

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

FILED  
APR 9 2008  
11:22 AM  
SOUTHERN DISTRICT  
OF INDIANA  
LAURA A. BRIGGS  
CLERK

UNITED STATES OF AMERICA, )  
950 Pennsylvania Avenue, N.W. )  
Washington, D.C. 20530 )

Plaintiff, )

vs. )

Civil Action No.

THE MARION SUPERIOR COURT )  
City County Building )  
200 East Washington Street )  
Indianapolis, Indiana 46204 )

**1:08-cv-0460-LJM-TAB**

THE HONORABLE ROBERT R. ALTICE, JR., )  
Executive Committee Member )  
City County Building )  
200 East Washington Street )  
Indianapolis, Indiana 46204 )

**COMPLAINT**

THE HONORABLE GARY L. MILLER, )  
Executive Committee Member )  
City County Building )  
200 East Washington Street )  
Indianapolis, Indiana 46204 )

THE HONORABLE TANYA WALTON PRATT )  
Executive Committee Member )  
City County Building )  
200 East Washington Street )  
Indianapolis, Indiana 46204 )

THE HONORABLE GERALD S. ZORE )  
Executive Committee Member )  
City County Building )  
200 East Washington Street )  
Indianapolis, Indiana 46204 )

Defendants. )

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 to the pattern or practice provision of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, to enjoin the Marion Superior Court from depriving youth confined in the Marion Superior Court Juvenile Detention Center ("MSCJDC") in Indianapolis, 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 MARION SUPERIOR COURT ("Superior Court") is responsible for the administration of juvenile justice in Marion County, Indiana, including the operation of a secure juvenile detention facility. This action concerns the administration of the Marion Superior Court Juvenile Detention Center.

6. Defendant ROBERT R. ALTICE, JR. is currently a member of the Superior Court Executive Committee, and in this capacity is responsible for the administration of MSCJDC and has the duty to ensure that youth confined at that facility are treated in accordance with their federal constitutional and statutory rights.

7. Defendant GARY L. MILLER is currently a member of the Superior Court Executive Committee, and in this capacity is responsible for the administration of MSCJDC and has the duty to ensure that youth confined at that facility are treated in accordance with their federal constitutional and statutory rights.

8. Defendant TANYA WALTON PRATT is currently a member of the Superior Court Executive Committee, and in this capacity is responsible for the administration of MSCJDC and has the duty to ensure that youth confined at that facility are treated in accordance with their federal constitutional and statutory rights.

9. Defendant GERALD S. ZORE is currently a member of the Superior Court Executive Committee, and in this capacity is responsible for the administration of MSCJDC and has the duty to ensure that youth confined at that facility are treated in accordance with their federal constitutional and statutory rights.

10. The individual Defendants named in paragraphs 6-9 above, comprising the Superior Court's Executive Committee, have the authority delegated by the Superior Court to administer the MSCJDC and are sued in their official capacities only.

11. Defendants are legally responsible, in whole or in part, for the operation of and conditions at MSCJDC; for ensuring the safety and security of youth; for ensuring that youth are adequately protected from harm; for ensuring that youth are provided due process of law; for ensuring that youth are adequately protected from environmental safety and fire hazards and unsanitary conditions; and for ensuring that youth receive appropriate programming and education commensurate with their needs and abilities.

12. All relevant acts or omissions described below have been undertaken by the Superior Court, a committee or individual appointed by the Superior Court, or an official, employee, agent or person acting on behalf thereof.

#### **FACTUAL ALLEGATIONS**

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

14. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that the youth at MSCJDC

are adequately protected from harm, including harm from other youth and self harm.

15. Defendants have engaged, and continue to engage, in a pattern or practice of subjecting youth to unreasonable and unsafe isolation practices and failing to ensure that the isolated youth at MSCJDC are provided due process of law.

16. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide youth with adequate systemic safeguards to prevent, identify, and rectify abuse and unsafe conditions.

17. Defendants have engaged, and continue to engage, in a pattern or practice of protecting youth from environmental safety and fire hazards and unsanitary conditions.

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

19. MSCJDC's provider of youth education services receives federal financial assistance and, as such, youth at MSCJDC are entitled to the protections and benefits of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the regulations promulgated thereunder.

20. The youth residing at MSCJDC include youth with mental illness, mental retardation, or other 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), and are therefore entitled to programming and services required under the statutes.

#### **VIOLATIONS ALLEGED**

21. Through the acts, practices, and omissions alleged in paragraphs 14-17, Defendants have engaged, and continue to engage, in a pattern or practice of depriving youth confined at the facility 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).

22. Through the acts, practices and omissions alleged in paragraphs 18-20, 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).

23. Through the acts and omissions alleged in paragraph 18-20, Defendants have engaged, and continue to engage, in a pattern or practice of failing to comply with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq., and the

regulations promulgated pursuant thereto, thereby depriving qualified youth of their rights under that Act and regulations and violating 42 U.S.C. § 14141(a).

24. 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 the facility of rights, privileges, or immunities secured or protected by the laws and Constitution of the United States.

**PRAYER FOR RELIEF**


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

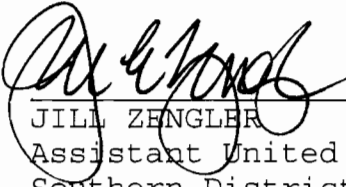
WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their officers, agents, employees, subordinates, successors in office, contractors and all those acting in concert or participation with them from continuing the acts, practices and omissions set forth in paragraphs 14-18, above, and requiring Defendants to take such action as will provide legal and constitutional conditions of care to youth confined at MSCJDC. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

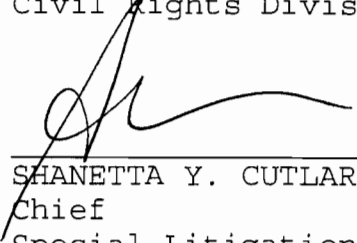
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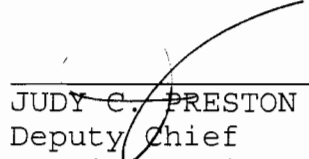
Respectfully submitted,


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