

2020 WL 6948174

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United States District Court, D. Puerto Rico.

UNITED STATES of America, Plaintiff,  
v.  
Commonwealth of PUERTO RICO, et al.,  
Defendants.

CIVIL NO. 94-2080 (GAG)

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Signed 11/11/2020

#### Attorneys and Law Firms

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#### **ORDER CONVENING THREE-JUDGE COURT PURSUANT TO 18 U.S.C. SECTION 3626(3)**

GUSTAVO A. GELPI, United States District Judge

\*1 The two existing juvenile facilities in the Commonwealth subject to this consent decree have recently experienced a most appalling and disturbing predicament which jeopardizes the mental and physical well-being of their population. As the Federal Court Monitor recently informed, from July 1 to September 30, 2020 twenty three (23) juveniles ended up hospitalized, following suicide or mutilation attempts. This figure constitutes approximately one fourth (1/4) of the entire juvenile population. Moreover, during this same period overall, there were a total of thirty two (32) incidents of suicidal ideation, gestures of intent, and/or self-mutilation occurring, including thirteen (13) serious attempts by hanging. This figure constitutes approximately one third (1/3) of the entire juvenile population. See Informative Motion by Monitor Regarding Compliance Matters (Docket No. 1540 at 2).

The above summarized situation is constitutionally unacceptable, to say the least. There is no end in immediate sight unless this United States District Court immediately steps in to provide an adequate remedy.

The Court throughout the history of this consent decree proceedings has previously entered orders mandating less intrusive relief insofar as safety and health issues are concerned. The Commonwealth, in turn, has failed to remedy the juveniles' inexcusable deprivation of constitutional rights within a reasonable time. Today, November 11, 2020, the Commonwealth still is involved in a prolonged contractual dispute with the health provider who offers services to its juvenile facilities.

While said litigation continues to navigate across the local court system, the juveniles are left helpless without the very much needed mental health care and corresponding security to their lives. The Court cannot sit idly awaiting for any single one of them to successfully end his life.

Overcrowding in juvenile detention seriously jeopardizes the effective operation and safety of any given facility. There are two types of overcrowding: facility design and program capacity. Here in Puerto Rico, the overcrowding is of the second type. Presently, the juveniles housed in the Commonwealth's two remaining institutions are being deprived of the constitutionally-required mental health and safety components to their confinement.

Accordingly, pursuant to 28 U.S.C. sec. 3626(3)(D), the undersigned United States District Judge *sua sponte* convenes a three-judge court to determine whether a

prisoner release order should be entered as to one or more of the juveniles under Commonwealth custody.

Copy of this order shall be immediately sent to the Chief Judge of the United States Court of Appeals for the First Circuit, pursuant to 28 U.S.C. sec. 2284(b)(1), for designation of the other two judges who shall compose the three-judge panel.

**SO ORDERED.**

**All Citations**

--- F.Supp.3d ----, 2020 WL 6948174 (Mem)

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