



NEW YORK CITY LAW DEPARTMENT  
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, Corporation Counsel

Press Release

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*For Immediate Release*

**NEW YORK CITY ANNOUNCES LAWSUIT AGAINST NEW YORK STATE  
ARISING OUT OF YEARS-LONG DELAYS  
IN PROVIDING CARE TO MENTALLY RETARDED  
AND DEVELOPMENTALLY DISABLED CHILDREN IN FOSTER CARE**

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New York, Jan. 29, 2004 – Corporation Counsel Michael A. Cardozo and Administration for Children's Services Commissioner William C. Bell announced today that the City has filed a lawsuit against the State in Manhattan Supreme Court seeking to improve the care provided to mentally retarded and developmentally disabled children in foster care. The lawsuit describes the plight of severely retarded children who have had to wait years for specialized care that only the State can provide. While they wait for this care, these children remain in foster care settings not designed to serve them or in City hospitals inappropriate for long stays.

The lawsuit seeks an order directing the State to provide care for these and similar youngsters in appropriate facilities. The lawsuit also asks the court to order the State to create future strategies and game plans for preventing lengthy delays in future placements.

Commissioner Bell noted, "Foster care is intended to provide short-term services for children. Mentally retarded and developmentally delayed children need specialized residential and treatment services, which the foster care system is not designed to provide. For too long, the State has failed to place these children in facilities that can provide those services."

Corporation Counsel Cardozo added, "New York City must continue to protect its most vulnerable residents. This lawsuit arises because State officials are not doing the planning and providing the care that the State Legislature requires of them. Regrettably, our very extensive efforts to make sure the law was followed without the need for court intervention – including months of meetings with State officials – left too many children behind. Therefore, we had no choice but to look to the courts to enforce the children's and the City's rights."

Among the examples cited in the complaint are children who have been injured as a result of the State's failure to provide appropriate services:

- S.V. is a 15-year-old girl who was born with a positive toxicology for cocaine and was abandoned at birth by her mother. S.V. was diagnosed with profound mental retardation and severe developmental delays. She has also been diagnosed with seizure disorder and scoliosis. She is legally blind and also deaf in one ear. S.V. is completely dependent on others to fulfill her most basic needs, including eating, bathing, and brushing her teeth. S.V. has been placed in a series of foster homes and other facilities. She was found eligible for the State's Office of Mental Retardation and Developmental Disabilities (OMRDD) residential care on Sept. 30, 1999. OMRDD has failed to place S.V., even though she has been waiting for an appropriate OMRDD

placement for more than four years.

- A.J., a 12-year-old boy, and his four siblings were removed from their birth parents due to parental neglect and abuse. A.J.'s birth mother was diagnosed with moderate mild retardation. Currently, A.J. and T.B., another sibling with special needs, remain in foster care. A.J. has been diagnosed with moderate mental retardation. A.J.'s verbal skills and ability to engage in adaptive daily living skills such as brushing his teeth and showering are limited. A.J. is also prone to tantrums. He requires 24-hour supervision to ensure his safety and maintain appropriate behavior. Although A.J. was found eligible for OMRDD services on Aug. 20, 1997, OMRDD has failed to place A.J., even though he has been waiting for an appropriate OMRDD placement for more than six years.
- T.V. is a 19-year-old girl who was voluntarily placed in foster care in 1987. T.V. has been diagnosed with severe/profound mental retardation, cerebral palsy, spastic diplegia, microcephaly, Angelman's Syndrome, developmental delays in speech and language, and seizure disorder. T.V. is not independent at any level of functioning and requires 24-hour supervision. T.V. uses a wheelchair. She is also not toilet trained. She needs assistance in all areas of daily living, including dressing, washing, eating and drinking. She is non-verbal, expressing her needs by gestures and communicating by making sounds. OMRDD found T.V. eligible for its services on Oct. 10, 1997. OMRDD has failed to place T.V., even though she has been waiting for an appropriate OMRDD placement for six years.

Senior Counsel Alan Kleinman of the Law Department's Affirmative Litigation Division is heading the City's legal team, with assistance from Affirmative Litigation Senior Counsel Joshua Rubin. Copies of the complaint can be requested from the Law Department's Media & Communications Office; please call or e-mail the Communications Director.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 90,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at [www.nyc.gov](http://www.nyc.gov) or via direct link at [www.nyc.gov/html/law/home.html](http://www.nyc.gov/html/law/home.html).

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