

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MARYLAND  
NORTHERN DIVISION

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

Plaintiff,

vs.

Civil Action No.

THE STATE OF MARYLAND  
200 Saint Paul Place  
Baltimore, Maryland 21202;  
County of Residence:  
Baltimore City;

ROBERT L. EHRLICH, JR., Governor  
of the State of Maryland  
State House  
Annapolis, Maryland 21401  
County of Residence:  
Anne Arundel;

COMPLAINT

THE MARYLAND DEPARTMENT OF  
JUVENILE SERVICES  
120 West Fayette Street  
Baltimore, MD 21201  
County of Residence:  
Baltimore City;

KENNETH MONTAGUE, Secretary  
120 West Fayette Street  
Baltimore, MD 21201  
County of Residence:  
Baltimore City;



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

4. Venue in the District of Maryland 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 MARYLAND ("State") is responsible for the administration of juvenile justice in the State, including the operation of certain secure juvenile facilities. This action concerns the administration of two secure juvenile facilities: Cheltenham and Hickey (collectively, "the facilities").

6. Defendant Robert L. Ehrlich, Jr. is the Governor of Maryland, and in this capacity heads the executive branch of Maryland's government. The Governor of Maryland, as chief of the executive branch, has the duty to ensure that the departments that compose the executive branch of Maryland government guarantee the federal constitutional and statutory rights of all of the citizens of Maryland, including the youth confined in the facilities.

7. Defendant Maryland Department of Juvenile Services ("DJS") is a department of the executive branch of Maryland government and is the state agency responsible for the care and

custody of youth confined at the facilities by the Maryland juvenile courts.

8. Defendant Kenneth Montague is the Secretary of the Maryland Department of Juvenile Services and, in this capacity, exercises administrative control of, and responsibility for the facilities.

9. Defendant Tom Bowers is the Facility Administrator of the Charles H. Hickey, Jr. School and is responsible for the administration and day-to-day operations of Hickey.

10. Defendant Reginald Garnett is the Superintendent of Cheltenham Youth Facility and is responsible for the administration and day-to-day operations of Cheltenham.

11. The individual Defendants named in paragraphs 6-10 above are officers of the Executive Branch of the State of Maryland 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 medical and mental health care; for ensuring

that youth are adequately protected from fire; and for ensuring that programs for youth are consistent with the Maryland Department of Juvenile Services' 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 the facilities are adequately protected from harm and from undue risk of harm from: staff abuse, youth-on-youth violence, self-harm, and abusive juvenile confinement practices.

16. Defendants have engaged, and continue to engage, in a pattern or practice of subjecting youth at the facilities to unreasonable isolation, inhumane conditions and failing to provide adequate due process.

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

facilities receive adequate mental health care and rehabilitative treatment.

18. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that youth at the facilities receive adequate medical and dental care.

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

20. Defendants receive federal financial assistance and, as such, are subject to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the regulations promulgated thereunder.

21. The youth residing at the facilities include youth with mental illness, mental retardation, and 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).

22. Defendants have engaged, and continue to engage, in a pattern or practice of failing to ensure that youth at the facilities are adequately protected from the risk of fire.

### VIOLATIONS ALLEGED

23. Through the acts, practices, and omissions alleged in paragraphs 15-22, Defendants have engaged, and continue to engage, in a pattern or practice of depriving youth confined at the facilities 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).

24. Through the acts, practices and omissions alleged in paragraphs 17 and 19-21, 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).

25. Through the acts and omissions alleged in paragraphs 17 and 19-21, 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).

26. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in

paragraphs 15-22 that deprive youth confined at the facilities of rights, privileges, or immunities secured or protected by the laws and Constitution of the United States.

**PRAYER FOR RELIEF**

27. 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 15-22, above, and to require Defendants to take such action as will provide legal and constitutional conditions of care to youth confined at the facilities and any other secure facility to which Defendants transfer youth confined at the facilities 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/ Allen F. Loucks

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