



JI-PR-004-003

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

THE UNITED STATES OF AMERICA,  
Plaintiff

v.

THE COMMONWEALTH OF PUERTO RICO;

The Honorable PEDRO J. ROSSELLO,  
Governor of the Commonwealth of  
Puerto Rico, in his official capacity;

THE JUVENILE INSTITUTIONS ADMINISTRATIONS

ZORAIDA BUXO, Secretary of the Department  
of Corrections and Rehabilitation, in  
her official capacity;

MIGUEL RIVERA, Director, Juvenile  
Institutions Administration, in his  
official capacity;

DR. CARMEN FELICIANO VDA. DE MELECIO  
Secretary of Health, Department of Health  
in her official capacity;

ASTRID OYOLA DE BENITEZ, Director Anti-  
Addiction Services Department, in her  
official capacity;

VICTOR FAJARDO, Secretary, Department  
of Education, in his official capacity;

PEDRO PIERLUISI, Secretary, Justice  
Department of the Commonwealth of  
Puerto Rico, in his official capacity

CARMEN RODRIGUEZ, Secretary, Department  
of Social Services, in her official  
capacity;

DANIEL VAZQUEZ TORRES, Director,  
Humacao Detention Center, in his  
official capacity;

EDGARD ORTIZ ALBINO, Director, Mayaguez  
Industrial School, in his official  
capacity;

Civil No. 94-2080 (CCC)

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U.S. DISTRICT COURT  
SAN JUAN, P.R.

NORMA CRUZ, Director, Ponce Central Training School, in her official capacity; )  
 )  
 FRANCISCA APONTE, Director, Ponce Victoria Street Training Center, in her official capacity; )  
 )  
 FRANCISCO RIVERA MAYOR, Director, Ponce Detention Center for Girls and Ponce Industrial School for Girls and Boys, in her official capacity; )  
 )  
 JULIO CUALIO BONET, Director, Guaynabo Training School, in his official capacity; and )  
 )  
 LYDIA LASALLE, Acting Director, Central Metropolitan Training School of Bayamon in her official capacity; )  
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 Defendants. )  
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AMENDED COMPLAINT<sup>1</sup>

1. This civil rights action is brought by the Attorney General on behalf of the United States, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §1997 et seq., to enjoin the Commonwealth of Puerto Rico from depriving juveniles confined in its residential detention and training facilities of rights, privileges or immunities secured or protected by the Constitution of the United States.

JURISDICTION, STANDING AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345.

3. The United States has standing to maintain this action pursuant to 42 U.S.C. §1997a.

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<sup>1</sup> On August 10, 1994, plaintiff filed the instant complaint and a partial consent decree. Upon filing the complaint, plaintiff learned that two of the defendants sued in their official capacities had been incorrectly named. This amended complaint corrects these two names.

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 United States District Court for the Commonwealth of Puerto Rico is proper pursuant to 28 U.S.C. §1391. All claims set forth in the Complaint arose in this District.

#### DEFENDANTS

6. Defendant COMMONWEALTH OF PUERTO RICO ("Commonwealth") owns and operates the juvenile detention and training facilities that are at issue in this action. The detention facilities house two classes of juveniles. About half of the juveniles in the detention centers have been ordered detained by the Commonwealth's juvenile court pending disposition of their cases ("pre-trial detainees"). The other half of the juveniles in detention facilities have had their cases heard by the juvenile court and have been ordered into the Commonwealth's custody. These juveniles are awaiting -- sometimes for many months -- placement at one of the Commonwealth's training facilities. The training facilities house juveniles in the Commonwealth's custody who have been transferred from a detention center and who are confined in the training facilities for periods of time established by the juvenile courts.

7. Defendant PEDRO J. ROSSELLO is the Governor of Puerto Rico, and in this capacity heads the executive branch of the

Commonwealth's government. The Governor of Puerto Rico, as chief of the executive branch, has the duty to ensure that the departments that compose the Executive Branch of the Commonwealth of Puerto Rico guarantee the constitutional and statutory rights of all of the citizens of Puerto Rico, including the juveniles confined in Commonwealth correctional facilities.

8. Defendant JUVENILE INSTITUTIONS ADMINISTRATION was created by Law 154, dated August 5, 1988 ("Juvenile Institutions Administration Law"), to guarantee, among other things, the administration of juvenile facilities to rehabilitate and resocialize the juveniles confined in them.

9. Defendant ZORAIDA BUXO, Secretary of the Department of Corrections and Rehabilitation, was appointed by the Governor to supervise, among other things, the operations of Defendant JUVENILE INSTITUTIONS ADMINISTRATION.

10. Pursuant to the Juvenile Institutions Administration Law, co-defendants, MIGUEL RIVERA, Director of the Juvenile Institutions Administration; ASTRID OYOLA DE BENITEZ, Director of the Anti-Addiction Services Department; VICTOR FAJARDO, Secretary of the Department of Education; CARMEN RODRIGUEZ, Secretary of the Department of Social Services; DR. CARMEN FELICIANO VDA. DE MELECIO, Secretary of the Department of Health; and PEDRO PIERLUISI, Secretary of the Department of Justice for the Commonwealth of Puerto Rico, form the Advisory Board to the Juvenile Institutions Administration and are charged with ensuring that Defendant JUVENILE INSTITUTIONS ADMINISTRATION

complies with the objectives of the Juvenile Institutions Administration Act to coordinate the efforts of these agencies to rehabilitate and resocialize the juveniles confined in Commonwealth juvenile correctional facilities.

11. Defendant DANIEL VAZQUEZ TORRES is the Director of the Humacao Detention Center ("Humacao") and is responsible for the day-to-day operation of this facility.

12. Defendant EDGARD ORTIZ ALBINO is the Director of the Mayaguez Industrial School ("Mayaguez"), and is responsible for the day-to-day operation of this facility.

13. Defendant NORMA CRUZ is the Director of the Ponce Central Training School ("Ponce CTS"), and is responsible for the day-to-day operation of this facility.

14. Defendant FRANCISCA APONTE is the Director of the Ponce Victoria Street Training Center ("Victoria"), and is responsible for the day-to-day operation of this facility.

15. Defendant FRANCISCO RIVERA MAYOR is the Director of the Ponce Detention Center for Girls ("Ponce Detention") and the Ponce Industrial School for Girls and Boys ("Ponce Industrial"), and is responsible for the day-to-day operation of these two facilities.

16. Defendant JULIO CUALIO BONET is the Director of the Guaynabo Training School ("Guaynabo"), and is responsible for the day-to-day operation of this facility.

17. Defendant LYDIA LASALLE is the Acting Director of the Central Metropolitan Training School at Bayamon ("Bayamon"), and is responsible for the day-to-day operation of this facility.

18. The individual Defendants named in ¶¶ 7 and 9-17 above are officers of the Executive Branch of the Commonwealth of Puerto Rico and are sued in their official capacities.

19. The detention and training facilities that are at issue in this case are institutions as that term is defined in 42 U.S.C. §1997(1)(A), (1)(B)(i) and (1)(B)(v).

20. Defendants are legally responsible, in whole or in part, for the operation of and conditions at the Commonwealth juvenile correctional facilities, as well as for the care and treatment of the juveniles residing at those institutions.

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

22. Juveniles residing at the Commonwealth juvenile correctional facilities include youths with special needs including those with mental illness, mental retardation, and other learning disabilities.

#### FACTUAL ALLEGATIONS

23. Defendants have failed and are continuing to fail to protect juveniles confined in Commonwealth detention and training facilities from harm.

24. Defendants have failed and are continuing to fail to provide juveniles confined in Commonwealth detention and training facilities with adequate mental health care by failing to

provide, among other things: a) continuous psychiatric and/or psychological care; b) any in-patient care and adequate out-patient psychiatric care; c) juveniles with known suicidal and self-mutilating behaviors with adequate treatment; d) supervision sufficient to prevent juveniles with known suicidal and self-mutilating behaviors from inflicting harm upon themselves, including allowing youths to repeatedly lacerate their bodies, attempt suicide by hanging, and ingest broken shards of glass or toxic chemicals; e) adequate suicide resistant cells with adequate suicide watches for youths known to be suicidal; f) adequate screening of juveniles for psychiatric and psychological problems; and g) administration of psychotropic drugs at Commonwealth juvenile facilities in conformance with generally accepted medical standards.

25. Defendants have failed and are continuing to fail to provide juveniles confined in Commonwealth detention and training facilities with adequate medical care by failing to provide, among other things: a) adequate screening procedures for contagious disease, alcohol or drug abuse, and other serious medical conditions, including mental illness; b) sufficient medical staff at most facilities; c) adequate gynecological and obstetrical care for the girls confined in Commonwealth juvenile correctional facilities, where girls endure yeast infections for weeks, breast lesions go untreated, pregnancy is sometimes not

detected, and virtually no prenatal care is provided for those girls who are identified as pregnant; d) adequate dental care; e) adequate access to medical care; and f) adequate precautions to ensure that a juvenile actually ingests prescribed medications.

26. Defendants have failed and are continuing to fail to provide treatment and rehabilitation for alcohol and drug abuse to the juveniles confined in Commonwealth juvenile correctional facilities.

27. Defendants have failed and are continuing to fail to meet the juveniles' basic care needs by, among other things: a) subjecting the juveniles to unsanitary, unsafe, and vermin infested physical conditions that pose serious health and safety risks; b) subjecting the juveniles to dangerously overcrowded facilities; c) forcing some juveniles to sleep on bare mattresses on the floor, some on the bare cement floor, and some on shared mattresses; d) failing to exterminate insects and vermin that crawl on the youths in the night; e) failing to provide a sufficient number of staff to meet the demands posed by the severe overcrowding; f) in Mayaguez, Ponce Detention Center and Ponce Industrial, failing to provide water for significant portions of each day, forcing juveniles to live in hot, unventilated cells where excrement builds up in communal toilets that cannot be flushed and where the juveniles cannot even wash their hands before eating; and g) failing to provide



adequate plumbing, forcing some juveniles to drink from the toilets in their cells because the water fountains in their cells are broken.

28. Defendants have failed and are continuing to fail to protect juveniles confined in Commonwealth detention and training facilities from fire safety hazards by, among other things: a) utilizing antiquated unsafe structures; and b) failing to develop or implement proper evacuation procedures or to be otherwise prepared to address emergencies.

29. Defendants have failed and are continuing to fail to provide juveniles confined in Commonwealth juvenile correctional facilities with adequate access to outdoor exercise.

30. Defendants have failed and are continuing to fail to protect the juveniles confined in Commonwealth juvenile correctional facilities against incidents of staff abuse by failing, among other things: a) to provide proper mechanisms and procedures to identify possible abuse of juveniles; b) to fully investigate allegations of staff abuse; c) to make proper findings regarding allegations of staff abuse; and d) to take appropriate action when abuse is substantiated.

31. Defendants have failed and are continuing to fail to adequately classify juveniles confined in Commonwealth juvenile correctional facilities by, among other things: a) in detention facilities, housing juveniles accused of committing serious

criminal violations such as murder or rape with juveniles who have been accused of acts that are not criminal, such as truancy from school or incorrigibility; b) in detention facilities, housing young juveniles, some as young as 10, with much older juveniles; c) in detention facilities, housing pre-trial detainees with juveniles committed to the Commonwealth's custody; and d) in training facilities, except for the juveniles at Bayamon, failing to house juveniles by any classification method.

32. Defendants have failed and are continuing to fail to provide juveniles confined in Commonwealth juvenile correctional facilities with adequate access to telephone calls and mail.

33. Defendants have failed and are continuing to fail to provide adequate institutional safeguards for the use of isolation by, among other things: a) placing juveniles in isolation without a hearing; b) failing to apprise juveniles in isolation concerning the length of time the juveniles will remain in isolation; and c) confining juveniles in isolation for days or even weeks after the juvenile is no longer a threat to himself or herself or others.

34. Defendants have failed and are continuing to fail to provide a sufficient number of adequately trained staff to render essential care and treatment in the areas outlined above in ¶¶ 23 - 33 as required by the Constitution of the United States.

#### VIOLATIONS ALLEGED

35. The acts and omissions alleged in ¶¶ 23 - 34 infringe upon the legal rights and substantive liberty interests of the juveniles confined in Commonwealth juvenile correctional facilities and deprive these juveniles of rights, privileges or immunities secured or protected by the Fourteenth Amendment to the Constitution of the United States.

36. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in ¶¶ 23 - 34 that deprive juveniles confined in Commonwealth juvenile correctional facilities of their legal rights and the rights, privileges, or immunities secured or protected by the Constitution of the United States, and cause irreparable harm to these juveniles.

#### PRAYER FOR RELIEF

37. The Attorney General is authorized under 42 U.S.C. §1997a to seek only equitable relief.

WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their agents, employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the acts, practices and omissions set forth in ¶¶ 23 - 34 above, and to require Defendants to take such action as will provide legal and constitutional conditions of care to juveniles confined in

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Commonwealth juvenile correctional facilities. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

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Respectfully submitted,

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