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

UNITED STATES OF AMERICA Plaintiff, v. THE STATE OF IOWA; THOMAS J. VILSACK, Governor of the State of Iowa Defendants.	)	CIVIL NO. _____

COMPLAINT

PLAINTIFF, THE UNITED STATES OF AMERICA, by its undersigned attorneys, hereby alleges upon information and belief:

1. The Attorney General files this Complaint on behalf of the United States of America pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. § 1997, to enjoin the named Defendants from depriving residents housed in the Glenwood Resource Center (Glenwood) and the Woodward Resource Center (Woodward) of rights, privileges, or immunities secured and protected by the Constitution and laws of the United States.

JURISDICTION 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. § 1997a.

4. The Attorney General has certified that all pre-filing requirements specified in 42 U.S.C. § 1997b have been met. The Certificate of the Attorney General is appended to this Complaint and is incorporated herein.

5. Venue in the Southern District of Iowa is proper pursuant to 28 U.S.C. § 1391.

DEFENDANTS

6. Defendant State of Iowa owns and operates Glenwood and Woodward. Glenwood is located in Glenwood, Iowa. Woodward is located in Woodward, Iowa

7. Defendant Thomas J. Vilsack is Governor of the State of Iowa. In his capacity as the State's chief executive, he is the most senior official who is responsible for the operation of Woodward and Glenwood.

FACTUAL ALLEGATIONS

8. Defendants are legally responsible, in whole or in part, for the operation of Glenwood and Woodward, for the conditions of each facility, and the health and safety of persons confined or residing in both facilities.

9. At all relevant times, Defendants acted or failed to act, as alleged herein, under color of state law.

10. Glenwood and Woodward are institutions within the meaning of 42 U.S.C. § 1997(1).

11. Persons institutionalized at Glenwood and Woodward suffer from mental disabilities that range from mild to profound.

12. Persons institutionalized at Glenwood and Woodward include "qualified individual[s] with a disability" for purposes of the Americans with Disabilities Act (ADA) and implementing regulations. 42 U.S.C. § 12101 et seq., 28 C.F.R. Part 35.

13. Defendants, and Glenwood and Woodward, are "public entit[ies]" under the ADA and implementing regulations.

14. Defendants have failed and continue to fail to provide adequate medical, nursing, neurological, psychological, nutritional, habilitation, therapy, and psychiatric care services to Glenwood and Woodward residents, to ensure that these residents are free from undue and unreasonable restraint, and to otherwise protect Glenwood and Woodward residents from harm.

15. Defendants have failed and continue to fail to assess Glenwood and Woodward residents to ascertain whether residents of these facilities are receiving adequate treatment, supports, and services in the most integrated setting appropriate to their individual needs; that those individual residents whom professionals determine should be placed in community programs

are placed in such programs, when appropriate; and that the institution's residents are served in the most integrated setting appropriate to each resident's individual needs.

VIOLATIONS ALLEGED

16. The acts and omissions alleged in paragraphs 14 and 15 constitute a pattern or practice that violates Glenwood and Woodward residents' federal rights as protected by the Fourteenth Amendment to the Constitution of the United States and by other federal law.

17. The acts and omissions alleged in paragraph 15 violate the Americans with Disabilities Act and implementing regulations. 42 U.S.C. § 12101 et seq., 28 C.F.R. Part 35.

18. Unless restrained by this Court, Defendants will continue to engage in the acts and omissions set forth in paragraphs 14-15 that deprive Glenwood and Woodward residents 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 residents.

PRAYER FOR RELIEF

19. The Attorney General is authorized under 42 U.S.C. § 1997 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, and all those

acting in concert or participation with them from continuing the acts, omissions, and practices set forth in paragraphs 14-15 above, and that this Court require Defendants to take such actions as will ensure lawful conditions of institutionalization are afforded to residents of Glenwood and Woodward, including the provision of adequate treatment in the most integrated setting appropriate to their individual needs. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,

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Dated: 11-17, 2004.

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CERTIFICATE OF THE ATTORNEY GENERAL

I, JOHN ASHCROFT, Attorney General of the United States, certify that with regard to the foregoing Complaint, United States v. Iowa, I have complied with all subsections of 42 U.S.C. § 1997b(a)(1). I certify as well that I have complied with all subsections of 42 U.S.C. § 1997b(a)(2). I further certify, pursuant to 42 U.S.C. § 1997b(a)(3), my belief that this action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution and laws of the United States.

In addition, I certify that I have the "reasonable cause to believe," set forth in 42 U.S.C. § 1997a, to initiate this action. Finally, I certify that all prerequisites to the initiation of this suit under 42 U.S.C. § 1997 have been met.

Pursuant to 42 U.S.C. § 1997a(c), I have personally signed the foregoing Complaint. Pursuant to 42 U.S.C. § 1997b(b), I am personally signing this Certificate.

Signed this 28 day of October, 2004, at Washington, D.C.

John Ashcroft

JOHN ASHCROFT
Attorney General
of the United States