

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS

THE UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 THE STATE OF ARKANSAS; THE ARKANSAS )  
 DEPARTMENT OF HUMAN SERVICES; and THE )  
 ARKANSAS DIVISION OF YOUTH SERVICES; )  
 )  
 Defendants. )  
 )  
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COMPLAINT

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 State of Arkansas from depriving juveniles confined in Arkansas's Alexander Youth Services Center ("Alexander") 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 pursuant to 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 United States District Court for the Eastern District of Arkansas is proper pursuant to 28 U.S.C. § 1391(b). All claims set forth in the Complaint arose in this District.

#### DEFENDANTS

5. Defendant STATE OF ARKANSAS ("STATE") is responsible for the administration of juvenile justice in the State. The STATE operates, or contracts for the operation of, all secure juvenile justice facilities in the State. This action concerns the administration of Alexander. The facility houses youth in STATE custody who are confined for periods of time established by the juvenile courts.

6. Defendant Arkansas DEPARTMENT OF HUMAN SERVICES establishes the general policy to be followed by its juvenile institutions and contractors; provides leadership in developing programs to rehabilitate juveniles committed to STATE custody; and is responsible for the promulgation of all rules and regulations necessary and appropriate to the administration of the Arkansas Division of Youth Services, including the operation of Alexander.

7. Defendant Arkansas DIVISION OF YOUTH SERVICES is responsible for providing for the supervision, detention,

education, medical care, mental health care and rehabilitation of juveniles committed to the STATE's custody at Alexander.

8. Defendant Arkansas DIVISION OF YOUTH SERVICES has contracted with the private company Cornell Companies, Inc., to provide the daily administration, supervision, detention, education, medical care, mental health care and rehabilitation of juveniles at Alexander. 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

9. Defendants are governmental authorities with responsibility for the administration of juvenile justice or the incarceration of juveniles within the meaning of 42 U.S.C. § 14141.

10. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide juveniles confined in Alexander with adequate mental health care.

11. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that juveniles in Alexander are adequately protected from harm, including the risk of suicide.

12. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that juveniles in Alexander are adequately protected from undue risk of harm from fires.

13. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide adequate educational services to the juveniles confined at Alexander.

14. The juveniles residing in Alexander include youths with mental illness, mental retardation, and other learning disabilities who fall within the meaning of "handicapped children" as defined in the Individuals with Disabilities Education Act, 20 U.S.C. § 1401(a)(1).

15. Defendants have engaged, and continue to engage, in a pattern or practice of failing to provide adequate special education and related services to the qualified juveniles confined in Alexander.

16. Defendants have engaged, and continue to engage, in a pattern or practice of violating the religious freedom of juveniles confined at Alexander.

#### VIOLATIONS ALLEGED

17. Through the acts, practices and omissions alleged in

¶¶ 9- 16, defendants have engaged, and continue to engage, in a pattern or practice of depriving juveniles confined in Alexander of rights, privileges or immunities secured or protected by the Constitution of the United States, including the First and Fourteenth Amendments, and in violation of 42 U.S.C. § 14141(a).

20. Through the acts, practices and omissions alleged in ¶¶ 13 - 15, 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 juveniles 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 ¶¶ 9 - 16 that deprive juveniles confined in Alexander of rights, privileges, or immunities secured or protected by the Constitution of the United States and federal law, and will cause irreparable harm to these juveniles.

#### PRAYER FOR RELIEF

22. The Attorney General is authorized, pursuant to 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, their

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 ¶¶ 9 - 16, above, and to require defendants to take such action as will provide legal and constitutional conditions of care to juveniles confined in Alexander and any other secure facility to which defendants transfer juveniles confined at Alexander 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/ H. E. Bud Cummins, III

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