

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

WEXLER, J.

UNITED STATES OF AMERICA,

Plaintiff,

-against-

NASSAU COUNTY, NASSAU COUNTY EXECUTIVE,
NASSAU COUNTY SHERIFF'S DEPARTMENT,
and EDWARD REILLY, Sheriff of
Nassau County,

Defendants.

-----X

THE UNITED STATES OF AMERICA alleges:

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 in the Nassau County Correctional Center, located in East Meadow, New York, of rights, privileges, or immunities secured and protected by the Constitution of the United States. The United States also brings this action under 42 U.S.C. § 14141 to remedy a pattern or practice of conduct by law enforcement officers of the Nassau County Sheriff's Department that deprives persons incarcerated in the Nassau County Correctional Center of rights, privileges, and immunities secured and protected by the Constitution or laws of the United States. Defendants have engaged in a pattern or practice of subjecting individuals to excessive force and have tolerated this conduct by failing to

2318m
FILED COMPLAINT
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y. Docket No.

★ APR 22 2002 ★
BROOKLYN OFFICE

L.
LINDSAY, M.J.

CV 02 2382

supervise and train correctional staff adequately, by failing to maintain and enforce adequate use of force policies, and by failing to investigate alleged misconduct and discipline officers who have engaged in misconduct.

Defendants are deliberately indifferent to inmates' serious medical needs. Defendants provide medical care by unlicensed and untrained staff; fail to provide routine and acute medical care in a timely manner; and fail to manage adequately medication and medical records.

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 and 14141.

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 Eastern District of New York is proper pursuant to 28 U.S.C. § 1391, as Defendants reside in and the claim arose in the Eastern District of New York.

DEFENDANTS

6. Defendant NASSAU COUNTY is a municipality created under the laws of the State of New York. It owns and operates

the Nassau County Correctional Center ("NCCC" or "Jail"), located in East Meadow, New York, which is the primary detention facility for Nassau County, New York. Defendant NASSAU COUNTY is the entity charged by the laws of the State of New York with authority to maintain the NCCC and is responsible for the conditions of confinement and treatment of persons incarcerated at NCCC.

7. Defendant NASSAU COUNTY EXECUTIVE is the Chief Executive of Nassau County and oversees all of Nassau County's governmental operations, including the operation of the NCCC. He is sued in his official capacity.

8. Defendant EDWARD REILLY is sued in his official capacity as the Sheriff of Nassau County. As head of defendant NASSAU COUNTY SHERIFF'S DEPARTMENT, Sheriff Reilly is responsible for the day-to-day operations of the Jail. In his official capacity as Sheriff, he has the custody, control and charge of the NCCC and its inmates.

9. Defendants are legally responsible, in whole or in part, for the operation of the NCCC, for the conditions there and the health and safety of persons confined or incarcerated there.

10. At all relevant times, Defendants or their predecessors in office have acted or failed to act, as alleged herein, under color of state law.

FACTUAL ALLEGATIONS

11. The NCCC is an institution within the meaning of 42 U.S.C. § 1997(1).

12. Persons confined to the NCCC include pre- and post-trial juveniles, pre-trial detainees and post-conviction inmates.

13. Correctional officers assigned to NCCC are law enforcement officers within the meaning of 42 U.S.C. § 14141.

14. Defendants have engaged in and continue to engage in a pattern or practice of using excessive force against inmates and of failing to protect inmates in the NCCC from undue risk of harm by failing to provide adequate medical care.

15. Defendants have engaged and continue to engage in a pattern or practice of using excessive force against inmates in the NCCC. The use of excessive force includes, but is not limited to:

- a. use of force without justification;
- b. use of more force than necessary when the administration of force is justified;
- c. use of force to punish or retaliate against inmates; and
- d. use of force against certain categories of inmates solely to cause them harm.

16. Defendants, through their acts or omissions, have tolerated and condoned and continue to tolerate and condone the use of excessive force against inmates at NCCC described in paragraph 15, above. These acts or omissions include, but are not limited to:

a. the failure to train and supervise correctional staff adequately to prevent the use of excessive force;

b. the failure to maintain and enforce adequate policies pertaining to the use of force;

c. the failure adequately to investigate complaints alleging correctional staffs' use of excessive force against inmates; and

d. the failure adequately to discipline officers who have engaged in the use of excessive force.

17. Defendants have been aware of the unlawful conditions alleged in paragraphs 14-16 for a substantial period of time and have failed adequately to address the conditions described in paragraphs 14-16, despite their knowledge of them.

18. NCCC is deliberately indifferent to inmates' serious medical needs in violation of the Eighth Amendment to the United States Constitution. Defendants, for example:

a. provide medical care by unlicensed and untrained staff;

b. fail to ensure that inmates in need of routine or acute medical care are seen by medical staff in a timely manner;

c. fail to ensure that inmates with chronic diseases receive timely and appropriate follow-up treatment or medication;

d. fail to identify, monitor or treat communicable diseases; and

e. fail to adequately manage medication and medical records.

VIOLATIONS ALLEGED

19. The acts and omissions alleged in paragraphs 14 through 18 violate the rights, privileges and immunities of persons confined in the NCCC secured or protected by the Eighth and Fourteenth Amendments to the Constitution of the United States.

20. The acts and omissions alleged in paragraphs 14 through 17 constitute a pattern and practice of conduct by Defendants that deprives persons confined in the NCCC of rights, privileges, or immunities secured or protected by the Eighth and Fourteenth Amendments to the Constitution and laws of the United States.

21. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 14 through 18 that deprive persons confined in the

NCCC of their rights, privileges, or immunities secured or protected by the Eighth and Fourteenth Amendments to the Constitution of the United States and cause them irreparable harm.

PRAYER FOR RELIEF

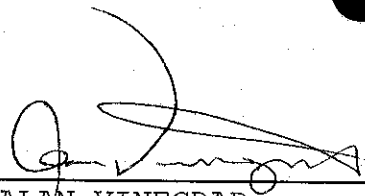
22. The Attorney General is authorized under 42 U.S.C. § 1997 et seq. and 42 U.S.C. § 14141 to seek equitable and declaratory relief.

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 through 20 above, and that this Court require Defendants to take such actions as will ensure lawful conditions of confinement are afforded to inmates at the Nassau County Correctional Center. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John Ashcroft", is written over a horizontal line.

JOHN ASHCROFT
Attorney General of the
United States



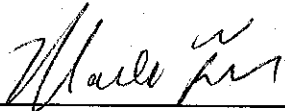
ALAN VINEGRAD
United States Attorney
Eastern District of New York



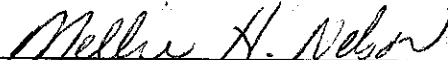
RALPH F. BOYD, JR.
Assistant Attorney General
Civil Rights Division

SANFORD M. COHEN
Chief, Civil Rights
Litigation

STEVEN H. ROSENBAUM
Chief
Special Litigation Section



MARLA TEPPER
PAMELA CHEN
Assistant U.S. Attorneys
U.S. Attorney's Office
Eastern District of
New York
147 Pierrepont Plaza
Brooklyn, New York 11201



MELLIE H. NELSON
Deputy Chief
DANA SHOENBERG
Trial Attorney
U.S. Department of Justice
Civil Rights Division
Special Litigation Section
P.O. Box 66400
Washington, D.C. 20035-6400

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. Nassau County, et al., 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 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, et seq., 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 1 day of January, 2002, at
Washington, D.C.


JOHN ASHCROFT
Attorney General of the
United States