

**CENTER FOR SOCIOMEDICAL
RESEARCH AND EVALUATION**

Graduate School of Public Health
University of Puerto Rico

**Vulnerability in Persons with Addiction
Disorders in Puerto Rico and its
Relationship with Human Trafficking**

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Vulnerability in Persons with Addiction Disorders in Puerto Rico and its Relationship with Human Trafficking

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GLOSSARY

ASSMCA	Administration of Mental Health Services and Against Addiction of Puerto Rico
AATOD	American Association for the Treatment of Opioid Dependence
CDC PR	Civil Rights Commission of Puerto Rico
CIES	Center for Sociomedical Research and Evaluation
DEA	Drug Enforcement Agency
DVAV	De Vuelta a la Vida
USA	United States of North America
NY	New York
NYC	New York City
OSF	Open Society Foundations
PR	Puerto Rico
MSC	Medical Sciences Campus
ITAM	Integrated Treatment Assisted by Medications
ODD	Opioid use disorder
UPR	University of Puerto Rico
DUD	Drug use disorder

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Introduction

In April 2015 the Civil Rights Commission (CDC) of Puerto Rico, in response to a petition presented by Sra. Gloria Ruiz Pastush, a person with broad experience in the provision of services to homeless persons through non-governmental organizations, convened a meeting to discuss the occurrence of the phenomenon of transportation and the need to document the nature and the effects of these operations. Among the attendants was one of the authors of this report, Dra. Carmen E. Albizu-García, professor and researcher at the Graduate School of Public Health, Medical Sciences Campus (MCS) of the University of Puerto Rico (UPR). It identified the desirability of obtaining testimony from persons who may have experienced relocation to the US in search of treatment services for their drug use disorder (DUD) and who may have ended up in conditions of greater vulnerability. It aimed to identify how these practices operate, what motivates them, who organized the transportation, who received it, what participants found once they were relocated, their experiences and outcomes of services provided. Importance was given to identifying allegations from participants in these transportations that constituted violations of their rights, including deceit and coercion and that would result in intensifying their conditions of great precariousness, along with risks to their health and security. It also aimed to explore whether these cases of transportation involved human trafficking.



In order to reach these goals, it was determined that it was essential to interview people who had participated in these transportations and also key respondents from the community with experience providing services to homeless people with DUD, given that this information is taken as anecdotal, that this subpopulation appeared to be the most susceptible to being transported. We proceeded to frame a proposal from the MCS to the Open Society Foundations to carry out an exploratory study of the processes of recruitment, organizers of transportation, reception and experiences in the organization that received them and what the outcomes were. Dr. Oscar Miranda-Miller, professor of Criminal Law at University of Puerto Rico Law School joined the working group, to determine if, given the nature of the findings, certain crimes or violations of the transported participants' rights could be identified that that could lead to legal actions.

(cont.)

The study was carried out in PR and in the city of New York (NYC). We relied on recent journalistic documentation to provide information about people who were transported to Chicago and to Philadelphia and ended up subject to conditions of extreme vulnerability. Having knowledge of the literature that describes the “air bridge” between PR and NY to seek treatment (Lambert, 1990) and that the phenomenon was documented in NYC (Torruella RA, 2012), we opted for locating people that had been transported and remained in that city to explore their experiences in the present. We trust that the study will generate answers that will address the enormous gap that still exists in PR for evidence of the effectiveness of sustained interventions.



These are necessary to appropriately address those people who suffer from a DUD who wish to normalize their lives and who are exposed to the lack of effective services on the Island and to efforts to remove them with promises of finding treatment outside of PR under misleading schemes.

In addition to being presented to the CDC, this report will be presented to 1) the Permanent Commissions of the Senate of PR concerned with aspects of the phenomenon of relocation (Social Welfare and Family, Health, Ethics and Public Safety Affairs), 2) Department of Health and Administration of Mental Health Services and Against Addiction, 3) PR Police, 4) Federation and Association of Mayors and 5) to the Office of the Patients' Advocate. It is hoped that the information provided will serve to ensure that government organs will address in an accountable manner the need for social and health services for this traditionally discriminated population, who face a vast gap in effective services in PR. We will also remit this report to organizations with an interest in the protection of citizens' rights: the American Civil Liberties Union (ACLU) in PR and Amnesty International. The report will be presented before professional organizations providing services for people suffering from this condition and to the general public through various mass media channels.

Methodology

The study made use of reviewing reports, scientific publications, media, reports from government organs, and information about receiving programs available online in order to contextualize the phenomenon and its history. In-depth individual interviews were carried out in the city of New York and in several municipalities in Puerto Rico with people who participated in the relocation. Key informants were also interviewed in NYC and PR who could identify the conditions that led to the practice of transportation of homeless persons with DUD and the conditions faced once transported. Having analyzed the data from these various sources, the legal framework of PR was applied to evaluate the degree to which human trafficking and violations of the human rights of participants may have occurred. We relied on the collaboration of Mr. Alfred Lubrano, reporter of the *Philadelphia Inquirer* who, in addition to facilitating information from his research in Chicago, Philadelphia and Puerto Rico, provided us with the transcripts of three interviews (having previously removed any personal identifying information) with people relocated to Philadelphia that we have included in our analysis.

All our interviews were conducted by interviewers experienced in studies with vulnerable populations and those of key informants were carried out by the principal researchers. The recruitment process of transported persons was carried out in two

stages: first, a communication was sent to several organizations in PR and NYC that provide treatment or harm reduction services soliciting their collaboration to forward information about the study to persons linked to their organization or in the community known to their community outreach personnel and who had been transported for treatment to the US. Those interested in participating could communicate directly with the interviewers via the telephone number provided. Once the interview was arranged, the interviewers informed participants and obtained informed consent. Compensation for transportation expenses to the interview site was offered. Key informants from the services sector were invited to interviews at a location of their convenience. Informed consent was obtained before beginning the interview, at which point it was reiterated that they could refuse to have their identity revealed in the report.



(cont.)

All participant and key informant interviews were recorded and transcribed without identifying information and were checked with the recording for accuracy. An independent deductive analysis was carried out by two analysts for the purpose of identifying segments that reflected violations of law or rights utilizing codes elaborated and agreed upon by the team. The study received the approval of the Institutional Committee for Studies with Human Subjects of the Medical Sciences Campus of the University of Puerto Rico.

We reported descriptive data of relocated participants and the thematic analysis of their testimonies, along with the findings from the other sources consulted. Professor Miranda Miller carried out the analysis of the testimonies to identify possible violations of rights, criminal acts and illegal conducts under the laws of PR. Finally, we presented our conclusions and recommendations to end the practices resulting in the victimization of affected people and to address the treatment needs of this vulnerable population through interventions supported by scientific evidence and guaranteeing respect for the rights of the patient.



Background: “Cleaning Up the Public Square”: The transportation phenomenon is highlighted in the media in Philadelphia and Chicago.

Philadelphia

In their participation in the November, 2013 annual conference of the American Association for the Treatment of Opioid Dependence (AATOD) in Philadelphia, Dr. Salvador Santiago Negrón, then administrator of the Administration of Mental Health Services and Against Addiction (ASSMCA) of Puerto Rico (PR) and Dr. Ángel González Carrasquillo, consulting with said agency on treatment of drug use disorders, acquired knowledge about the situation of homeless persons of Puerto Rican origin with DUD who were transported from PR to that city for “treatment” and who were living under a railroad bridge in an area of Philadelphia, Pennsylvania under conditions of extreme vulnerability. They obtained a copy of the front-page article of “Al Día News” of November 13, 2013, a segment of which is pre-

sented here. They met with reporter Emma Restrepo who was able to elaborate on the phenomenon occurring in that community. They took advantage of the participation in that conference of the administrator of the Office of Mental Health and Substance Abuse Services (OMHSAS) of the state of Pennsylvania to explore his understanding of this phenomenon. Having confirmed that these events were in fact occurring, both made a commitment to inform the community in Puerto Rico about the risks of making referrals for treatment of problematic drug use to localities in the USA without previously coordinating with the regulatory agencies about the services being offered and whether the organization in question is duly licensed by the state to provide them. To that effect, a media statement was issued on

“In this area spanning eight blocks intersected by Conrail’s bridges, there live about 200 people, most of them Puerto Rican Latinos...

...they call it “zombie street” because, day and night, walking around aimlessly are people who need help because, as the National Institute on Drug Abuse defines it, “even though consumption is initially voluntary, it is a chronic disease of the brain”.

The testimonies of many of those who live in and visit the area speak of loss and abuse... Mario came from the island to enter a rehabilitation center and he escaped because there was overcrowding and mistreatment.

– Emma Restrepo
Al Día News

(cont.)
*Background: “Cleaning
Up the Public Square”...*

January 14, 2014 (see Appendix A) which included instructions on how to obtain reliable information from PR about the “treatment” facility under consideration. This communication recognizes the vast gap in effective treatment that exists in Puerto Rico for this health condition and the reasons that may lead a person to seek opportunities for treatment off the Island. Despite the fact that efforts were being made to expand medication-assisted treatment for people with a opioids use disorder, it provides several resources for exploring services outside the country, including a local call to ASSMCA’s PAS line.

On November 13, 2016, Alfred Lubrano, investigative reporter for the Philadelphia Inquirer, published the article “How Puerto Rico uses a network called Air Bridge to export its addicts to Philly,” based on 120 interviews carried out in Puerto Rico, Chicago and Philadelphia, from which we highlight the following.

The report begins with the interview of a mother in Puerto Rico whose son was relocated to Philadelphia. She recounts:

“The police officer who visited her house last winter offered hope in the form of a single word: *Philadelphia*

He told her that her son, once there, would live in a facility run by ministers, similar to a resort with diverse sports installations so that “the heroin demons are chased away from their brains.””

She sent her son to Philadelphia the following 4th of February and he was received by pastor Teo Claudio, who escorted him to a dilapidated facility in a neighborhood known by the Drug Enforcement Agency (DEA) as a place with easy access to high-purity heroin. The facility had 20 people installed in 4 rooms. Right away, her son called to ask her to get him out of there. He left the program, but at the time of the interview he had not yet been able to return to Puerto Rico. **“Everyone lied’, Ramos said, crying, as she spoke through a translator. ‘The police, the pastor. I understand now it’s all a sham — a way to get drug addicts out of Puerto Rico.’”**

The report continues with a section entitled “Cleaning Up the Public Square”. Based on interviews, the reporter concludes that there is a pattern of exploitation through the use of the air bridge. Police officers and mayors in Puerto Rico and religious ministers in the U.S. are implicated, some of them traveling to the Island to recruit participants. He identifies 23 municipalities from which people are sent to Philadelphia and other U.S. cities. He points out that these transportations respond to a “need to clean up the Public Squares of junkies”, given the dearth of treatment facilities on the Island.

Members of the Chicago police showed him documents revealing the transportation to Philadelphia between 2005 and 2014, by the Vuelta a la Vida (Back to Life) program of the PR State Police, of 127 people with DUD originating from six municipalities, including Bayamón, Fajardo and Carolina. Interviewed officials expressed concern that federal funding for providing housing for homeless persons may have been assigned to these facilities that some have called “predatory homes”, because “the primary goal is not the recovery of the person, because the operators see dollar signs”.

Once in Philadelphia **residents in these private homes may have to pay up to \$150.00 in monthly rent and, in addition, turn over any funds they receive from disability benefits.** It includes information provided by the director of a needle exchange program indicating that many of these homes have agreements with service providers offering them kickbacks for sending them patients.

Among the public officials from PR linked with this practice, Lubrano interviews Gladys Cintrón and Orlando Santiago of the program Nuevo Amanecer of the municipality of Bayamón and the mayor of Fajardo, Aníbal Meléndez Rivera. According to the report, Mrs. Cintrón shares that they have been rescuing people from the street and sending them to good programs in Philadelphia and that all the people sent were doing well. The mayor of Fajardo states that he has been sending addicts for treatment in Philadelphia for years; 30 people in the past 10 years, that they use the police to transport them to the airport and have helped to pay for airfare with municipal funds.

Contrary to the testimony given by municipal officials in PR cited in Mr. Lubrano's article, the participant in this study identified with code MAM47 (a 47-year-old man), describes the state of the neighborhood of the home in Philadelphia to which he was transported: *"It had lots of abandoned buildings all around, it was like, like a place that they had acquired, but, it was a place where the environment you saw you could tell it was an environment of, of drugs, of prostitution..., the activity that you saw was not good"*.

“It had lots of abandoned buildings all around, it was like, like a place that they had acquired, but, it was a place where the environment you saw you could tell it was an environment of drugs, of prostitution..., the activity that you saw was not good.”

– MAM47

The author reports on conditions in two of these homes in Philadelphia to which he had access: Still Saving Lives, run by a Baptist minister named Willis Osorio who had traveled to PR to recruit addicts for 17 years; and Soldiers of the House, run by pastor Teo Claudio. The facilities were not in compliance with security and safety codes and that of pastor Claudio was dilapidated. The facilities were not in compliance with safety codes y the one run by pastor Claudio was dilapidated. An employee in a risk reduction program in the city pointed out that Osorio's home received the highest number of complaints coming from persons with addiction disorders. Notable in Claudio's case, there was evidence obtained from the county's office of public assistance that showed that the home continued to receive the assistance benefits of a participant who left the program alleging abuse.





Legislative action in Pennsylvania

With the public attention garnered by this situation, Assembly member Ángel Ortiz introduced the bill HB119 to the House of Representatives of the State of Pennsylvania, which establishes a certification process for homes in order to receive public funding and provide services to people with alcohol and drug disorders. This program would be administered by the Department of Drugs and Alcohol. These recovery homes or “sober houses” will have to be certified if they wish to continue to receive support from funders and before they are able to receive referrals for housing from health service providers. This bill was approved as Law 446 on December 19, 2017. Representative Cruz included language that prohibits owners, administrators and employees of these homes from requiring residents to turn over their public assistance benefits. This Law establishes that facilities out of compliance with federal, state or local laws will be referred to the corresponding agency for investigation.

In its web portal, the Department of Drugs and Alcohol of the State of Pennsylvania indicates that it expects to have this licensing program in place and functioning by December 2019. All facilities wishing to receive referrals from public agencies or from facilities receiving state funding, or those wanting to receive state funding for the delivery of services provided by the recovery home, will have to register. Notwithstanding this information, at the time of the writing of this report, these homes are not yet subject to state regulation.

However, the scope and results of the Law are yet to be seen. According to Lubrano’s article, in 2016, there were only 21 homes receiving public funding in the city of Philadelphia. This legislation would not apply to the group homes receiving the people identified in his research.

Chicago, Illinois

On April 20, 2015 Adriana Cardona-Maguigad was interviewed on public radio station WBEZ in Chicago, which was published on the station's website under the title **"Puerto Rico exports its drug addicts to Chicago"**. In addition, this journalist published an online article on November 24, 2015 under the title **"Sent to US for Drug Rehab, Puerto Ricans Endure Humiliation at Unregulated Centers"**.

In both publications, she shares her findings from interviews in Chicago and PR that highlight the following aspects of the phenomenon:

- The homes for recovery in Chicago are not regulated and the regulatory agencies did not know about them.
- The majority of transported persons report being victims of abuse in these facilities.
- Many municipal officials are implicated in organizing these relocations. Melissa Hernández, a Puerto Rican residing in Chicago, has established a program to provide help for these persons who have left the place to which they were transported. She tells the reporter about **the case of a young man whose identification documents were retained by the home when he decided to leave and who attempted suicide when he found himself homeless and without employment opportunities.**

On May 20, 2015, Senator William Delgado (D-Chicago) was interviewed on the local CBS station and he stated that "...he knew of 40 addicts sent to Chicago from the city of Bayamón, with the promise of treatment, when in reality they were taken to flop houses". After sharing information about a transported person he knew and who used horse anesthetics, he expressed his incapacity to understand how a person could, in good faith, send a human being across the water and to Chicago knowing that they would not have comprehensive services.

On October 4, 2016, VICE reporter Nona Tepper published on that organization's website an article entitled "Why So Many Puerto Rican Addicts Wind Up in Chicago". Once again interviewing Melissa Hernández, a Puerto Rican residing in Chicago, who started an organization to assist people who, after being relocated, abandoned said homes due to abuse they suffered. In the interview, she tells that she began to notice Puerto Rican addicts starting in 2015 in neighborhoods traditionally inhabited by Mexicans. Many told her that government officials had encouraged them to buy one-way airplane tickets to Chicago, promising them treatment, housing and employment upon arrival. When they landed there was nobody waiting for them and many ended up living on the streets. She pointed out that the city did not have enough homes for recovery for Latinos aside from the ones that are not accredited and many residents end up leaving them and remaining homeless.



Response of the Government of the City of Chicago

On October 6, 2016, the working group designated by Chicago Mayor Rahm Emanuel along with other Cook County and city officials, published its report to identify necessary reforms to improve policies and programs to respond to the issue of drugs in the following areas: (1) community education, (2) education for health professionals, (3) improving data collection and dissemination, (4) treatment, (5) trafficking, (6) overdose reversal. In response to the situation presented by journalist Adriana Mangual, whom they quote, it is indicated that **“Some individuals have been sent to unlicensed and substandard Chicago facilities based on false promises of quality treatment”**. Responding to this situation, the previous year, employees of the Department for Families carried out operations in the city to identify unlicensed sites that could be housing people needing treatment for opioid use disorder (OUD) and in which the

residents, the majority from PR, were receiving services that did not comply with established treatment standards.

In the section of the report addressing treatment, we include inset 7 (page 14), which states: **“Conduct regular outreach missions to locations in Chicago where individuals are housed in unlicensed, sub-standard treatment programs; inspect the buildings and connect the individuals to adequate shelter and appropriate services when feasible; frequently update the list of locations”** (our emphasis). The city government assigned funding that, in combination with available funds from federal programs could increase access to care, but it admitted that the capacity of the treatment sector in compliance with clinical standards was still insufficient to satisfy existing demand.

New York City

In the 2016 annual meeting of the American Association for the Treatment of Opioid Dependence (AATOD) held in Baltimore, Maryland, we interviewed an addiction counseling professional with years of service in New York City who spoke about elements of the transportation phenomenon. In his view, it is a huge problem. Patients arrive under the false premise that they will receive treatment and housing. This scheme is facilitated by the patients' access to public assistance benefits offered by the city. These include a subsidy for housing, health coverage through Medicaid and a cash allocation. At the time of the interview, he estimated a minimum monthly income of \$300.00.

The operators of these homes known as "Transitional or Three-quarter houses" admit participants, assign them beds in crowded rooms, charge them the subsidy they receive for housing, without incurring the obligation of providing food. Some houses require additional payment from the cash allocation. They may remain in the home on condition that they attend treatment with a service provider who receives payment through Medicaid and which will provide a portion to the home for making the referral. He mentioned that this scheme is also applied to people returning to the community from penal institutions. The following case illustrates the experience in one of these facilities of a participant in this study, identified as NYF42 (42 year-old woman).

*She reports that, in 1995, at the age of 18, she was transported to NYC to a program called Healthy Neighborhood on 42nd Street, for treatment of an OUD, arranged from Mayagüez by a person whom she calls "el señor Javier López" (Mr. Javier López). She tells that he offered her help "... supposedly to, to clea... to get off the vice. That they helped you with public assistance and with work. But actually, none of that happened ... they took me over there to Manhattan. There I was with (unintelligible). **So you would have to get clean by yourself. They gave you a space so you could get clean by yourself, but no medication ...**". She goes on to tell that **two weeks after her arrival they helped her get social benefits from the city and "... they kept the cash and gave us the foodstamps. ... when it had been one month they told us we had to leave. That we had to leave because that was all, one month.** But Javier had never told us that. He didn't tell us the time we would stay, never". She recounts that, faced with this directive, she was scared and did not know what to do. They offered to return her to PR, paying her fare on condition that she could not return for five years, because the city was paying for the airfare, as she understood it. The participant did not want to return. She said, "Why go back defeated, because I can't say 'the same'". She lived on the streets and eventually began methadone treatment, which she was still receiving when she was interviewed.*

In the analysis of this participant's testimony we find no reference to an explanation of being warned that she would be unable to return to the city for five years. Faced with the possibility that this time period could be related to the social welfare benefits provided by the state and that she says she applied for, we sought information about available city assistance programs. The city offers the cash Benefit program (Safety Net Assistance Program), which provides two monthly payments that can be used for food, clothing, transportation and other daily expenses. We found the regulations that apply to this program on the NYC Bar Association's online portal. Applicants can receive these benefits for a maximum of five years cumulatively throughout their lives ("you can only receive benefits for a lifetime total of five years").

At the time these interviews were carried out in NYC, services in these homes were not regulated by the *NYS Office of Alcoholism and Substance Abuse Services (OASAS)* (see <https://www.oasas.ny.gov/regs/index.cfm>). The most recent information indicates that New York State has adopted regulations that does apply to them. The following information appears on the homepage of the organization Drug Rehab: "*A three-quarter house is a transitional housing unit that provides a lower level of supervision than a traditional halfway house. These sober living environments are unregulated, and the term three-quarter house has been*

associated with corruption in some cities. Reputable three-quarter houses can help people transition out of treatment, but some homes prioritize profits over patrons."

The website includes an article by journalist Chris Elkins, updated on May 31, 2018, in which he indicates that, contrary to transitioning from residential treatment homes to community or half-way houses, homes that offer less supervision or three-quarter houses, as was the place in which the participant of the above case was interned, are not regulated in most states. They provide a roof for homeless people and people with mental health problems, often in overcrowded facilities that are not conducive to recovery from DUD. The author cites a New York Times article published in 2015 reporting the existence in Brooklyn, NY alone, of approximately 600 of these homes, infested with pests and building code violations. Their proliferation is in response to the demand for affordable shelter from people coming out of penal institutions, unemployed, homeless people with family crises and with drug use disorders. Although the city of NY passed legislation in 2017 for the protection of residents in these facilities, some groups claim that they are not enough to prevent abuse, since the onus falls upon the resident and many are vulnerable persons, to file claims in the face of conditions that violate city regulations.

Mayors in PR “cleaning up their streets” by using the Air Bridge

The conception of people with DUD as dangerous is identified as an important factor leading to the rise of the air bridge with the support of the police and the municipalities. From the interviews carried out with people on the Island with connections to homeless services, it becomes apparent that **in the decade of the year 2000, 75% of the homeless population suffered from an untreated chronic drug addiction disorder. Many of the transported persons lived on the street when they were taken out of the country.**

E1: *"We had to start working with addictions and there were neither services nor a continuum of services and everyone received the same treatment; residential centers, most of them faith-based without a structured program and people came in and out ...We would stop seeing some participants for months and then they'd return ... They'd tell us that over there (referring to the US) they had received no treatment and ended up leaving, facing the different weather conditions and some made arrangements with relatives to return. They'd return angry and frustrated because they had failed again."*

“The intolerance of the presence of homeless people with drug use disorders in urban centers and the lack of advocacy in their favor by municipal services have contributed to this phenomenon.”

– *Key Informant*

The same person reports that the mayor's offices also arranged for removal of homeless people who wandered around the city centers, to intern them in residential homes in PR administered by CREA, especially during election season.

E1: *During CREA's Crusades of Love, Faith and Hope they would form an alliance with mayors during their tour around PR and recruit participants that they took to their facilities in vans.*

The intolerance of the presence of homeless people with DUD in urban centers and the lack of advocacy in their favor by municipal services have contributed to this phenomenon, according to another key informant.

cont.

E2: “they don’t have a lot of people with the capacity to defend them. They think that they are a nuisance”. Referring to the participation of the state police in the transportations, he points out that “initially the police was to provide services in community outreach. The process of being involved in transporting people out was gradual when the (municipal) service programs asked for assistance. The municipalities do it to empty out and clean up their streets”.

She adds that in 2011 “when Miss Universe was held in PR they got all the homeless off the streets. Some denounced having been locked up”.

– (cont.) E2

Another interviewee who works in an organization providing services to homeless people believes that some mayors, although mistakenly, genuinely thought that, faced with the lack of treatment in PR, removal and transportation offered a person an opportunity to rehabilitate outside.

E3: *In all cases, De Vuelta a la Vida (DVAV) facilitated the processes, with mayors or leaders who reached out to them to “put the package together” (referring to the services of transportation and referral). (Community leaders) ...shared this resource with me, that DVAV already had this set up. (Referring to the perception of mayors) ...they thought it was a correct option because there is no treatment here.*

The journalist Alfred Lubrano interviewed Philadelphia city council-member María Quiñonez-Sánchez for the media article cited above. She visited Puerto Rico and met with the mayor of Fajardo, Aníbal Meléndez Rivera. In response to her question to the mayor, asking if it was fair that, not taking care of a situation in his country, another city government elsewhere should bear the weight. He replied that he “... had addicts hanging around and had to clean up his city”.

“...he had addicts hanging around and had to clean up his city”

Recent media coverage of this phenomenon in PR, as observed by one of the key informants, has reduced police participation in transportations:

E2: *“Now, after prominence in the news, police officers inform participants seeking help that they can only transport them to centers in PR.”*

Still, the presence of homeless people in public areas continues to generate responses aimed at making them invisible. As recently as May 14, 2019, reporter Eduardo Questell-Rodríguez of Es Noticia newspaper, published an article entitled “Commissioner of Ponce Municipal Police Resigns”, of which we quote the following segment:

“The resignation occurred after an apparent altercation between the Commissioner and the Mayor, María Meléndez Altieri, occurred on Monday evening in front of the fire station, in Ponce’s Public Square.

Reportedly, the mayor exited her official vehicle and scolded the Commissioner about the presence of homeless people who were loitering around the public square in full view of the tourists. According to versions told by subordinates of the Commissioner, **the Mayor demanded that the chief of the municipal police remove the homeless from the area and he answered that he could not because they were not violating any laws.** ”



Historically, Puerto Rico does not have enough available treatment to satisfy the need for services for drug use and abuse

In 2002, the study about availability of treatment providers carried out for ASSMCA found that **the gap between need and services available was of 92%** (Colón et al., 2002). This means that **there was only capacity to concurrently treat 8 persons out of every 100 with a substance abuse disorder**. People interviewed for the present study informed on first-time transportation to treatment in the USA starting in 1995. Although we do not have precise up-to-date estimates about the availability of services on the Island, 82 % of the facilities licensed by ASSMCA in 2014 to provide treatment, as was reported by Upegui-Hernández and Torruella (2015), belonged to *CREA Homes* or to the private sector, where the predominant model was the abstinence-based therapeutic community. The country not only faces very limited availability. These authors documented violations of human rights in the interventions administered in residential programs that perceive the person affected with the condition as someone with a flawed personality.

The most recent study of prevalence of drug use disorder in PR carried out for ASSMCA (Santiago and Canino, 2016) finds that **less than a third part of the people satisfying the criteria for an illegal drug use disorder received treatment in the previous year**.

The same study estimates a prevalence of drug use disorder almost three times greater than reported in the 1998 survey of homes.

Faced with this reality, the available treatment has not been adapted to the predominance of sustained interventions despite scientific evidence validating its effectiveness and many are marked by violations of respect for the rights of the patients. A review of the listing of private centers providing services for substances licensed by ASSMCA in 2019 highlights that abstinence and faith-based residential programs are still predominant. The clinical consensus guides recommend medication-assisted treatment, with most common use of opioid agonists, methadone and buprenorphine for the treatment of an opioid use disorder (OUD), which is reported by the majority of the relocated interviewees (Kapman and Jarvis, 2015). Both are on the list of essential medications of the World Health Organization (WHO, 2019). In order to qualify as an essential medication, scientific evidence is required that these medications satisfy the primary health needs in the population for their relevance for public health, proof of their efficacy and safety and their comparative efficacy in relation with their cost.

In the opinion of Dr. Luis Román Cordero, who worked in the Department of Addiction Services and later in the Administration of Mental Health Services and Against Addiction when services were integrated under the umbrella of the Department of Health, the methadone-assisted treatment program suffered several conditions that affected its availability and quality during the 1990s and 2000s. There was in that period a decrease in methadone clinics and personnel caused by the gradual loss of federal funding that the state did not compensate for. Methadone services were not considered important. Ideological positions about treatment contributed to clinical practices not conforming to recommendations upheld by scientific evidence. Patients received sub-therapeutic doses, so that relapsing into heroin use was frequent. It was common to discharge people from the program for noncompliance when, as a consequence, they tested positive for heroin in toxicology exams. Not giving priority to this modality of treatment, personnel lacked the adequate professional training about the standards based on scientific evidence applicable to this intervention.

Ideological positions about treatment contributed to clinical practices not conforming to recommendations upheld by scientific evidence.

Patients received sub-therapeutic doses, so that relapsing into heroin use was frequent.

Studies show that treatments that do not allow the use of medications, that is, based on abstinence, have the lowest retention (Mattick, Kimber and Davioli, 2009). A study comparing results after 12 months of maintenance treatment with buprenorphine vs. the use of medication only for detoxification found that, after one year, 75% of persons on maintenance were abstinent and none had died. On the contrary, in the group that only received medication for detoxification none achieved abstinence and 24% died (Kakko et al, 2003).

The historic scarcity of effective treatments on the Island is reflected in some of the testimonies of the participants in this study. To the question of whether they had received treatment in PR before their transportation, the following answers were given by three male subjects:

“Negative. In Puerto Rico those treatments are really scarce.”
– MAM56

“When I was very young, I never had any treatment. And in Puerto Rico the only thing there was Crea.”
– MAM55

“In Puerto Rico I was in Casa Crea. I was in another Christian one called Misión Rescate. And I’d leave and come back for the same thing.”
– MAM54

One of the key informants interviewed who has been associated for several decades with the sector of services for persons with

ODU in PR, emphasized that the absence of treatment alternatives on the Island leads middle and upper-class families to seek professional services in the USA and other nations of the region. However, people with an OUD who are socially excluded and living on the street are perceived as nuisances.



The other view: Initiatives to drive local expansion of effective treatment

The municipality of Caguas responded to the situation facilitating the search for treatment outside of PR at the same time that efforts were being made to expand access to effective treatment that would meet the needs of the Center-Western region. In an interview with two professionals of the SANOS Corporation of the municipality of Caguas, who have been providing services to homeless persons with DUD since the mid-2000s, they reported that **residential homes identified as service providers for “treatment” in the region were refusing to receive participants who were receiving methadone or another medication for a concurrent mental health condition.**

Faced with the lack of adequate treatment and centers, they identified the HAS service network in Chicago, licensed by the state with different levels of medical and behavioral care, and established a coordinated referral service with them. After carrying out in PR a clinical evaluation of the person, transportation was arranged formally and under consent to these facilities. They maintained communication with the people referred and facilitated putting us in contact with a person who participated in the program, with whom we spoke later. This person is grateful for the service he received in Chicago. In addition to managing his DUD, the medical evaluation they carried out during the admission stage

revealed the presence of a cancer that was treated and which is in remission. He currently resides in the US and is employed by a federal agency.

As part of the strategies to respond to this health condition in the face of the lack of evidence-based services that could mitigate the situation in Caguas and adjacent municipalities, then mayor of the municipality of Caguas, William Miranda Marín, explored several avenues including administering the ASSMCA methadone treatment program based in the city and facilitating the integration of buprenorphine-naloxone assisted treatment through the provision of medical services from the SANOS Corporation of the municipality. The municipality of Caguas participated in the efforts carried out by the *Alliance to Reduce the Insufficiency of Treatment for Addiction* funded through the “Closing the Addiction Treatment Gap” program between 2008 and 2012. This initiative of the Open Society Foundation financed demonstration projects to increase access to evidence-based treatment in different jurisdictions of the US. In PR we were given funding to lead the Alliance from the Graduate School of Public Health of the Medical Sciences Campus of the UPR.

| Persistent barriers

The Alliance worked to sensitize the treatment sector, the legislative and other sectors of the community about the need to expand access to ITAM. In 2010 the Senate of PR approved Congressional Proposal 2652 to include buprenorphine among the essential medications covered by all health insurance plans providing pharmacy benefits. This legislation facilitates increased access to treatment. SANOS, transformed into one of the primary health centers receiving funding from the US Department of Health through section 330, pioneered the provision of buprenorphine-assisted treatment for persons with OUD. The interviews from Caguas indicate that the availability and acceptability of this treatment has significantly decreased efforts towards transportation to services outside of the country, except on rare occasions in which there were collaborations to help persons whose personal safety was under threat.

In the USA and PR, the false impression has persisted for decades that methadone-assisted treatment constitutes “substituting one drug for another”. The website of the National Institute for Drug Abuse (NIDA), indicates that, in fact, this perception is mistaken (NIDA, 2018). It is ignored that methadone, like buprenorphine, are medications that do not produce euphoria in the user and in addition are prescribed by a duly certified health professional. It treats the characteristic clinical signs of addiction: the cycle of relapse, withdrawal and cravings or desire to use heroin repeating though the day. Both improve the functionality of the treated person and, in controlling the discomfort produced by heroin withdrawal, it prevents the person from feeling the pressure to use again. Therefore, it reduces the use of illegal drugs, whose quality and purity cannot be controlled, injection under risky conditions, criminal activity and profits for organized crime. The document emphasizes that *“Maintenance treatments save lives—they help to stabilize individuals, allowing treatment of their medical, psychological, and other problems so they can contribute effectively as members of families and of society”*.

However, the belief prevails that abstinence is the only acceptable treatment goal for this chronic health condition that is characterized by long-term neuro-physiological changes in the brain. These ideological positions impact decisions about public policy that affect available treatment (Earnshaw et al., 2013). According to data from the survey carried out by the federal agency Substance Abuse and Mental Health Services Administration (SAMHSA) published by Jones et al. (2015), for every 100 people of the US population suffering from OUD, there is only capacity to treat 15 of them. In PR, services provided by private organizations prevail, the majority being residential programs of a duration between 12 and 18 months, staffed predominantly by peers and not health professionals. This presents a significant contrast with available treatment in other developed countries where, given the greater availability of adequate services, they have been able to reduce their incidence of criminality, HIV, deaths and expenses in all of the institutions participating in drug enforcement interventions by law enforcement agencies, courts and penitentiary institutions. This represents an expense and not an investment, given the poor results observed when societies assign a majority of their resources to sustaining the criminalization of the use of certain drugs. The European Report on Drugs of 2019 highlights the following:

There was a time when the drug problem in Europe was characterized by parenteral heroin use. Nowadays, the number of persons requesting first-time treatment for heroin use is low in comparison with historical patterns, parenteral use has fallen, and annual numbers of new HIV cases attributed to parenteral drug use has decreased by around 40% in the last 10 years. This is good news. We should applaud the European countries for introducing pragmatic treatment measures and harm reduction that have contributed to this success. (page 11)

Regarding the person receiving methadone treatment as undesirable or dangerous has contributed in PR to the decrease in centers of methadone-assisted treatment and the overcrowding of the existing ones in face of the demand for services for hundreds of people who have to attend daily to receive their doses of the medication there. In light of this agglomeration it is not surprising, as told by one of the participants in this study who received their daily treatment at the methadone clinic in the center of the city of Bayamón, that people receiving methadone treatment were also the object of efforts at forced transportation at the hands of municipal employees. This person's experience is detailed in the legal analysis starting on page 26.

Of the variety of policy alternatives to address substance use disorders, not providing enough appropriate treatment results in higher health and public safety costs. As previously cited, abstinence-oriented treatment is the least effective, retaining the least amount of people in treatment and that which is associated with the highest mortality (Kakko et al, 2003). The accumulated evidence shows that the treatment of substance use disorders improves patient outcomes and generates

substantial economic benefits. Studies have estimated a benefit-cost ratio of between 7:1 and 15:1, with significant contribution to decreases in criminality and increase in employability (Rydell and Everingham, 1994; Ettner et al, 2006). After California voters approved Proposition 36, the state of California reported savings of \$2.50 for each dollar invested on treatment instead of incarceration for nonviolent drug-related crimes. The savings for state and municipal governments after one year rose to approximately \$173 million (Longshore et al, 2006).

Despite recent efforts to expand available buprenorphine-naloxone treatment for OUD in PR, **the evidence cannot be ignored that there must also be adequate services to increase access to methadone.** The state of knowledge establishes **the need to individualize treatment.** As happens in the medical treatment of other chronic conditions, not every person with this condition responds equally both medications. (Kampman and Jarvis, 2015).

**Not providing
enough appropriate
treatment results in
higher health and
public safety costs.**

Escape: Experiences of people transported to “rehabilitation centers” in the United States

In this study, 20 interviews were carried out with persons fitting the criteria of having been transported to the US for DUD treatment services. Out of these, 12 were interviewed in PR, having been able to return to the Island. The rest were interviewed in New York City.

Only five participants seemed to have had a satisfactory or not negative experience. Of these, two arranged their own process of transportation and referral, going into suboxone or methadone programs in PR; the other three were participants who only used cocaine, crack and/or alcohol. For the remaining 15, all with an OUD, transportations were arranged by intervention of a religious group, a municipal employee, a family member, or a joint effort of a family member with a religious or municipal employee.

In Table 1 several characteristics are described of the 20 transported persons. It stands out that at the time of the interviews, 13, or 65% had served time in a penal institution. This finding reflects one of the consequences of not providing effective treatment for an OUD. These persons are at higher risk of police intervention,

whether for committing a crime in order to be able to procure resources to purchase the drug they are dependent on, or for drug and paraphernalia possession for their own use.

In 2005, a study carried out with a representative sample of the population sentenced in Puerto Rican prisons revealed that **53% fit the criteria of a drug use disorder at some point**; almost two thirds had been previously incarcerated; the factor with highest impact in prison recidivism was the prevalence of the coexistent use of substances and a psychiatric disorder; **only 49% of the affected inmates had received treatment inside or outside the prison at some point in their lives, and of those with opioid addictions, the service reported with highest frequency was detoxification, a medical intervention that is not a treatment modality for that condition, since it is only indicated for reducing withdrawal symptoms. A minority had been in an ITAM program, which is the standard treatment for an OUD** (Albizu-García et al, 2005).

TABLE 1. PARTICIPANT CHARACTERISTICS

Table 1 shows that in this current study almost one third of the participants self-reported that they had contracted the hepatitis C virus (HCV). It is highly probable that these persons were already exposed at the time of transportation, given that contagion between people who inject drugs occurs primarily during the first year of injecting and the risk is higher in PR, where the prevalence of contagion with HCV surpasses that reported for the decade of the 2000s in the USA. It has been documented that access to an effective treatment for OUD also facilitates treatment for this condition that could result in death from cirrhosis or liver cancer (Pérez, Albizu, Peña et al 2007).

PARTICIPANT CHARACTERISTICS	NUMBER (%)
Sex	
Female	3 (15.0)
Male	17 (85.0)
Age at time of interview	
30 - 39	3 (15)
40 - 49	9 (45)
50 - 59	6 (30)
60+	2 (10)
Children	
Yes	9 (45)
No	5 (25)
Not specified	6 (30)
Prision	
Yes	13 (65)
No	7 (35)
Health insurance	
Public	17 (85)
Private	1 (5)
Not specified	2 (10)
HIV	
Yes	2 (10)
No / Not specified	18 (90)
Hepatitis	
Yes	7 (35)
No / Not specified	13 (65)
TOTAL	20

**TABLE 2. NUMBER OF TRANSPORTATIONS
AND THEIR DATES**

PARTICIPANT*	NUM. TRANSPORTATION(S)	YEAR(S)
1. MAM56	1	1997
2. MAM55	1	2014
3. MAM54	1	2002
4. MAM53	1	1995
5. MAM47	1	1994
6. MAM61	-----	-----
7. POM50	1	2015
8. POM35	3	1= 2010 2= 2011 3= 2018
9. POF33	1	2015
10. POM45	-----	-----
11. BAM38	2	1= 2016 2= 2016
12. FAF44	1	2012
13. NYM40	1	2006
14. NYM47	1	2014
15. NYM48	1	2011
16. NYM52	2	1= 1998 2= 2001
17. NYM59	1	2006
18. NYF42	1	1995
19. NYM38	1	2015
20. NYM48	1	2006

Table 2 shows that all except three participants were transported on only one occasion. The first transportation in this group occurred in 1994 and four additional people were relocated in that decade. Five transportations occurred in the decade of 2000-2010 and the rest after that date.

Table 3 contains the testimonies of participants who shared negative experiences in their reception/arrival. For 6 of them, their transportation was promoted and arranged by ministers linked to homes in the USA, 5 indicate that the police intervened and some municipal employee, 1 was transported by an arrangement from his grandfather initially to Mexico and on a second occasion to Florida. In both occasions he met with negative conditions.

**TABLE 3. TESTIMONIALS ABOUT TRANSPORTATION
AND RECEPTION IN THE US**

“IT’S NOT HOW THEY MAKE IT LOOK LIKE”	
PARTICIPANT (PRIMARY DRUG)	TESTIMONY
1. MAM53 (heroin)	“through a program that was in the CREA home, and they start, like, saying that there’s help, if anyone wants to go over there.”
2. NYM48 (heroin, fentanyl)	“...they were having a Christian worship in Puerto Rico in a drug program, from Palmare, and, like, I decided to come over here to break my addiction to, to that drug.”
3. MAM61 (heroin)	“There’s a, a pastor that comes around who they call [nickname] who’s black.”
4. MAM47 (heroin)	“I met - in a [fast food establishment] ... they took me to Ponce to meet a pastor and that pastor took me to the airport and sent me to a program in Pennsylvania”.
5. BAM38 (heroin)	“Yes (The people of <i>Nuevo Amanecer</i>). Yes, because they want to get you out. They don’t want addicts in the streets of Bayamón.”
6. FAF44 (heroin)	“Because that’s in every town (<i>referring to the program De Vuelta a la Vida of the State police</i>) but here in Fajardo then I went to check with [wife of the mayor from eastern area] and told her that I wanted to go out there so they’d send me.”
7. POM50 (heroin)	“I saw some support from when they were sending people out there, from the programs out there to kick the vice. They sent me from Cristo Pobre which was, when it was a department so they were getting people for the Department of Labor who would send you to a program.”

(CONT) TABLE 3. TESTIMONIALS ABOUT TRANSPORTATION
AND RECEPTION IN THE US

“IT’S NOT HOW THEY MAKE IT LOOK LIKE”

8. POM45 (heroin)

“I started using zubuxon (Suboxone – Translator’s note). Because my brother had told me about the treatment. I had heard about it in Puerto Rico that there was zubuxon, it wasn’t here in the coalitions, but there was another center that had zubuxon.” *(This participant was on methadone in PR and travels for employment to the US but cannot get courtesy methadone free of cost and recurs to heroin use. Eventually he manages to enter a treatment program with buprenorphine-naloxone)*

9. POM35 (heroin; at time of interview under treatment with buprenorphine; previously transported to treatment in Mexico and Florida, arranged by a relative)

“...my grandfather, right?, he wasn’t a rich man or nothin’, but at least he made sacrifices for us and he, well, to help me he sent me to those places. Maybe to get me far from Puerto Rico. [I: Ok] Umm... and also wanting the best thing for me.”

10. POF33 (heroin)

“Because from here, I don’t remember well, but someone from here referred me over there and they helped me get there. Over there they came to get me and everything from Promesa.... I really don’t remember and it was through a family member”. “So from here my family took me to the airport, when I get there, they picked me up from right there from Promesa, like I told you. **I got there, I was on Suboxone, I was afraid. So what they did to me is they put me in a detox. They detoxed me off Suboxone. But then they gave me methadone...**” I told them, they brought me here with a lie because I was coming for Suboxone, not for methadone. And then they’re gonna throw me out in the street without knowing anything about here, but, well “I have no choice”. I had to stay, so I had to do the, the detox and go in there.”

(CONT) TABLE 3. TESTIMONIALS ABOUT TRANSPORTATION
AND RECEPTION IN THE US

“IT’S NOT HOW THEY MAKE IT LOOK LIKE”

11. NYM47 (heroin)

“...the Police of Puerto Rico brought me, the city with the State Police from Mayagüez to Aguadilla, until I got here.”

“The treatment they’ve given me has been in Promesa... when I arrived from Puerto Rico, like, **I arrived there to kick the habit. They treated me, I kicked for six days, they gave me methadone, after that I did ‘rehab’ and there, like, they threw me out into the street. It was all a dream because they offered me pie in the sky so I would come over here from Puerto Rico and nothing went like I thought.**”

12. NYM52 (heroin/cocaine)-self-arranged and transportation facilitated by recruiter from Palmares

I: The first trip, in 1998, ¿do you remember the name where you were transported? “The program was called Palmare... There in Puerto Rico I saw there were a lot of guys who were coming over here in that program, and I heard about it, and through, from friends, well, I contacted and managed to get here... yes, from what I heard, things I heard from the same guys in, at the... spot... (And the person you spoke with about the program, do you remember the name of that person?) he was a relative of Palmare. Rubén”.

(Interviewer asks about the neighborhood where the program was located):
Terrible. The place was in front of a drug spot.”

13. NYM40 (heroin)

“I was in the, in the place that, what, that we call El Chury... (sic shooting) ...so, Mariola came. In Arecibo, in Puerto Rico. In the Residential El Cotto. Then there she came with **sixteen plane tickets** and with a page, with a, with a paper that said: “Look, you are going to live here in, in this house. You’ll be there three months while you recover. They have a pool and (uninte-

(CONT) TABLE 3. TESTIMONIALS ABOUT TRANSPORTATION
AND RECEPTION IN THE US

“IT’S NOT HOW THEY MAKE IT LOOK LIKE”

(cont.)

lligible)”, and when, well, I saw that...” ...”
and I said ‘ma’, I don’t want to keep
(making) my family suffer, so yes to this,
sign me up there, Mariola, I said. And in,
like in, like in a week we left at 4:00 a.m.”

**“We were living like we were Mexicans.
Thirty-something in a basement. These
people will do anything for money,
seriously.”**

14. NYM38 (heroin/cocaine)

“...I dealt, ‘you know’, received, they sent me
here to, to the ‘detox’. From the ‘detox’ I
went to a ‘rehab’. From the ‘rehab’ I went
to a program that was called Palmare. **And
in Palmare the program went real bad
for me, ‘so’,** I left that program and from
there it was, I went into, into Narco
Freedom.”

15. PHM45 (heroin/cocaine;
interviewed in English by Albert
Lubrano)

**“The mayor of Carolina (PR) didn’t want
us. The law is against you. You are
obligated to go.** “When they tell you
about rehab in Philadelphia, it’s a 5-star
thing – all the services you need. Then I
get here and it’s only peanut butter and
jelly sandwiches. I went to Still Saving
Lives. **They took my food stamps. I didn’t
see a penny.** I came in June 2006. I was
35.”

16. PHM40 (heroin; interviewed
in English by Albert Lubrano)

“I was told about a beautiful place. **They
sell me the dream, but here, it’s
nothing.** My family set it up for me. They
said it would be beautiful. My family
spoke to someone from an organization
that tells folks to come to the States. I
went to Still Saving Lives [recovery house],
on Orthodox. [Local officials say the house
is overcrowded.]

None of the persons interviewed expressed having had any positive experiences at the reception home. They faced unacceptable conditions of vulnerability that posed a risk to their physical, emotional, economic and social health. They all shared perceptions of having been tricked. Information about these experiences, according to some, despite the fact that they were disseminated in PR, does not appear to have been heard or validated until 2017, when local media also began to cover it. Based on a document from the State police program *Vuelta a la Vida*, between 2005 and 2014 this program alone collaborated in the transportation to the US of 759 persons who ended up living in precarious conditions (see Appendix B).

While our data represent the experiences of a group of individuals recruited by availability, their testimonies, despite coming from persons displaced from different municipalities, reveal a pattern with common elements. The testimonies of participants are validated by the volume of information disseminated by the US media that we cited and the testimonies of key informants in PR and NYC.

The experiences described by the participants lend credibility to the perception that people with a drug problem who are socially marginalized are perceived as public nuisances to be gotten rid of, and not as human beings

suffering from a treatable chronic health condition that could regain their social functionality and improve their health.

As long as we keep opting for socially distancing these people based on the belief that even having them on methadone treatment threatens public safety and the urban aesthetic, we will continue to engage in sustained maleficent practices only based on ideological positions and stereotypes that violate their human rights. A study carried out in the city of Baltimore, Maryland, where there was a serious problem of illicit drug use in urban areas, refutes the belief that methadone treatment programs threaten the safety of the neighborhoods in which they are located. The authors utilized crime data provided by the city authorities and by the Federal Bureau of Investigation (FBI) and plotted their geographical coordinates. They found that there is no spatial association between crime and methadone treatment centers. They did find a positive relationship between crimes and the location of convenience stores (Boyd et al., 2012).

In the next section, Professor Oscar Miranda Miller analyzes the legal implications of this practice as it was documented through the interviews of the participants in this study.

Legal Aspects

Abuse of controlled substances

In consideration the principles that will guide the mental health care system in PR, the Mental Health Law of Puerto Rico (Law Num. 408 of October 2, 2000, as amended), states the following:

The provision of mental health services will include the participation of the persons with... diagnoses of drug abuse and dependency... in their treatment, rehabilitation and recovery, and will consider all available alternatives offered by government and community entities, through a referral or collaborative system (24 L.P.R.A. § 6152).

In other words, Puerto Rican law conceives addiction to controlled substances as a mental health issue. With this understanding of substance addictions, people with controlled substance abuse disorders must be considered patients in need of health services.

Like with other mental health problems, the concept of “autonomy of the person” is an important value to uphold. According to the Law, the concept “refers to the ability to decide for themselves and choose among the different alternatives proposed for the purposes of

treatment, recovery and rehabilitation services that will be offered” (24 L.P.R.A. § 6152).

Common sense dictates that in order for a patient to have the ability to decide for themselves and choose among different alternatives, the necessary process of reflection presupposes informed knowledge, free from coercion and undue pressures. In fact, the Mental Health Law provides that treatment and care of the patient “must be based on promoting the best practices of self-determination and personal responsibility, consistent with their own needs and wishes. Autonomy must be preserved, to the extent possible...” (24 L.P.R.A. § 6152).

The Mental Health Law, in Article 1.04 (d), recognizes that there will be occasions where it won't be “possible, due to their condition” to honor the patient's wishes when “taking medical measures to ensure the person's wellbeing.” However, the Law provides safeguards for patients by requiring as “principles and guides”, the “participation”, the “consent to care”, and the “least restrictive alternative”, defined respectively as follows:

1) Persons who receive services in the care system must be involved in all aspects of the planning for their care, treatment and support, in accordance with their individual capacity.

2) Programs for care, treatment and support must take into consideration that which comes closest to the preference of the person receiving the services, as long as it is adequate to their capacity and condition.

3) For persons receiving the services, treatment, care and support, it shall be provided in the least invasive and restrictive way possible, in a safe setting that provides effective care (24 L.P.R.A. § 6152).¹

It is not by whim or chance that certain concepts appear in the Mental Health Law, such as 'autonomy of the person', 'consent to care', 'ability to choose among different

alternatives of treatment' and 'care in the least invasive and restrictive way possible.' These concepts must be understood as closely tied to 'human dignity', a fundamental value in Puerto Rican Law. So fundamental that the first sentence of the Bill of Rights of the Constitution of Puerto Rico reads as follows: "The dignity of a human being is inviolable." (Constitution of the Commonwealth of Puerto Rico, Art. II, Sec. 1).

The inviolability of the dignity of a human being is the maxim that should inspire all government action in PR. **Sadly, the outcomes of our study show that, when the human being in question is one labelled as an 'addict to controlled substances', their dignity is particularly susceptible to being violated.**

¹ While the Law considers the involuntary confinement of patients, it makes it contingent on the care needs identified in an evaluation that is supposed to be rigorous. Thus, it provides as follows:

Involuntary confinement, at a level of care of greater intensity will be utilized when the person presents a conduct that is related to a mental disorder in which the patient may cause immediate physical harm to self, to others or to property, when the severity of the symptoms and signs indicate this, in accordance with best practices in psychology, social work, psychiatry and modern medicine, or having manifested significant threats that may have the same result, after the immediate evaluation and the comprehensive evaluation. This involuntary confinement may be extended to another level of care of lower intensity. Should there be no willingness or consent from the person, parents, guardians, to participate in the treatment, the Court may order involuntary or compulsory treatment, even though it may be at lower-intensity levels and with greater autonomy, according to recommendation by the inter- or multidisciplinary team and in accordance with procedures established by this Law. Article 1.04 (d) (24 L.P.R.A. § 6152).

Furthermore, Article 2.03 provides for the "Prohibition of Hospitalization or Treatment without Clinical Criteria" and expresses the following:

No person shall be involuntarily interned or receive compulsory treatment unless it is through clear and convincing proof, to the satisfaction of the Court, making clear the need for internment or treatment, according to the criteria established in this Article. (24 L.P.R.A. § 6153b).

Transportations and involuntary confinement

In Section 11, the Law of the Administration of Mental Health Services and Against Addiction, known as Law 67 (Law Num. 67 from August 7, 1993.), establishes a procedure for the involuntary confinement of persons entitled “Judicial Procedure for Addicts”² Under this law, “if the judicial determination is that the person is an addict, the Court will order that such person be confined as a patient for adequate treatment in an institution”.

The procedure for involuntary confinement under Law 67 as such is troubling, given that it only requires for the Administration of Mental Health Services and Against Addiction (ASSMCA) to present a request and for the Court to find the person in question “is an addict”. But, worse still, doctors Upegui-Hernández and Torruella have documented two extremely alarming realities about common practices under Law 67. *First*, that “persons detained

under Law 67 who do not accept the court order to enter treatment” tend to be held in contempt of court, a misdemeanor for which they are usually sentenced to incarceration in prison (Upegui-Hernández and Torruella, 2015). This information was confirmed by prosecutors and attorneys we consulted. Second, that despite the fact that Law 67 provides that placement in a treatment program will take place after a specialized clinical evaluation aimed at determining the need and level of necessary treatment, “in practice this evaluation is rarely done and usually it is inadequate.” They add:

As affirmed by an ex-clinical coordinator of an ASSMCA regional ambulatory treatment center, “*too often the evaluation is not done with scientific or clinical tools, but results from arbitrary decisions made by courts personnel without clinical experience about drug dependency ...*” (Upegui-Hernández and Torruella, 2015)

² The complete text of Section 11 is as follows:

When the Administrator [of ASSMCA] has evidence that any person over the age of eighteen (18) years is addicted to narcotic drugs or alcohol, they may present, by way of the Secretary of Justice, a petition before the Court of jurisdiction, corresponding to the domicile or residence of said person, presenting the facts that provide the basis for the petition and petitioning the Court to order the internment of said person in the corresponding facility or institution, having previously completed the procedures set out in this Section. The petition will be accompanied by a certification from the Administrator, certifying that appropriate facilities are available to provide the treatment and rehabilitation services. Once the petition has been filed, the Court will summon the person affected and hold a hearing with the single aim of determining whether there is cause to intervene with the person. After said determination the person should be summoned to appear before the Court. The process will be private, unless the person named in the case requests for it to be public. At all stages of this process, the person affected by the Administrator's petition will have the right to legal counsel. If the person cannot afford an attorney, the Court will assign an attorney. If the Court determines that there is cause to believe that the person is addicted to narcotic drugs or alcohol, it will order an evaluation of said person. The Court may order the person to be interned into the appropriate institution for a term not exceeding five (5) days for the purpose of evaluation. The personnel designated by the administration to take part in the person's evaluation will present within the term of five (5) days starting from the date the evaluation was carried out, a report that must contain the result of the evaluation and a conclusion as to whether the person is or not addicted to narcotic drugs

It is worth noting that this Law 67 was passed seven years before the Mental Health Law, which, as we saw, has at least the pretense of establishing protections from involuntary confinement. We should say in addition that we have serious doubts about the constitutionality of the procedure established in Section 11 of Law 67. This opinion is shared by practicing attorneys, among them, Jesus Hernández Rivera, Esq., Director of the Regional Office of Arecibo of the Legal Aid Society of Puerto Rico, who told us:

“That Law is unconstitutional and I have told the Court so. I will not stand for these abuses”.

If the letter of the law in Section 11 of Law 67 is troubling, the abuse that results from it is terrifying, as told by one of the people interviewed as part of our study. This participant told he was recruited by the Municipal Police of Bayamón acting in concert with municipal employees of the Nuevo Amanecer program and transported

to the United States under threat of involuntary confinement under Law 67. He agreed to being transported because, according to him, he had previously served time in prison under what he identified as Law 67:

“You know what? I got the Law 67. They’re making me crazy, locking me up, letting me out, locking me up because you’re withdrawing.

You come out after a month and you’ll run over to the spot, again. Why they do it, I don’t know, because its spending a lot of money on those people at corrections. I don’t know why they do that.”

– BAM38

or alcohol. No report related to physical or mental examinations of the person named in this procedure, nor any other evidence obtained during or as a consequence of the procedure established here, may be made public or utilized against them, and it shall not be admissible in any court case against said person. Once the reports of the evaluations carried out have been submitted, a hearing is held in the Courtroom in which the process began. The hearing will follow the Rules of Evidence and Procedure applicable to civil cases. Based on the proof presented in the hearing, the Court will determine whether the person is or not addicted to narcotic drugs or alcohol. If the court’s determination is that the person is addicted, the Court will order the Administrator to confine the person as a patient for adequate treatment in an institution provided for such ends by the Administration. The Resolution of the Court declaring that said person is an addict and ordering their treatment will be compulsory and the patient thus interned will remain in the institution until having received all the treatment that can be offered, or until the Administrator certifies before the Court the result or termination of the treatment. The Administrator will designate an official in the institution where the patient is receiving treatment to submit periodic reports to the Court. Said reports will detail the way the treatment develops and any other information required by the Court.

A reasonable explanation for this is that this person has been found in contempt several times for having refused orders for compulsory treatment under Law 67. This same person also explained the harm he suffered being transported to a place where he received no treatment with medications, despite being when he was recruited in Puerto Rico, in methadone treatment that he received in the center of Bayamón and was administered by ASSMCA: **“Yes, methadone, I was on methadone and they forced me to stop taking it”**. He was transported to a so-called treatment center in Chicago where, instead of continuing with his medication, he was forced to quit cold:

BAM38: *“So what happens is, they sit you in this chair, and they, they have a pulpit, you know, where the Pope goes up to talk. But they call it the ‘tribune’. And they climb up there to tell testimony, there, no, it’s not professionals coming, nor, nor educators, nor counselors, no. It’s just them talking testimonies.”*

Se desprende, además, de la entrevista que al llegar allí se encontró con otras personas que fueron captados mientras recibían en Bayamón tratamiento con metadona:

BAM38: *“So what happens is, I get there and right away I ask about the methadone because that’s the medication. “Hey, about the methadone, um, how do they give it here? and he says to me **“Methadone?”**. And I go: “yes, they sent me here from Nuevo Amanecer”. “You see that guy there? See that other one? See that other one? Ask them if there are any medications here. **Gladys Cintrón played you for a sucker. There’s no methadone, no medications here. Here you go cold.**”*

It is this person’s opinion that the reason the Bayamón Municipal Police and Nuevo Amanecer coerced people identified as addicts with Law 67 was to get them out of the municipality: “Yes because they want to get you out. They don’t want addicts in the streets of Bayamón.”

along with a specific recommendation about the whether or not to continue compulsory treatment of the patient. When the Administrator or a delegate of the Administrator recommends to the Court to discontinue treatment due to patient’s recovery or because patient has already received the maximum of treatment the institution can offer, the Court will determine, after hearing the patient, whether or not patient must continue receiving treatment. Should the Court determine that it is not necessary or viable to keep patient under treatment, it will order patient released immediately and will notify the Administrator with a copy of said resolution. The Court, motu proprio or by petition of the patient, and after the patient has been under treatment for one (1) year, will summon the manager of the institution that is providing treatment to said patient to show cause as to why patient has not been discharged. Should the Court, after hearing both parts, determine that the patient has received the maximum of treatment and is rehabilitated, it will order for patient to be discharged and will notify the Administrator with a copy of said resolution. Any person declared as addicted to narcotic drugs or alcohol shall have to, within the two (2) years after the termination of the treatment received, personally appear before the Administrator or the Administrator’s delegate, during those times prescribed by regulation to determine whether the person has relapsed in the use of drugs. During these periodic visits, the person may be given physical evaluations and toxicology analyses as ordered by the Administrator In case of refusal to comply with summonses

As narrated, these actions from municipal personnel were widespread: *“You know what Nuevo Amanecer did? Nuevo Amanecer went with a school bus and with agents and they got them all on the bus and they bought them plane tickets and they sent them over there, forced.”*

Transportations and human trafficking

The starting point under international law for regulating conducts amounting to “Human Trafficking” is the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (Protocol). The definition in the³ Protocol contains three essential elements. To be better understood, these essential elements can be simplified in the following way:

- Recruitment, transportation or reception of persons;
- Through coercion, fraud, deceit, abuse of power or of a situation of vulnerability;
- With a motive of exploitation.

The crime of human trafficking as it is codified in Puerto Rico follows the general lines of the Protocol, to the extent that it considers as unlawful conduct to recruit, transport, move or receive persons in conjunction with the use of certain illegal means, among them the use of force or threats, deceit and abuse of situations of vulnerability.⁴

Due to the nature of our research, it is difficult to establish clearly the three essential elements of human trafficking in the interviews with participants. However, the three elements do surface in the testimonies of some of the people interviewed, from

appearance will be arranged by the same Court where the addiction of the person named in the procedure was determined as provided in this Section.

No person assigned for compulsory treatment as authorized in this Section, will be considered as having violated the Law of Controlled Substances of Puerto Rico, Law Num. 4 of June 23, 1971, as amended. Any Court order mandating treatment in an institution will not be considered, under any circumstance, as a criminal conviction or sentence. Any person with an addiction to narcotic drugs or alcohol or against whom a petition is filed under this Section, may refuse any of the hearings awarded and voluntarily request treatment in an institution designated by the Court. This person will be subject to the same obligations imposed on persons who are compulsorily mandated to treatment in the institutions as provided by this Law. (3 L.P.R.A. § 402j).

³ In Art. 3 the Protocol codifies the following definition:

“Human trafficking” will be understood to mean [1] recruitment, transportation, transfer, taking in or reception of persons, [2] use of threats or use of force or other forms of coercion, kidnapping, fraud, deceit, abuse of power or of a situation of vulnerability or giving or receiving payments or benefits to obtain consent from a person having authority over another, [3] With a motive of exploitation. That exploitation will include, at minimum, exploiting the prostitution of another person or other forms of sexual exploitation, forced labor or services, slavery or practices analogous to slavery, servitude or organ extraction; b) Consent given by the victim of human trafficking to any form of intentional exploitation described in section a) of this article will not be taken into account when use has been made of any of the methods listed in said section ...

which we can responsibly assert that the person was a victim of trafficking. Perhaps the clearest case identified in our research did not come up during a process of transportation to the United States, but upon returning to the Island after their initial transportation. This pertains to the participant cited before who indicated **“to get them off my back”**, referring to staff from the *Nuevo Amanecer* program of the municipality of Bayamón and to the threat of incarceration for contempt if he refused compulsory treatment under Law 67, so he accepted admission into a residential program: **“Here in Puerto Rico. They put you in a home up there in Guaraguao”**. As reported by this participant, the exploitation he was the victim of along with other persons consisted in non-remunerated jobs:

BAM38: ““What they want is to make money. They have a contract with each municipality. Uh, they have brigades that work on landscaping, right? What happens? That those brigades that work

*on landscaping find themselves on 1014, here in Bayamón, so OK, they put me in fast. **That was another one, where you got there,⁵ coming out of detox and the next day they wanted to put you on a bus to go to work so you’d make money for them”**.*

According to the experience described by this person, the recruitment occurred in an urban area of Bayamón and the reception was in a treatment home located in a rural area of the municipality. The abuse of power or of a situation of vulnerability is evident in the measure of the trafficking of a person identified by the municipal authorities as an addict of controlled substances and the procedure of involuntary confinement was employed in a home under threat of going to prison for contempt if he refused. The exploitation he was a victim of along with other persons consisted in non-remunerated jobs that benefited that municipal government itself and, by his understanding, the treatment program he has confined in.⁶

⁴ In Puerto Rico, the crime of human trafficking is codified in Article 160 of the Penal Code (Law 146 of July 30, 2012) and reads as follows:

Any person making use of recruitment, transportation, transfer, taking in or reception of persons, and making use of force, threats, coercion, kidnapping, fraud, deceit, abuse of power or another situation of vulnerability, offering or receiving payments or benefits to obtain consent from a person having authority over another so this person will practice beggary, any kind of sexual exploitation, pornography, forced labor or service, debt servitude, servile marriage, irregular adoption, slavery or analogous practices, servitude or extraction of organs, even with the victim’s consent, will be prosecuted... (33 LPR 5226).

⁵ The participant became aware of the exploitation to which he and other patients were subjected when he spoke with an acquaintance who was employed by the City of Bayamón to carry out the same type of tasks they were requiring from him, but with remuneration. The complete recreation of that conversation as narrated by the participant during our interview is the following:

Another case in which it can be asserted with reasonable certainty that the person interviewed was a victim of human trafficking is that of a participant transported directly by the Vuelta a la Vida program of the Municipality of Arecibo declared the following: **“When we came we were living in the ‘basement... Thirty-something in a basement. These people will do anything for money, seriously”**. When asked if he thought they were making money off him, he said:

NYM40: *“Sure, if we had to give them \$250 when we arrived. The travel and, plus \$250 for them to come get us. You know, that, that, that they qui... **they asked you right away: “Hey, you, did your mom send you the money?”**”*

When asked whether that place had beds, he responded: **“No, on the floor, man. We’d step on each other when we’d go to the bathroom.”**

In several other cases in the testimonies of some of the persons interviewed, two of the three elements of human trafficking came up. This is still extremely troubling. The fact that the aim or purpose of the exploitation associated with their transportation cannot be understood clearly from the interview of a person does not mean that it did not exist. In fact, it can be said that when one identifies the transportation and reception of a person in another jurisdiction, by means of deceit and abuse of a situation of vulnerability, it should raise a red flag because of the high risk that said transportation may have had the purpose of exploiting the person. In other words, the high probability that a crime as serious as human trafficking may have been being committed systematically is in itself scandalous.

Furthermore, in many of the cases where we cannot categorically affirm that the people transported were victims of trafficking, we can affirm that they suffered an extracontractual civil injustice or tort at the hands of those arranging their transportation and those receiving.

When I ask, over there, when we got to 1014 where there’s everyone from the city and everyone from all over the country, I know a lot of people in Bayamón, I find a friend. [Speaking in a low tone, he narrates the conversation with the acquaintance] *Acquaintance*: “Hey, what’s up? What you doing? Man, you in the program?” *Participant*: “Yes, man.” *Acquaintance*: “The guys always come by here, this and that” *Participant*: “Fucker, how much you making?” *Acquaintance*: “Thousand-two.” *Participant*: “How much? And you work in landscaping? I mean, you mean we also get paid a thousand-two?” *Acquaintance*: “Sure, that’s what you should get, the thing is that you...” *Participant*: “Man, WHAT? When I got to the home, I started spreading the word: NOBODY is going to work here, if there’s no money for us. They have eighteen people working landscaping”.

⁶ It should be remembered that this person had not been convicted of a crime by the commission and, therefore, could not be assigned to compulsory work without remuneration.

We consistently see how these persons were removed from their environment under deceit and taken to an unknown environment, cold and where another language is spoken. These persons were abandoned in warehouses for people that do not meet the minimum standards of medical care. Based on this, we can categorically affirm that many of the participants interviewed suffered, at least, very serious torts. Thus, for example, the case of a person who, wanting to stop using substances, sought help from the municipal government of Fajardo and declares, "the wife of the mayor" offered her information about a place in the United States. The participant insisted that she had to go to a treatment that provided medications for managing withdrawal symptoms. She alleged that the wife of the mayor reiterated more than once that the place she was referring to did provide clinical management for withdrawal:

FAF44: *"I asked if they gave medication and they told me yes, they gave medication and, you know?, that I was going to be fine ... what I asked the most was if they gave medication because, you know? I told her, you know? That I can't quit cold."*

Based on this information, she opted for making other transportation arrangements with the home. However, she did not receive treatment with medications for withdrawal and ended up having to be taken to the emergency room at a hospital:

*"And I saw they didn't give me pills and I'm like "Listen, pastor, but, don't you-what about my medication? **No, we don't give medication here**" ... I was really sick, really sick, really sick. Vomiting and he went home and the director and the girls were the ones who were there, god, taking care of me. The next day in the morning the director called him, like at six, because **I could not take it any more and like at seven he showed up, they took me, he took me to hospital and at the hospital I had convulsions and there I went 10-7(street slang for unconscious) and woke up the next day**".*

| Summary

Under the constitutional frameworks of the United States and Puerto Rico, in order to have constitutional rights violations there has to be government intervention.⁷ As we indicated, the Constitution of Puerto Rico enshrines the dignity of the human being as a fundamental value.

⁷ There are few exceptions to this, but the prohibition of slavery stands out, which could be invoked against individuals.

In view of this, it can be affirmed that government intervention in irresponsible transportations to other jurisdictions of persons through deceit and abuse of situations of vulnerability constitutes, at least, actions contrary to the Constitution because they impinge on the dignity of the human being. Thus, for example, the case of the person who stated the following:

NYM47: ““The Police of Puerto Rico brought me, the municipality with the Police of Puerto Rico, from Mayagüez to Aguadilla, until I got here... The treatment they’ve given me has been in Promesa... when I arrived from Puerto Rico, like, I arrived there to kick the habit. They treated me, I kicked for six days, they gave me methadone, after that I did ‘rehab’ and there, like, they threw me out into the street. It was all a dream because they offered me pie in the sky so I would come over here from Puerto Rico and nothing went like I thought”.

“It was all a dream because they offered me pie in the sky so I would come over here from Puerto Rico and nothing went like I thought.”
– NYM47

In view of the above, the violations of rights, criminal actions and illegal conducts that emerge in our research can be summarized as follows:

- Violations of Mental Health Law in the measure that the capacity to decide for oneself about treatment and choice among different alternatives presupposes a process of informed consideration and freedom from undue coercion o pressures;
- Abuse of the procedure of involuntary confinement under Law 67 (which, in itself, is questionable) involving the initiative being taken by police entities, with minimal or proforma intervention from ASSMCA and coercion of the subjects by the courts with the threat of incarceration in prison;
- Crimes of human trafficking, in that there was clearly: (1) recruitment, transportation or reception of persons; (2) Through coercion, fraud, deceit, abuse of power or of a situation of vulnerability; (3) With a motive of exploitation;
- Clear cases of extracontractual civil liability (torts) in view of which there was, at least, transportation and reception of a person in another jurisdiction, by means of deceit and abuse of a situation of vulnerability and in contravention of best medical standards.
- Evident violations against the dignity of the human being, a fundamental constitutional value in Puerto Rico.

Resolution 95 of the PR Senate: an inconclusive attempt to respond to the phenomenon

Following the prominence in the media of the phenomenon of relocation, on February 7, 2017, S.R. 95 was introduced in the PR Senate. It was introduced by Senator Ríos Santiago, coauthored by Senator López León and Senator Martínez Santiago, with the aim to:

“... order the Commissions for Social Welfare and Family Affairs; and for the Development of Community Initiatives of the Senate of Puerto Rico to carry out in-depth research about the programs of the Government of Puerto Rico such as *“De Vuelta a la Vida”* and the rehabilitation programs in the United States to which the Government of Puerto Rico sends persons with controlled substance addictions, the process of coordination with these programs, their effectiveness, the number of persons that have been sent to the United States, the follow-up given and the reason for sending these persons outside of Puerto Rico, as well as identifying the funding used to finance the transportation to other states.”

The resolution ordered in Section 1 that the Commissions of Social Welfare and Family Affairs; and for the Development of Community Initiatives of the Senate of Puerto Rico to carry out in-depth research about the programs of the Government of Puerto Rico and rehabilitation programs in the United States involved in the relocation of persons with problematic drug use focusing on “...the process of coordination with these programs, their

effectiveness, the number of persons that have been sent to the United States, the follow-up given and the reason for sending these persons outside of Puerto Rico, as well as identifying the funding used to finance the transportation to other states.”

Section 2. Stipulates that, in addition, to “request from the Administration of Health Services and Against Addiction (ASSMCA) information about rehabilitation programs for people with controlled substance addictions offered in Puerto Rico and the reason for sending citizens outside of Puerto Rico.”

On May 20, 2017, Professor Miranda-Miller, Dra. Albizu-García and Sra. Enid Quiles met with Senator Carmelo Ríos Santiago and Sra. Maceira Berrios in the office of the Senator. We shared with them the goals of this study with emphasis on the contribution to the Senate’s research of the legal analysis we would develop. Given that the study had not been completed by May 25, 2017, when public hearings for S.R. 95 were opened, we proposed integrating in our analysis and recommendations the testimonies presented by deposing agencies and organizations and the results of the research gathered in the Interim Report of the Commission of Social Welfare and Family Affairs of the Senate of Puerto Rico.

“There is a tragedy that, although it is known, nobody has wanted to delve or go deeper into.”

Thus, reads the second sentence of section entitled **Conclusión** on page 5 of the Interim Report about S.R. 95, presented by the Commission of Social Welfare and Family Affairs of the Senate of Puerto Rico. Reading on, the second paragraph reads as follows:

*“Government agencies, leadership of the programs mentioned and the Police of Puerto Rico had knowledge from unofficial information. It was even part of an investigation by the Department of Justice of Puerto Rico, which was allegedly shelved without any type of legal action. **What is certain is that the State has taken no measures to research more in depth, coordinate efforts with federal law enforcement agencies, or with bona fide faith-based entities in those cities to help our brothers and sisters abandoned there.**”*

Reading of the records submitted by state organs reveal the following:

1. The Department of Health, in a memorandum signed by Secretary Dr. Rafael Rodríguez Mercado, while approving the research, indicates that they have no information and that it is ASSMCA, having the legal personality and responsibilities assigned by Law, that could have the information to be considered by the Commission.

2. ASSMCA, in a memorandum signed by the agency's administrator, Sra. Suzanne Roig, recognizes that *“Homelessness is a social problem that grows day by day and it is not getting the attention it deserves to identify viable alternatives to prevent the situation or increase services aimed at this population.”* Apart from indicating that ASSMCA does not encourage the transportations, it indicates its disposition to provide information and participate in the research *“should it be necessary”*.

3. **The Police of PR recognizes in a memorandum its participation in the removal de homeless persons since 2003 based on “...the provisions in Law 53-1996, as amended, pertain to the inescapable commitment of safeguarding the lives and property of our citizens... the services this Agency provides to Puerto Rico have as their aim to establish and implant greater security, for the good of the collective.** This ministerial duty to impart social order responds to the constitutional context based on equal protection under the law, and on recognizing equality among people. (our emphasis)

The memorandum indicates that police intervention is for “security reasons”. In other words, it can be assumed that the homeless people with an OUD represent a risk to the public and on that basis they can be removed from the community and, we quote, “for the common good” as quoted in the previous paragraph.

Finally, it reiterates that “At no time did the Police of Puerto Rico coordinate (nor will it) services for this population outside of our jurisdiction. It is worth noting that when the media of this Country investigated whether personnel from “De Vuelta a la Vida” sent homeless people outside of our jurisdiction, it was found that it was not factual. Today, more than ever, regarding strict compliance with the Federal Agreement, our institutional policy is based not only on respecting human rights, but on continuing to create community Initiatives that will help to reinforce the link between the Police of Puerto Rico and los different sectors of the Country.” (our emphasis).

The two private organizations that make up the majority of spaces for abstinence-based residential treatment in PR, CREA Homes and Teen Challenge, also presented memoranda before the Commission.

1. CREA Homes, in the second paragraph of its memorandum signed by its President, Sr. Héctor Figueroa Rodríguez, lends no legitimacy to the issue being investigated by the Commission, indicating that “...the information is based on an anecdotal experience reported by a television program, of an entertainment and media rating character, which is far from the reality of Proyecto Nuevo Amanecer of the municipality of Bayamón and of the De Vuelta a la Vida program of the Police of Puerto Rico.” The memorandum highlights three themes: a) ASSMCA, despite a media statement issued in 2014 alerting and informing about this situation, did nothing to solve it; b) it demonizes the people with a

drug use disorder by referring to their health problem as a “vice” and assigns them blame for the lack of retention in treatment by attributing it to their deficiencies in not adjusting to the norms of the programs, and therefore, that “Their stay in them is brief and superficial”; c) they establish that they have a collaborative agreement with DVAV to bring to their homes people with mental or addiction problems and homeless people. They indicate, in reference to said collaboration, that the patients are referred on a voluntary basis. They recommend maintaining the program and increasing its funding, maintaining an up-to-date database of treatment resources in and outside of PR with their credentials and including a waiver of responsibility from the participants who accept services voluntarily.

2. The memorandum presented by Sr. Ángel Roque for *Teen Challenge* emphasizes the services offered by that organization and its certifications to operate. It indicates that they do not participate in referrals outside of PR and affirms the collaboration of the DVAV program, especially in Arecibo, to receive referrals. It recommends that DVAV should be provided an up-to-date directory of the licensed programs in Puerto Rico and the United States, expansion of detoxification services for opioids and alcohol, and evaluation of the impact of synthetic drugs emergent in the community.

Conclusions

The Commission's Interim Report closes with the following conclusion:

"This research is not finished, so we request of the Senate of Puerto Rico to be granted a term of one hundred and twenty (120) additional days to continue and complete it. During this period we want to study the conclusions of the investigation carried out by the Department of Justice of Puerto Rico, transportation service to the airport by the Police of Puerto Rico, where programs did in fact refer cases outside of Puerto Rico, and the follow-up given to the cases. To this end, we propose to cite municipalities with homeless and addiction assistance programs, the Federal Department of Justice and the Federal Bureau of Investigation (F.B.I.), and thus look into coordinating assistance for these cases." (pages 5-6). (our emphasis).

This study aimed to identify the operation of these practices of recruitment and transportation, what motivates them, who arranged transportation, who received them, what participants found once relocated, what their experiences and outcomes were. Importance was given to identifying allegations of participants about these transportations that would constitute violations of their rights, including deceit and coercion and that would result in intensifying their conditions of enormous precariousness, in addition to risks to their health and security. It also aimed at exploring whether in these cases of transportation there was human trafficking.

This study confirms, using diverse sources of information, that in fact hundreds of persons with drug use disorders, predominantly those without a home and with an opioid use disorder, were transported primarily to Chicago, Philadelphia and New York City, sent to unregulated homes and without access to effective treatment, by use of misleading schemes that increased their situation of vulnerability and in which participated officials from some municipal administrations and the Police of PR.

It stands out in the information reported in media articles, in the testimonies of key informants and in those given by the persons affected, that the removal of these persons and their transportation outside of the Island responded to the desire to "clean up the urban centers" of persons considered as a threat to safety. Statements from the mayor

of Fajardo, Aníbal Meléndez Rivera and of the mayoress of Ponce, María Méndez Altieri, as reported in the media, denote that they are not tolerated in the public areas of their cities. **In the case of Mayor Meléndez Rivera, he admits, as reported by the journalist Alfred Lubrano, that some transportations were paid for with public funding.**

The director of the *Nuevo Amanecer* program of the municipality of Bayamón admits having arranged multiple transportations to supposedly beneficial treatment services. However, testimonies gathered in Chicago and Philadelphia media link her to recruitment and transportation towards what Illinois Congress member William Delgado called “flopouses”. The transportations were not limited to persons not receiving treatment in PR. In Bayamón, they also recruited persons receiving methadone treatment at the center administered by ASSMCA, located in that municipality. **The participant of the study who was exposed to this situation accepted transportation with the expectation that he would continue his medical treatment in a new environment with better opportunities and upon arrival found deplorable conditions, a lack of the medication and other residents who were also transported while receiving treatment in the methadone center in Bayamón.**

The Police of PR collaborated in these arrangements. The DVAV program began in 2005 to respond to the problems related to homeless persons addicted to controlled substances and/or alcohol, precisely the profile of the people relocated to the US.

In the testimony presented during the hearings held in the Senate for S.R. 95, it is indicated that the DVAV program acted in conformity with the provisions of Law 53-1996, as amended, establishing “... *the inescapable commitment of safeguarding the lives and property of our citizens*” and that “...*the services this Agency provides to Puerto Rico have as their aim to establish and implant greater security, for the good of the collective.*” In the section dedicated to explaining its purpose included in the 2015 version of its Rules and Procedures (Police of PR, 2015) the DVAV program establishes that homeless persons lack supports, which places them at risk of “*being exploited in their condition*”. Police interventions with them, “...improve the quality of life of these citizens and, therefore, **improve the environment where the situation occurs.**” (our emphasis).

Despite indicating in their testimony about S.R. 95 that they didn't carry out removals outside of the jurisdiction, the DVAV program trains its agents to intervene in referrals and transportations outside of PR. It can be seen in the testimonies collected for this study from different sources that in fact they did participate in providing transportation to the airport and in recruiting participants for relocation. The Rules and Procedures of the *Vuelta a la Vida* program clearly define in section 9.a.5. that the services of the program cease “When the participant is referred and sent to an institution outside of the country, to receive treatment for their addiction problem”. They do not assume any responsibility in following up with the transported persons.

The disposition of the Police to refer persons to existing residential programs in PR, despite these not providing interventions validated by scientific evidence, as is the case of the majority of the residential programs on the Island, can be understood given that these programs are licensed to operate by ASSMCA. **In PR, the current criteria to issue a license do not require that they meet standards for evidence-based practices.** Mental Health Law 408 of 2000, as amended in 2008, does not define the term “evidence-based medicine or treatment” and allows non-governmental organizations with or without profit motives to provide services for disorders related to drug and/or alcohol abuse or dependency **“according to their historical, traditional and ordinary practices”** (our emphasis).

The concession given by Law to these organizations of not having to align their interventions with current scientific evidence is comparable to allowing health professionals to practice without complying with certified continuing education requirements or following up-to-date clinical guides. However, if they do not provide services aligned with new knowledge, up-to-date clinical guides and recommendations, they expose their patients to adverse consequences for their health and wellbeing that constitute neglect and malpractice. The exclusion from these quality guarantees of the sector of treatment for persons with DUDs reflects a perception on the part of legislators that these affected persons are not deserving of services backed by evidence of effectiveness and in accordance with respect for human rights.

Opioid dependency is a medical condition comparable with other chronic conditions like diabetes, in most cases requiring long-term treatment and on occasions for life (OMS, 2009). Medication-assisted treatment, such as methadone, constitutes the standard of care given that it reduces or halts the use of opioids and improves the physical and social health of the affected person. Interrupting an effective treatment without authorization and under deceit and exposing the person to the withdrawal associated with abrupt cessation of treatment and to relapse in opioid use cannot be justified, it violates clinical standards by not following the guidelines of the protocol for the gradual decrease or weaning (SAMHSA, 2018, page 3-32) and reflects the lack of value given to the treatment and to the life of those receiving it.

It is worrisome that, while the authorities of the receiving cities included in this study, once they became aware of the problem through the media between 2016 and 2017, began some procedures to oversee these predatory programs, in PR the health authorities and the Department of Justice did not convene a summit with the participation of municipal officials to understand and respond to the situation in accordance with the constitutional right of respect for the dignity of human beings and the standards that apply to the treatment of this condition. The memoranda submitted by the authorities of the Department of Health and ASSMCA during the hearings for S.R. 95 do not reflect a sense of urgency, concern about the implications of these practices for health, for the wellbeing of the affected persons and of the community, nor do they propose mechanisms for response.

The legal analysis of the testimonies of the relocated persons interviewed concludes that these procedures constitute violations of the Mental Health Law, abuse of the procedure for involuntary confinement under Law 67, crimes of human trafficking, clear cases of extracontractual civil liability (torts) and obvious violations against the dignity of the human being. In a society that does not value a person with drug use disorders and allows them to be sent into social exclusion and discrimination, these events can become the social norm. This perception promotes ideological positions that influence public policy that tolerates even “traditional practices” to “rehabilitate” that lack any evidence of effectiveness, as expressed in the Mental Health Law amended in 2008. Caroline Parker (2019) proposes, in a recent study about therapeutic communities in PR, that the reasons that explain the persistence of “residential treatments” based on the therapeutic community model attended by substance users, as the primary modality of services on the Island has little to do with its curative powers. This model, which until the 1970s predominated in the US, stopped receiving federal funding after studies that showed its ineffectiveness and even negative outcomes for recipients (White and Miller, 2007). The author suggests that these establishments have become social enterprises that achieve various purposes, among them the integration of surplus population that would otherwise be excluded from the labor force. This utility has little to do with effective treatment for persons with DUD.

The guides and standards are created to implement therapeutic recommendations based on the state of the evidence about their effectiveness in order to promote quality in the provision of health services. In accordance with standards adopted by professional bodies and international health organizations, PR must be able to provide validated effective interventions in response to OUD. In the case of OUD and other substances, in the USA and PR the tendency to treat the condition has predominated in the non-professionalized sector of services provided by rehabilitated peers. While these programs have been disappearing in the USA, in 2016 only 18% of persons with need had received any kind of specialized service (SAMHSA, 2017). The report entitled “*International Standards for the Treatment of Drug Use Disorders*”, published in 2017 by the Office of Drugs and Crime of the United Nations in conjunction with the World Health Organization (UNODC, 2017) describes the following:

“Unfortunately, outdated views about drug use disorders persist in many parts of the world. Stigma and discrimination that is commonly applied to drug dependent individuals and to professionals working with them have significantly compromised the implementation of quality treatment interventions in this area, undermining the development of treatment facilities, the training of health professionals and the investment in recovery programmes. Even though the evidence clearly shows that drug use disorders are best managed within a public health system, similarly to other

medical problems such as HIV infection or hypertension, the inclusion of addiction treatment in the health care system is still very difficult in many countries where a huge gap exists between science, policy and the clinical practice.” (page 1, paragraph 4)

The document recognizes that drug use disorders represent a complex health problem influenced by social, psychosocial, environmental and biological determinants and that its prevention and treatment require an integrated, inclusive and multidisciplinary response, resulting from collaborations among different institutions.

Three goals for treatment are proposed: 1) reducing the use and the cravings for the drug, 2) improving the health, wellbeing and social functioning of the affected person, 3) preventing future harm through decreasing the risks that lead to complications and relapses. Treatment must, in addition to being aligned with the UN Declaration of Human Rights and promoting personal autonomy and individual and social safety. Most of the organizations to which the people removed from PR were sent, through interventions of the mayors and of the police, are in crass violation of these principles. In PR, not only is there limited availability of treatment services. The gap is exacerbated by the fact that the majority of the services available in PR persist in that retrograde vision of drug use disorders indicated in the previous quote. PR's lack of an integrated system of services for this population has generate this insensitive response.

Rush y Urbanoski (2019) present 7 core principles for designing DUD treatment systems that they recommended to the Canadian government and those of other nations (our translation):

1. Systematic approach responding to the range of issues related to use, problems and disorders in the community to have a population-level impact.
2. Access to and effectiveness of services for this population improve through collaborations among stakeholders.
3. A variety of systematic supports is required to facilitate and support the provision of effective services.
4. Cultural sensitivity to understand the strengths and needs of diverse populations with respect to mental health and to allow them to benefit from a continuum of services grounded on self-determination, holistic cultural practices, the opportunity to have choice in selection and collaboration.
5. Paying attention to diversity and socio-structural disadvantages to ensure the design of an equitable and effective system and delivery of services.

6. Including systematic screening, evaluation and planning for individualized treatment to improve detection and access to services and thus be able to match the person to the appropriate level of evidence-based service and intervention through the continuum of the care system.
7. Treatment plans must include the appropriate combination and duration of psychosocial and clinical interventions informed by evidence of effectiveness.

Esousing these principles in PR to design a system that will both integrate evidence and respect for human rights requires at least working with priority on the sensitization of key sectors with the power to influence public policy decisions, training under this model a qualified and sensitive work force that has traditionally been socialized under the cultural norm that assigns low social value to a person suffering a DUD, developing capacity to continuously monitor and evaluate the system and its components, maintaining an up-to-date archive of the knowledge generated at a local and international level about prevention and treatment along the life span and providing the fiscal and normative resources to support it. **Only in this way will we also be able to develop sustained systems in outcomes-oriented management and care for this condition under a model that will allow for its auditability, a decrease of negative**

health outcomes for the affected persons and in the general population stemming from untreated DUD. These take place in an environment dominated by a policy of controlling the supply or “iron fist” and, as a consequence, a huge gap between effective treatment and the need for services. As we indicated earlier in this document, effective treatment reduces negative outcomes of untreated OUD that in the long term imply a much larger expense of scarce resources on the less successful strategies of supply reduction such as the criminalization of the use of certain drugs, legal prosecution, incarceration, organizations created to sustain these social responses and the premature death of persons who could successfully reintegrate into society, among others.



Recommendations

1. Presenting this report for the consideration of the Civil Rights Commission and requesting, in accordance with its mission, that it take action for the protection of human rights, strict compliance with the laws protecting the rights of persons affected by a drug use disorder and participation in the discussion and development of public policies that will impact the human rights of this population and improve access to services to reduce the risks of untreated OUDs.
2. We suggest:
 - To reinstate in the Senate discussion of S.R. 95 to identify remediable factors that have been enabling the practices of transportation and develop public policy to respond.
 - To consider reviewing the Mental Health Law to design criteria for licensing that will ensure that the services for persons with drug use disorders will conform to the latest evidence-based knowledge from research about its effectiveness and efficiency, to international guidelines from health organizations and that they should be culturally acceptable and respectful of the rights of the patient.
 - To consider the creation of a working group including the representation of the Civil Rights Commission to reevaluate the procedure for involuntary confinement under Law 67.
- We recommend reinitiating the discussion of S.R. 95 and request from the Department of Justice an opinion about the legal implications of the practices reported.
3. Raising the awareness of the community about this situation and about the alternatives that could avoid it and achieve multi-sectorial support for measures that will increase above all medication-assisted treatment for persons with an OUD.
 - Establishing a multi-sectorial Commission that, based on the criteria presented here, on the state of accumulated knowledge in the scientific literature and on the experiences of countries successful in the management of drug use under a public health model, will be able to recommend for this country a public policy model that also includes the integrated healthcare system as it is recommended in this report.
 - This organized system must have a coordinated continuum of care, from threshold to high, in order to be able to serve persons with DUDs who are in different motivational states to obtain treatment and thus reducing preventable negative outcomes associated with drug use and abuse.

APPENDIX A

MEDIA RELEASE



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FOR IMMEDIATE PUBLICATION

ASSMCA alert about important factors to consider when requesting treatment for addiction outside of the Island

Bayamón – (January 14, 2014) – ASSMCA alert to the general community and entities that issue referrals to addiction treatment services in the United States. We have learned of **certain situations that could endanger the health and safety of patients when people seeking treatment are sent to programs that are not licensed to operate in the state where they are located.**

In face of the scarcity of treatment in Puerto Rico, some persons, families or entities have opted for transporting persons with substance use disorders to organizations located principally in the eastern states of the USA, without obtaining information about the qualifications of these centers.

There is scientific and journalistic evidence about persons who have been admitted to residential centers without adequate facilities and services and having then decided to leave the service without being able to recover their documents (driver's license, social security or voter registration, Medicaid cards, etc.). Often, these patients find themselves in the United States homeless and without identification documents to be able to access other government services and without resources to return to Puerto Rico. They become victims of the rejections of these communities, in addition to being exposed to severe weather conditions and other stressors that aggravate their illness.

Recently the media in Philadelphia featured the problem on the front page of the weekly "Al Día", <http://www.pontealdia.com/Philadelphia/via-de-los-zombis.html>. ASSMCA shares this report as an example of the problem, although we do not agree with the title and content, which is highly stigmatizing. Other states where this has been documented with more frequency are New York, Florida and others on the East Coast.

After reviewing the literature documenting the problem and obtaining information from the directors of regulatory agencies in some of the states involved, ASSMCA recommends before referring patients to programs outside of the Island, to verify whether the program has a license to operate from the state where it is located. This can be corroborated in the following informational resources:

1. In Puerto Rico you can call 24-hours, seven days a week on ASSMCA's PAS Hotline on **1-800-981-0023**.
2. If you have internet access, visit our agency's page: ASSMCA <http://www.assmca.pr.gov> and then, see URL <http://findtreatment.samhsa.gov>. This Will take you to SAMHSA's Directory of Treatment Services for Addiction, for the whole USA and its jurisdictions. You can click on a state on the map. There is also a menu

APPENDIX A

on the left margin of the page and under the section “Other Links” you can find this tab: “State Substance Abuse Agencies” through which, once you select the state or territory, you can find the contact telephone number of the state agency for information about the licensed services in that jurisdiction.

3. You can call SAMHSA’s 24-hour information line that provides services in Spanish or English by calling toll-free **1-800-662-4357**.

ANY INFORMACION SHARED OVER TELEPHONE or INTERNET WILL BE KEPT CONFIDENTIAL

ASSMCA is coordinating efforts to expand the availability of dignified, safe and effective treatment in Puerto Rico and we hope to be able to decrease **the need** to transport our loved ones affected by addictions to centers outside of the country, merely because of the scarcity of locally available services. If you are interested in exploring treatment in the United States, we urge you to get informed through the resources here provided.

APPENDIX B



ESTADO LIBRE ASOCIADO DE PUERTO RICO



**PROGRAMA DE VUELTA A LA VIDA
PARTICIPANTS TRANSPORTED TO THE US
BY POLICE AREA SINCE 2005 TO THE
PRESENT 2014**

AREA	CANTIDAD
AGUADILLA	153 New York 17 New Jersey 40 Florida 28 Philadelphia 2 Carolina del Sur 1 Boston Total 241
AIBONITO	24 Chicago 6 Florida 1 Philadelphia 1 New York Total 32
ARECIBO	57 Philadelphia 20 Chicago 8 New York 4 Florida 1 Boston 25 E. U. no se detalla destino en los informes Total 115
BAYAMÓN	56 New York 14 Pennsylvania 5 Chicago 5 Florida

	1 Wisconsin 11 Philadelphia 2 E.U. no se detalla destino en los expedientes Total 95
CAGUAS	7 Chicago 2 New York Total 9
CAROLINA	0
FAJARDO	0
GUAYAMA	5 Atlanta Georgia 6 New Jersey 10 New York 1 Florida 2 Philadelphia 1 Chicago 1 Boston 19 E. U. no se detalla destino en los expedientes Total 45
HUMACAO	18 Florida 14 New York 2 Chicago Total 34
MAYAGÜEZ	20 New York 10 Florida Total 30
PONCE	6 Chicago 1 New York Total 7
SAN JUAN	11 Chicago 4 Miami 1 New Jersey Total 16

UTUADO	76 New York 14 Philadelphia 44 Chicago 1 Florida Total 135

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Frances Vega Carrasquillo, JD

Collaborated during her studies in the Law School of UPR as research assistant of Prof. Miranda-Miller, on literature review and the development of codes for the legal analysis of the interview transcripts.

Nahir Cruz-Montes, MS

During her studies towards an MSc in Research and Program Evaluation of Health Systems in the Graduate School of Public Health at the MSC of the UPR, collaborated in the coordination of the interviews of participants in NYC, in the development of the analysis guide, in the analysis of the interviews of persons relocated and in the structuring of the final report. Currently, she works as Evaluator of the Asthma Program of the Department of Health of Puerto Rico.

Paloma M. González-López, MS

Is a PhD candidate in Clinical Psychology. She participated as research assistant and interviewer in studies carried out by Dra. Albizu-Garcia and her colleagues with participants incarcerated in penal institutions. She lives in NYC and recruited and interviewed relocated participants who have remained in that city. She collaborated on the design of the interview guide.

Débora Upegui-Hernández, PhD

Is a social psychologist with experience in research with participants from vulnerable populations in different contexts, including the homeless. She collaborated on the analysis of the in-depth interviews of relocated persons. She is co-author of a qualitative study documenting human rights violations occurring in the so-called "treatment centers" for drug users in PR.

Yamil Carrasquillo Vázquez, BS

Is a student in the MSc in Research and Program Evaluation of Health Systems in the Graduate School of Public Health at the MSC of the UPR. He collaborated as research assistant of Dra. Albizu-Garcia on interview transcriptions, on the analysis and on the literature review.

Melissa Reneth Ramírez-Ramírez, MS

Is a PhD candidate in Clinical Psychology and obtained her MSc in Research and Program Evaluation of Health Systems in the Graduate School of Public Health at the MSC of the UPR. For more than two years she has worked as a research assistant and recently, program evaluator at the Center for Sociomedical Research and Evaluation. She collaborated with the final review and graphic design of the report of this study.

