is a very difficult issue for the agency itself, but the final determination as to whether or not it will be settled will generally be determined by the insurance company and not the agency. The important factors which are taken into consideration in such a decision are:

- 1) the severe adverse publicity which results from such litigation and
- 2) the potentiality of larger monetary awards in the event the decision were to be rendered in favor of the plaintiffs.

It does not necessarily follow that just because an abuse situation has occurred that therefore there must have been negligence on the part of the agency in the acceptance of the accused into the program. It must be proven by a preponderance of the evidence that the agency was negligent in its selection procedures and that the negligence resulted in the acceptance of the accused. Therefore, the agency's entire selection and supervision process will be a matter of severe scrutiny by the lawyers involved in the litigation. In this connection, the minimum standards of service as established by the national agency will be closely examined as will any evaluations of agency service which may have been performed.

In a recent case, one of our stronger agencies experienced an abuse situation and a lawsuit against the agency and the accused did result. Initially, the staff, board and insurance carrier were strongly of the opinion that no professional negligence had been exhibited on behalf of the agency and therefore the decision was made to litigate the case. There was extensive discovery procedures including depositions, interrogatories, and other investigations. I personally reviewed the facts and circumstances in this individual case and concluded that in my professional judgment the agency was not professionally negligent in the selection of this volunteer. I, therefore, recommended that the agency go to trial and resolve this matter before a jury.

During the trial, which took several days, there was continuous pressure on the agency to settle the lawsuit before its conclusion. Although the agency steadfastly refused to settle and concede the allegation of negligence, nonetheless the insurance company on its own decided it would settle the lawsuit for a lesser sum of money and avoid the possibility of an adverse verdict and judgment. The agency director in that situation participated on behalf of the agency on a daily basis and in addition to her own experiences, she noted matters of interest and concern, and as a result of her cooperation, the following are some general areas of interest to all agencies which were addressed in this case and are likely to be addressed in any similar lawsuit.

A. Employee Qualifications

Employee turnover, educational requirements, prior experience, salary and fringe benefits, written personnel practices, written evaluations on employees, prior work experience and length of employment prior to the making of approving of this particular match.

B. Standard and Agency Policies

Written policies regarding screening, selection and supervision of staff and volunteers, case files and comparison to national standards.

C. National organization

National organization offered training on a regional or national level and your attendance at these programs; national standards; training on questioned sexual abuse and profile of sexual offenders; evaluation of local agency by national personnel; average length of match; and number of contacts of local with national agency.

D. Public Relations

All public relations materials for the period in which the accused was a participant in the program were reviewed: news letters, news releases, brochures, films, pamphlets, number and places of public speaking for recruitment purposes, including TV ads, radio, newspaper, all stressing desperate need for volunteers and the fact that more children are available than volunteers to serve them, and statistical data such as number: of inquiries, attending orientation, screening process, number accepted and matched, as well as those rejected.

E. Application and Case Notes

The application of the volunteer and the casework notes on the selection and match process as well as the supervision process are closely examined and experts called to give conclusions concerning these procedures.

The above areas of questions and the experience here are not unique and are expected to be encountered in most litigation.

Not to be discounted in this entire process is the terrific effect that adverse publicity could have on the agency survival and the continuation of the program. In this connection it is again emphasized how valuable good PR people in the community can be to a local board of directors.

INSURANCE

Until recently, no insurance was designed to specifically protect the agency for coverage concerning professional negligence in alleged child abuse situations. However, on October 24, 1981, the Board of Directors of BB/BSA approved an insurance program specifically designed to cover this situation. The approved program has been designed especially for Big Brother/Big Sister agencies and we in fact participated in the development of the insurance program. The program is now being offered through Jack L. Kirby Insurance, Inc. of Jacksonville, Florida and the St. Paul Fire & Marine Insurance Co. There are three policies offered as a part of this program, including general liability and professional liability, directors and officers liability and accidental and medical for Little Brothers/Little Sisters.

Professional liability insurance with general liability insurance coverage is the proper and suggested method to protect our agencies in the area of alleged negligence from child molestation and abuse situations. This policy, of course, does not cover the volunteer for any intentional act, but it does cover the agency for any battery, physical injury, sickness, disease

or death, including damages for care and loss of services and any mental anguish including emotional or psychological distress. The above is the definition of bodily injury and it is the language which is utilized by plaintiffs in this type of lawsuit.

The policy does protect the agency for acts of the professional staff and the non-professional, such as the volunteers. In fact, the policy specifically states that the acts of volunteers are covered. This policy covers the agency, officers and directors, employees of the agencies, and the volunteers for other than the illegal or intentional act.

At this time we have over 180 member agencies who are enrolled in the program, which is available only to member agencies of BB/BSA. All agencies who have been eligible for renewal have renewed their insurance coverage. We have just been advised that beginning immediately all prior acts that occurred prior to the purchase of the insurance coverage can now be insured. There is no limit to the number of years of retroactive coverage under this new offering. However, there are two conditions: there must be no knowledge of wrongful act and there must have been no other prior insurance that was in effect at the time that the wrongful act is alleged to have occurred. This is an excellent addition to an insurance program which I feel sufficiently meets the need of our agencies.

If interested, please contact Jack L. Kirby Insurance Co., Inc., 4196 Herschel Street, Jacksonville, Florida 32210, or call collect (904) 389-4571.

When an allegation of molestation of abuse occurs, the insurance company should be notified concerning the allegation immediately. This notification should be in writing with a copy retained by the agency. If any legal action occurs as a result of this complaint, then the insurance company should be renotified immediately.

Some agencies have the mistaken impression that if they don't have insurance they won't/can't be sued. This is a foolish notion if the agency intends to continue operation in the community. Like all insurance we pay for the protection with the hope that we will never need it, but we do need the protection. Our staff and our boards are not immune from personal liability and this insurance will protect them as well as our clients who certainly deserve to be financially protected. In the days ahead I will be taking the position that every affiliated agency be required to carry this insurance as a condition precedent to affiliation with BB/BSA.

CONCLUSION AND SUMMARY

I realize that this paper is lengthy, yet by no means is it exhaustive of the subject matter. This is a very sensitive area, yet I recognize there are many more questions than there are answers and I only hope we have provided some useful information for your consideration. Please realize that the Board of Directors of BB/BSA, the Program Committee and professional staff are doing what they can in recognition and study of this serious problem. I strongly recommend that you attend our Annual Meeting in San Diego this year where detailed workshops will be given addressing this particular subject. Furthermore, you should contact your field staff personnel on the District level as soon as you encounter one of these allegations. National staff has developed a format of reporting every such incident and referring the source to the proper personnel for advice and recommendation. I continue to be a resource person for all agency personnel seeking advice in this area and the program committee will continue to address your needs in this regard. Only through the sharing of information and experiences can we learn from each other's lessons in this regard. We will also continue to upgrade our standards as we are doing at this very time. If you have any questions or comments concerning the above, please feel free to contact me; my thanks to the many of you who have called and written and shared your comments and information.

CHILD SEXUAL ABUSE

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EXHIBIT 6

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AFFILIATION AGREEMENT

F O R E W A R D

At this time in its evolutionary development, the future of the Big Brother Movement rests upon developing a clearcut, written Affiliation Agreement between Big Brothers of America and its member agencies. A well-defined Agreement, outlining the respective roles and responsibilities of Big Brothers of America and its affiliated agencies, as well as the concomitant duties and responsibilities of each, will enable all to understand what each can expect and demand of one another. The spirit of the Agreement will be that of a "partnership" between BBA and member agencies. The Agreement will be based upon feelings of mutual respect, understanding, trust, and cooperation between BBA and member agencies that will result in a strengthening of mutual efforts for mutual growth, expansion, effectiveness, and a closer and deeper BBA-member agencies relationship. The Agreement will provide all with a clear framework for an effective partnership while instilling a feeling of mutual respect, security, and understanding.

SEP - 2 1971 8-50 AM

Legal



BIG BROTHERS/BIG SISTERS OF AMERICA

220 SUBURBAN STATION BUILDING, PHILADELPHIA, PENNSYLVANIA 19103

APPLICATION FOR PROVISIONAL MEMBERSHIP

Agency: Big Sisters of Tucson/YWCA

Address: 302 E. University Boulevard Tucson, AZ 85705

Phone: 884-7810

President: Helen Schaefer Chairperson: Mary Lane

Executive Director: Barbara Weymann Program Director: Mary Romaniello

Application to be considered at the following National Board Meeting: (Please Circle)

February, 197

June, 1979

October, 197

The Board of Directors of this Agency has voted to apply for Provisional Membership with Big Brothers/Big Sisters of America at the National Board Meeting designated above. With this application, we are enclosing a Provisional Affiliation Fee in the amount of \$150. (\$100 for October application). All material requested in the Instruction Paper for Provisional Application are enclosed , sent under separate cover , or have been forwarded to the Regional Field Representative to be sent to the National Office after the on-site evaluation ✓ .

Helen A. Schaefer
Signature of Agency President

Mary Lane
Chairperson

Barbara L. Weymann
Signature of Agency Executive Director

Mary Romaniello
Program Director

Date of Application 2/1/79

BIG BROTHERS OF AMERICA

MEMBER AGENCY AFFILIATION AGREEMENT

Membership in Big Brothers of America has the value of giving added status to the member agency and of assuring community acceptance of its program. It is a form of accreditation based on established standards. Member agencies, and only member agencies, have the right to use the official BBA symbol, motto and literature.

Affiliation with Big Brothers of America offers the member agency the opportunity to participate in national efforts toward the betterment of the Big Brother Movement, and to join with other agencies in efforts to improve and expand the Big Brother Program. An agency affiliated with Big Brothers of America also may avail itself of a variety of consultant services provided by BBA.

IN ACCEPTING AFFILIATION WITH BBA, THE MEMBER AGENCY AGREES:

1. To meet with all obligations of affiliate membership as approved in the Constitution and By-laws of BBA as they now exist or may hereafter be duly amended and approved.
2. To maintain membership standards as outlined in the "Recommended Standards for Acceptable Big Brother Work" as approved by BBA. They agency will agree to have a review and evaluation of its total program by BBA using the Recommended Standards as its measurement criteria. BBA to provide such review and evaluation for each agency at least once in five (5) years and that the cost of such reviews and evaluations will be borne by Big Brothers of America unless the agency requests the evaluation.
3. To designate, in accordance with BBA By-laws, a delegate or delegates to vote on behalf of the agency in matters brought before the Annual Meeting of Members and Regional Council meetings. (Not applicable to Provisional and Associate Members.)

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AFFILIATION AGREEMENT
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4. To encourage participation and attendance in activities of Big Brothers of America such as: annual meetings, regional council meetings, PSC meetings, institutes, workshops, study projects, etc. Such activities require the participation of both laymen and professional agency representatives. The local affiliate agency is asked to give consideration to the budgetary requirements necessary to provide for such participation.
5. To maintain a record keeping system as outlined by BBA and submit an annual report of activities, including such items as volume of service and staff personnel. The agency will also be expected to supply special reports or information requested periodically by BBA to assist in its efforts to further the Movement.
6. To submit to BBA an annual audit prepared by a qualified auditor or CPA firm. However, when a member agency is an integral part of a larger group (welfare, religious, etc.) an annual financial report showing receipts and expenditures prepared by a qualified auditor would be acceptable.
7. To pay annual dues toward the financial support of BBA as prescribed in the Constitution and By-laws of BBA. The amount of such dues to be set by the Board of Directors of BBA. Agencies shall be notified of a pending change in BBA's dues structure three months in advance of the board meeting where it is to be considered and notice of any dues increase shall be given to the membership one year in advance of its effective date.

As of June, 1971, Full Members' dues to Big Brothers of America shall be based on 3% of expenditures for the Big Brother program for the preceding year with a minimum of \$250 and a maximum of \$10,000.

8. To inform BBA's Research Director of all research projects prior to their initiation. This will strengthen the projects and avoid a duplication of efforts.

IN ACCEPTING AFFILIATION, BIG BROTHERS OF AMERICA AGREES:

1. To recognize the affiliated agency's autonomy in being responsible for the administration of its program as long as it is within the framework of the approved Standards of Big Brother work.
2. To provide consultation and other resources in the areas of establishing new organizations, program, public relations, research and fund raising.
3. To set standards for the practice and operation of a Big Brother agency and to re-assess and review such standards at least once every five years.
4. To evaluate each member agency at least every five (5) years using BBA's Recommended Standards as its measurement criteria. The cost of such evaluations to be absorbed by Big Brothers of America -- unless the request for the evaluation comes from the member agency.
5. To plan, conduct, and implement meetings and Institutes for professionals and laymen in Big Brother work.
6. To define and recognize the specific geographical territory that member agencies serve and not to sanction any new Big Brother group to begin operation in such geographical territories.
7. Big Brothers of America will submit to member agencies an annual audit prepared by an independent auditor or CPA firm in accordance with the Uniform Standards of Accounting and Financial Reporting.
8. Big Brothers of America will advise member agencies of any Research Projects it plans to initiate.
9. To suspend or expel any member agency not complying with this agreement by July 1, 1972, except that a grace period may be granted by BBA, for just cause, until July 1, 1973. Such suspension or expulsion action to be taken only after applying the "due process" provisions developed by Big Brothers of America.

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ADDENDUM: The following is the "due Process" procedure to be followed before any agency shall be suspended or expelled from membership in BBA.

The agency will be notified (in writing) of their non-compliance with BBA requirements; the particular areas of their non-adherence spelled out; and the agency will be requested to respond (in writing) to the charges made. When the agency and BBA mutually agree that a violation of the agreement exists, BBA will offer National Staff consultative assistance to remedy the areas of non-compliance and a year's time will be designated for the agency to make the necessary adjustments. At the end of this time period, a total review will be made by both BBA and the agency. If no effort has been made by the agency to correct the situation, then, and with full knowledge by the agency, the matter will be brought to the attention of the National Board for action, i.e., discontinue affiliation, place the agency on probation for a year, etc.

In brief, the process will be a mutually shared experience, the rights of the agency respected, and every opportunity will be granted the agency to effect necessary changes to comply with the Agreement.

BBA - MEMBER AGENCY
AFFILIATION AGREEMENT
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for BIG BROTHERS OF TUCSON, INC.
name of member agency

BY: Michael C. Young
President

ATTEST: Edward J. Jackson
Executive Director

ATTEST: Jack R. Dunn
Secretary (Seal)

for BIG BROTHERS OF AMERICA
BY: Bob Hill
President

ATTEST: Thomas E. O'Brien
Executive Director

ATTEST: Margaret M. Hanley
Secretary (Seal)

Date: 10-20-71

AFFILIATION AGREEMENT

F O R E W A R D

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