

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
THE STATE OF HAWAII; The	)	
Honorable Linda Lingle,	)	
Governor of the State of Hawaii,	)	CIVIL NO. _____
in her official capacity only;	)	
Clayton Frank, Director,	)	
Department of Public Safety, in	)	
his official capacity only; and	)	
Nolan Espinda, Warden, Oahu	)	
Community Correctional Center,	)	
in his official capacity only,	)	
	)	
Defendants.	)	
	)	

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**COMPLAINT**

PLAINTIFF, THE UNITED STATES OF AMERICA ("Plaintiff"), 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 of 1980, 42 U.S.C. § 1997, to enjoin the named Defendants from depriving persons incarcerated at the Oahu Community Correctional Center ("OCCC"), located in Hawaii, of rights, privileges, or immunities secured and protected by the Constitution 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 District of Hawaii is proper pursuant to 28 U.S.C. § 1391.

**DEFENDANTS**

6. Defendant State of Hawaii ("State") owns and operates OCCC, and as such has responsibility for the conditions of mental health services provided to detainees in custody there.

7. Defendant Linda Lingle is the Governor of the State of Hawaii, and, in that capacity, has responsibility for overseeing the operation of OCCC.

8. Defendant Frank Clayton is the Director of the Hawaii Department of Public Safety ("DPS"). DPS establishes the policies, procedures and practices for the operation of OCCC.

9. Defendant Nolan Espinda is the warden of OCCC and is responsible for the day-to-day operation of OCCC.

10. The individual Defendants named in paragraph 7 - 9 above are officers of the State of Hawaii and are sued in their official capacities only.

11. Defendants are legally responsible, in whole or in part, for the operation of OCCC and for the health and safety of the detainees in custody in OCCC.

**FACTUAL ALLEGATIONS**

12. OCCC is an institution within the meaning of 42 U.S.C. § 1997(1).

13. OCCC is a correctional facility operated by the State and DPS to house primarily pre-trial detainees, though some convicted inmates are also housed at OCCC.

14. Defendants have engaged in, and continue to engage in, a pattern or practice of failing to provide constitutionally adequate mental health care to detainees at OCCC.

15. The factual allegations set forth in Paragraph 14 have been obvious and known to Defendants for a substantial period of time; yet Defendants have failed to address adequately constitutionally deficient mental health care for detainees at OCCC.

**VIOLATIONS ALLEGED**

16. Through the act and omissions alleged in Paragraphs 14 and 15, Defendants have exhibited deliberate indifference to the mental health needs of OCCC detainees in violation of the rights, privileges or immunities of those detainees as secured or protected by the Constitution of the United States.

U.S. Const. Amend. VIII, XIV.

17. Unless restrained by the Court, Defendants will continue to engage in the acts and omissions set forth in Paragraphs 14 and 15 that deprive OCCC detainees of rights, privileges, or immunities secured or protected by the Constitution of the United States and will cause irreparable harm to these detainees.

**PRAYER FOR RELIEF**

18. The Attorney General is authorized under 42 U.S.C. § 1997 to seek equitable 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 and 15, and that this Court require Defendants to take such actions as will ensure that lawful conditions of mental health care are afforded to OCCC detainees. The United States further prays that the Court grant such other and further equitable relief as Court may deem just and proper.

Respectfully submitted,

*/s/ Michael B. Mukasey*

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Michael B. Mukasey  
Attorney General of the United States

*/s/ Edward H. Kubo, Jr.*

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EDWARD H. KUBO, JR.  
United States Attorney  
for the District of Hawaii

*/s/ Grace Chung Becker*

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GRACE CHUNG BECKER  
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*/s/ Larry Tong*

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