

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) Civil Action No.
)
)
 THE STATE OF INDIANA,)
 Mitchell E. Daniels, Jr.,)
 Governor, THE INDIANA)
 DEPARTMENT OF CORRECTIONS,)
 J. David Donahue, Commissioner,)
 Kellie Whitcomb,)
 Superintendent, Logansport)
 Juvenile Intake/Diagnostic)
 Facility; Dawn Buss,)
 Superintendent, South Bend)
 Juvenile Correctional Facility)
)
 Defendants.)

COMPLAINT

Plaintiff, the United States of America, by its undersigned attorneys, for its complaint alleges:

1. This action is brought by the Attorney General, on behalf of the United States, pursuant the pattern or practice provision of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, to enjoin the State of Indiana from depriving youth confined in the Logansport Juvenile Intake/Diagnostic Facility ("Logansport") in Logansport, Indiana

and the South Bend Juvenile Correctional Facility ("South Bend") in South Bend, Indiana, of rights, privileges or immunities secured or protected by the Constitution and laws of the United States.

JURISDICTION, STANDING AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.

3. The United States is authorized to initiate this action pursuant to 42 U.S.C. § 14141.

4. Venue in the Southern District of Indiana is proper pursuant to 28 U.S.C. § 1391(b). All claims set forth in this Complaint arose in this District.

DEFENDANTS

5. Defendant STATE OF INDIANA ("State") is responsible for the administration of juvenile justice in the State, including the operation of certain secure juvenile correctional facilities. This action concerns the administration of two secure juvenile facilities: Logansport and South Bend (collectively, "the facilities").

6. Defendant Mitchell E. Daniels, Jr., is the Governor of Indiana, and in this capacity heads the executive branch of Indiana's government. The Governor of Indiana, as chief of the

executive branch, has the duty to ensure that the departments that compose the executive branch of Indiana government guarantee the federal constitutional and statutory rights of all of the citizens of Indiana, including the youth confined in the facilities.

7. Defendant Indiana Department of Correction ("IDOC") is a department of the executive branch of Indiana government and is the state agency responsible for the care and custody of youth confined at the facilities by the Indiana juvenile courts.

8. Defendant J. David Donahue is the Commissioner of the Indiana Department of Correction and, in this capacity, exercises administrative control of, and responsibility for Logansport and South Bend.

9. Defendant Kellie Whitcomb is the Superintendent of Logansport and is responsible for the administration and day-to-day operations of Logansport.

10. Defendant Dawn Buss is the Superintendent of South Bend and is responsible for the administration and day-to-day operations of South Bend.

11. The individual Defendants named in paragraphs 6-10 above are officers of the Executive Branch of the State of Indiana and are sued in their official capacities.

12. Defendants are legally responsible, in whole or in

part, for the operation of and conditions at the facilities; for ensuring the safety and security of youth; for ensuring that youth are adequately protected from harm; for ensuring that youth receive appropriate treatment, rehabilitation, and education commensurate with their needs and abilities; for ensuring that youth are provided due process of law; for ensuring that youth receive adequate mental health care; and for ensuring that programs for youth are consistent with the IDOC's mission to provide opportunities for the treatment and rehabilitation of youth.

13. All relevant acts or omissions described below have been undertaken by the State, a political subdivision of the State, or an official, employee, agent or person acting on behalf thereof.

FACTUAL ALLEGATIONS

14. Defendants are governmental authorities or agents thereof with responsibility for the administration of juvenile justice within the meaning of 42 U.S.C. § 14141.

15. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that the youth at South Bend are adequately protected from harm and from undue risk of harm.

16. Defendants have engaged, and continue to engage, in a

pattern or practice of failing to ensure that youth at Logansport and South Bend receive adequate mental health care and rehabilitative treatment.

17. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that eligible youth with disabilities at South Bend receive adequate special education services.

18. The youth residing at South Bend include youth with mental illness, mental retardation, and other learning disabilities who fall within the meaning of "children with disabilities" as defined in the Individuals with Disabilities Education Act, 20 U.S.C. § 1401 (a)(1) and "individual[s] with a disability" as defined in Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 705(20).

VIOLATIONS ALLEGED

19. Through the acts, practices, and omissions alleged in paragraphs 14-18, Defendants have engaged, and continue to engage, in a pattern or practice of depriving youth confined at Logansport and South Bend of rights, privileges, or immunities secured by the Constitution of the United States, including the Eighth and Fourteenth Amendments, and in violation of 42 U.S.C. § 14141(a).

20. Through the acts, practices and omissions alleged in

paragraph 17, Defendants have engaged, and continue to engage in a pattern or practice of failing to comply with the Individuals with Disabilities Education Act, ("IDEA") 20 U.S.C. § 1401 et seq., and the regulations promulgated pursuant thereto, thereby depriving qualified youth of their rights under that Act and violating 42 U.S.C. § 14141(a).

21. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 14-18 that deprive youth confined at Logansport and South Bend of rights, privileges, or immunities secured or protected by the laws and Constitution of the United States.

PRAYER FOR RELIEF

22. The Attorney General is authorized under 42 U.S.C. § 14141 to seek equitable and declaratory relief.

WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their officers, agents, employees, subordinates, successors in office, contractors and all those acting in concert or participation with them from continuing the acts, practices and omissions set forth in paragraphs 14-18, above, and to require Defendants to take such action as will provide legal and constitutional conditions of care to youth confined at Logansport and South Bend and any other secure facility to which Defendants transfer youth confined at

Logansport and South Bend during the pendency of this action.

The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,

/s/ Susan W. Brooks

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Date: February 8, 2006