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*“The abuse of the Empire has a limit and that is the patience of the people”
--Graffiti on Vieques*

Vieques, a Target in the Sun

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Executive Summary

May 1, 2013 marks the tenth anniversary of the day that the U.S. Navy left the small island of Vieques, Puerto Rico. The Navy had used portions of the inhabited island for military training ranges and ammunition storage. On the training ranges, the Navy and Marines conducted aggressive air-to-ground bombing, amphibious assaults, ship-to-shore shelling, artillery practice, and a variety of other training exercises involving the use of a wide range of explosives and toxic materials.

Four years earlier, on April 19, 1999, a local citizen named David Sanes Rodríguez was working as a guard at one of the ranges and was killed when a 500-pound bomb from a Marine jet missed its target and landed on an observation post. Local non-violent protests which shut down the ranges grew to national and international dimensions, and the U.S. Congress and two succeeding administrations grappled with controversy until finally the Navy was forced by congressional and administrative action to leave the island.

It would be a mistake to think that the controversy started in 1999, however. Since the 1940s, the island and its people had endured six decades of forced relocation, bombardment, and the introduction of toxic materials to its environment. The Navy made promises over that time to improve the environment, lessen the impact of the training, improve the economy and treat the people with respect. Congress held hearings in 1980, 1981 and for three years after the 1999 accident. Today, ten years after the Navy left, the people of the island continue to suffer from poor health, high unemployment, a lack of basic services and limited access to much of the land that were taken from them 60 years ago.

This paper examines the history of the use of the island by the Navy, of the eventual legislation that furthered the punishment of the people, and the need for a more aggressive response to address the conditions that continue to afflict the people of Vieques.

From a distance, Vieques looks like another Caribbean island paradise with sandy beaches and lush tropical forests. Sitting just off of the east coast of Puerto Rico, and part of the Commonwealth, its population of fewer than 10,000 people lives mostly in two villages, one on the north shore and one on the south. Approximately 22 miles long and 4.5 miles wide, it a quiet place where modern development and many conveniences are still hard to find. Vieques is a popular destination for tourists who want to visit an island with beautiful beaches but would also like to avoid the crowds and costs of better known Caribbean vacation spots.

But Vieques has paid a great cost to become a “retro” vacation spot. As they enjoy riding rented Jeeps over the unimproved roads and sipping rum in the beach bars, many who visit Vieques may not realize the island’s unique history—and that of Culebra, an even smaller island to the north—that underlies the current depressed economy and residents’ generally poor quality of life. The sacrifice of the people and the toxic harm to the ecology of Vieques define a history that deserves to be told.

THE NAVY AND VIEQUES

In the early 1940s, the U.S. Navy began conducting weapons training on the two islands off the east coast of Puerto Rico’s main island. But these two islands were not empty; each was occupied by local civilians throughout the period that they were being used as targets for bombardment. President Nixon in 1974 directed that weapons training on Culebra be terminated, and in 1975, after more than five years of protests by the inhabitants, Navy bombardment there stopped. This left the two target ranges on Vieques, just south of Culebra, the only ones in the Caribbean available for the training. As a result of the closing of the ranges on Culebra, the Navy assaults on Vieques intensified.

The Navy began appropriating land on Vieques in 1941 through a condemnation process and through purchases of land from local sugar farmers. By 1950, the Navy had taken over 25,300, or 77 percent, of Vieques’ total 33,000-acre surface area. The approximately 800 families living there at the time were forced to relocate to sites chosen and built by the Navy, and were not given title to the land. Instead, the Navy gave them parcel assignments granting them permission to occupy the land, and told them they could be required to vacate the land upon 30 days’ notice.¹

Vieques was eventually divided roughly in three sections. The Navy’s training took place for decades on the eastern portion of the island at the Atlantic Fleet Weapons Training Facility (AFWTF) ranges and the Eastern Maneuver Area. Situated on the western portion of the island was the Naval Ammunition Facility (NAF), later designated the Naval Ammunition Support Detachment (NASD), which housed ammunition that was classified in nature in a series of partially buried bunkers. In the center of the island, from the Vieques Sound on the north to the Caribbean Sea on the south, lived the local population, compressed there by forced relocations from around the island. The majority of the current population is still in that middle portion.

Many credit a wave of strenuous anti-Navy sentiment between 1999 and 2003 as the primary cause of the Navy’s departure from Vieques. It would be a mistake, though, to assume that major

discord began then. In fact, the local dislike for the island's role as a target began well before 1975, when Culebra closed, and only intensified as the bombardments increased.

In 1978, after increasing protests by residents of the island, Rep. Ronald V. Dellums (D-California), a member of the U.S. House Armed Services Committee, recommended that the Committee's Chairman appoint a panel to review the Navy's use of Vieques. Chairman Melvin Price (D-Illinois) appointed this panel, which began its work in earnest at the end of 1979 after delays caused by the congressional calendar and by litigation brought by the Governor of Puerto Rico, Carlos Romero Barceló, against the Navy.

In May 1980 the panel held hearings in Washington, DC, taking testimony from the Department of the Navy and other Department of Defense witnesses. In July 1980, the panel held two days of field hearings on the island of Vieques, taking testimony from Governor Romero Barceló, local government officials, and public witnesses. In September, the panel held a concluding hearing in which it received further information from the Navy and the Environmental Protection Agency. Its extensive hearing record included over 450 pages of testimony and documentation.

The panel's findings were extremely critical of the Navy and its treatment of the island's people. While recognizing the need for the Navy to train in general, it faulted the Department for its intensity of operations, lack of cooperation with the Commonwealth, its failure to fully recognize the need to mitigate its environmental impact, its lack of support for community development programs, and its poor handling of community relations.

As far back as 32 years ago, long before the crucial events that occurred between 1999 and the Navy's 2003 departure, Chairman Dellums wrote in the concluding views of the panel report, "I cannot emphasize too strongly the need for the Navy and the Defense Department to proceed now, without delay, to locate alternatives to Vieques and, in the interim, study and develop methods of alleviating as many of the more immediate concerns as possible."²

Romero-Barceló v. Brown and the 1983 Memorandum of Understanding

On March 1, 1978, more than two years before the congressional hearings, Governor Romero Barceló had filed suit for a comprehensive injunction against the Navy, claiming that its activities in and around Vieques caused irreparable injury to the island's ecology and inhabitants. While the court ruled in the Navy's favor in that it did not issue the requested injunction, it did require the Navy to obtain a National Pollutant Discharge Elimination System permit, and prepare an environmental impact statement, among other steps.

In 1983, after the House Armed Services Committee hearings, after years of unrelenting protests and in recognition of the lawsuit pending against them, the Navy finally entered into a Memorandum of Understanding (MOU) with the Commonwealth in return for an agreement with the Governor to drop the lawsuit. The governor and James Goodrich, the Acting Secretary of the Navy, signed the MOU, also known as the Fortín Accord, on October 11, 1983.

At the time, the MOU appeared to signal a dramatic change in the relationship between the island's people and the Navy. The Navy agreed for the first time that its activities "may have a

potential deleterious impact on the social and economic development of the island” and “recognize[ed] its obligation to be a good neighbor to the people of Vieques and [would] continue to strive to improve the welfare of the island’s people.”³ It went on to detail many obligations that the Navy would assume regarding several pending areas of dispute, including community assistance, land use, ordnance delivery, and a host of environmental matters.

At the historic fort near the town of Isabel Segunda, where the signing ceremony took place, several Viequenses who had been struggling against the Navy’s presence for years protested from the sidelines. They felt that dropping the lawsuit in a trade for the MOU was a surrender of the cause and that the promises in the MOU would prove to be unenforceable.⁴

The Death of David Sanes Rodríguez

For the next 16 years, the Navy continued to use Vieques for air, land, and sea bombardments. Then, on April 19, 1999, a tragic accident took place at Observation Post 1, adjacent to the Live Impact Area on the eastern tip of the island. A Marine Corps F/A-18 Hornet aircraft, mistaking the Observation Post for its target, dropped two 500-pound Mark 82 live explosive bombs. The accident killed a civilian contract guard, local Viequense David Sanes Rodríguez, and injured four others.

This incident set in motion actions by the Governor, the President, the military, and the Congress, as well as a massive, long-lasting series of protests, both across the island (including encampments located in the restricted Live Impact Area itself) and in various U.S. states.

The Governor of Puerto Rico called for an immediate cessation of Navy activity and on May 11, 1999, established by Executive Order a Special Commission to study the situation of Vieques. Six weeks later, the Commission forwarded its unanimous recommendations to the Governor, first among them “that the Navy should immediately and permanently cease and desist from all military activities on Vieques and that there be an orderly and expeditious transfer of the lands held by the Navy to the people of Vieques.”⁵

The Rush Report

On June 9, 1999, President Clinton sent notice to Secretary of Defense William Cohen requiring him to establish a panel to review the need for operations at Vieques and to explore possible alternative sites or methods that could replace the Navy’s activities there. Cohen appointed the Acting Assistant Secretary Defense for Force Management, Frank Rush, to lead the panel. On October 19, 1999, the Special Panel submitted its report to the Secretary of Defense and the President. It concluded, among other things, that it agreed with Representative Dellums’ 1981 assessment that “‘insensitivity has been the hallmark of the Navy’s approach’ with respect to community relations.”⁶

The Rush report also noted that the “relationship between the Navy, the residents of Vieques, and the people of Puerto Rico had reached crisis proportions even prior to the tragic death of David Sanes Rodríguez.” The report went on, “This breakdown can be attributed in many respects to the legitimate complaint of the Commonwealth that the agreements made in the 1983

Memorandum of Understanding between the Secretary of the Navy and the Governor of Puerto Rico had not been lived up to by the Navy.”⁷

As to the residents’ health and noise concerns, the report criticized the Navy for lacking a sincere or sustained effort to identify the causes of the island’s high rate of cancer and for ignoring complaints about the noise created by the military activity, as evidenced by their unabated tempo and conduct of operations.

Finally, the report concluded that no other alternative site currently existed for the necessary Navy training but that new technologies and methods should be pursued so that the Navy could relocate from Vieques at a future date. It called for several reductions in amounts and types of operations in the interim. It also recommended the cleaning, restoring, and transfer of certain Navy lands at the Naval Ammunition Facility on the western end of the island to the Commonwealth of Puerto Rico.

The Clinton-Roselló Plan

On December 3, 1999, less than two months after the Rush Panel issued its report, President Clinton announced a plan calling for the end of training on Vieques within five years—unless the people of Vieques chose to have the Navy stay—with the stipulation that training at restricted levels would continue for that five-year transition period while the Navy sought alternative sites.⁸ The statement was notable in that it denied the demands for an immediate end to operations on the island, but it was also remarkable in that it opened the door for a local decision process regarding the eventual disposition of Navy presence.

Throughout December 1999 and January 2000, negotiations proceeded under White House guidance with several participants, including Puerto Rican Secretary of State Angel Morey and U.S. Secretary of the Navy Richard Danzig. After at least two Pentagon offers were rejected, Governor Pedro Roselló accepted an offer on January 31, 2000, from Clinton for the Navy to leave Vieques on May 1, 2003—two years earlier than the offer made by Clinton on December 3—if the registered voters of the island agreed by referendum in favor of their departure.⁹ In addition to \$40 million previously offered by the administration for economic assistance, the deal would offer an additional \$50 million in aid to Vieques for housing and infrastructure improvements if the people agreed to an alternative referendum question that let the navy stay and continue its live-fire training. The referendum was tentatively set for some time between August 2000 and February 2002. In accepting the offer, Governor Roselló agreed to let the Navy resume its use of the range, only with inert weapons instead of live bombs.

Also included in the Presidential Directive was a determination that, irrespective of the referendum’s outcome, a funding request would be forwarded to Congress for a comprehensive Public Health Service study to review health concerns raised by the island’s residents.

The Navy still did not have access to the range, however. The protest movement had grown to significant proportions, gaining national and international media attention over the nine months since the accident occurred. Protestors came by boat to the eastern end of the island, where some set up many sit-in camps among the unexploded ordnance in the Live Impact Area. National

figures, including Jesse Jackson, Robert F. Kennedy, Jr., the Reverend Al Sharpton, and some members of Congress, including Rep. Nydia Velázquez (D-New York) and Rep. Luis Gutierrez (D-Illinois), had traveled to the island and participated in the protests.

The civil disobedience movement continued to gain momentum as it spoke not only to issues of military training, but also to what many considered to be the larger issue of a long history of colonial domination of the people of Vieques, of Puerto Rico, and of other territories around the world. The protestors split with Governor Roselló and rejected the January 31 Pentagon offer, vowing to stay in place on the bombing range and as a constant presence at the gates and on Camp Garcia in the adjacent Eastern Maneuver Area.

On May 4, 2000, a force of over 300 federal agents removed 216 protestors from the training range. Four days later, the Navy resumed operations on the range, using non-explosive ordnance.¹⁰

Congress Addresses the Vieques Controversy

The House and Senate Armed Services Committees considered the Vieques situation when drafting their annual National Defense Authorization Act in 2000. Desiring to reclaim the training ranges and punish those who worked to deny the military's access to them, the House Committee passed a series of punitive provisions in its markup of the bill. Title XV of the House version, entirely devoted to Vieques, contained several provisions which would have limited or denied the Pentagon the authority to comply with the wishes of those who wanted the Navy out.¹¹

However, the Ranking Democratic Member of the Committee, Ike Skelton (D-Missouri), offered an amendment during consideration of the bill in the full House on May 18, 2000 that struck the entire Title XV, substituting it with language that conveyed land on the western end of the island to the Commonwealth of Puerto Rico. The Hispanic Caucus voted unanimously for the Skelton amendment, and other delegations with heavy Hispanic constituencies—in an election year—followed suit. With 419 members voting, the amendment passed the Republican-controlled House by seven votes. The language survived the rest of the legislative process and as a result, on April 30, 2001, 4,000 acres of the Naval Ammunition Support Detachment were conveyed to the Municipality of Vieques, 3,100 acres to the U.S. Department of the Interior, and approximately 800 acres to the Puerto Rico Conservation Trust for use as conservation zones. The eastern portion of the island remained, for the time being, under Navy control.

In January of 2001, the new Governor of Puerto Rico, Sila M. Calderón, repudiated the Clinton-Roselló plan and called for President Clinton to issue an executive order to halt all exercises on Vieques. On April 27, 2001, federal judge Gladys Kessler refused to issue an injunction against the resumption of exercises. Demonstrations and civil disobedience recommenced the next day as the Navy began its exercises. Those participating included Norma Burgos, an opposition senator, and Myrta Sanes, the sister of David Sanes, who snuck into the restricted area. The confrontations grew ugly, resulting in 183 arrests, and many protestors accused U.S. Marshals and local police of abusive tactics, something largely confirmed by media photographs and reports. Representative Gutierrez was arrested during a protest on April 28, 2000 and detained in

a federal detention center on the island for several days, suffering harsh treatment, he said, at the hands of his U.S. Navy and prison guards.¹² Governor Calderón again asked the Bush administration to halt the bombing and filed suit against the Navy, claiming damages to the health of the islanders.

On June 14, 2001, at a news conference in Goteborg, Sweden, President Bush announced his decision to end all training exercises on Vieques by May of 2003. “The Navy ought to find somewhere else to conduct its exercises, for a lot of reasons,” he said. “One, there’s been some harm done to people in the past. Secondly, these are our friends and neighbors, and they don’t want us there.”¹³

Later that month, Rep. Curt Weldon (R-Pennsylvania), a member of the House Armed Services Committee, announced an amendment to the Defense Authorization bill pending in committee, which would greatly increase the cost of a referendum outcome closing Vieques: if Vieques closed, so would the other two large military bases on Puerto Rico’s mainland (Fort Buchanan and Roosevelt Roads Naval Station).¹⁴ This was the first congressional move to tie the economic benefits of having military bases on the main island to the fate of the Navy on Vieques: a tacit threat to the people of Puerto Rico. In another move to cut off prospects for economic benefit to the people of Vieques, language in the bill stated that if the Navy had to vacate the firing range, the land would be managed by the Interior Department as a wilderness area and a wildlife refuge in order to thwart the locals from benefiting from economic development.¹⁵

On July 29, 2001, a nonbinding referendum, called by Governor Calderón, demonstrated that 68 percent of Vieques’ registered voters wanted the Navy out immediately. President Bush said that the administration would stick to the May 2003 exit date.

Complicating the issues of the need for Navy training and the use of Vieques for that purpose were the terrorist attacks of September 11, 2001. Congress renewed its insistence that the Navy should not give up the range until a substitute was found. The demonstrators on Vieques, in light of the recent attacks, agreed to abide by a self-imposed moratorium on civil disobedience, saying they would not interfere with the training of ships headed to the Middle East.¹⁶ However, pressure from Congress notwithstanding, the timetable for the Navy departure remained firm.

Given the growing certainty that the Navy would lose the upcoming referendum, military supporters in Congress grew concerned about setting a precedent in which local populations near a U.S. base—elsewhere in the United States or around the world—could determine its status by a local vote. They pushed for and got a repeal of the legislative requirement for a binding referendum on Vieques in the Fiscal Year 2002 Defense Authorization bill. Defense hawks, upset with President Bush’s declaration that the Navy would leave on a certain date, inserted language in the bill that required the Secretary of the Navy to close the range only if he could certify that a suitable alternative to Vieques was available.

Bases on the Main Island

In 2002, the pending loss of the Vieques ranges provoked outrage on the part of some in the military and Congress, who turned their attention to the larger island. It was well understood

that—unlike for the people of Vieques—the Army’s Fort Buchanan and the Naval Station at Roosevelt Roads generated significant economic benefit to the people in the communities surrounding these bases. Citing, in part, the controversy over Vieques as a reason for leaving, the Army announced that a large Southern Command component on Fort Buchanan, the U.S. Army South (USARSO), would relocate back to the United States, leaving behind over 670 Puerto Rican civilians employed at the base.¹⁷

Senator James Inhofe (R-Oklahoma), a harsh critic of the Vieques protestors who were still occupying the range at the time, had introduced a bill in 1999 to close the Roosevelt Roads Naval Station in Ceiba, Puerto Rico, should the Vieques facilities be lost to the Navy. Roosevelt Roads, one of the largest U.S. military facilities in the world, was originally built on the size and scope of Pearl Harbor and was designed to anchor 60 percent of the Atlantic Fleet.¹⁸ As a result of its closure, the estimated \$300 million a year in economic activity associated with the base would be moved to stateside locations.¹⁹ Other government activities at the base, such as the counter-drug operations that had no direct association with Vieques, would also be moved from the Naval Station to a location specifically “outside the Commonwealth of Puerto Rico.”²⁰ Though the Inhofe bill itself did not become law, Congress followed his lead and proceeded with the closure process. Naval Station Roosevelt Roads was downgraded in 2003 and eventually closed on March 31, 2004.

The Navy Leaves Vieques

After nearly 60 years of bombardment, the island of Vieques finally saw the Navy leave on May 1, 2003. There was jubilation on the island; the celebrations overflowed into Camp Garcia and became destructive when some military property was damaged. After Vieques’ new post-Navy status became real, the serious business of working toward the future began. The Committee for the Rescue and Development of Vieques, a grass-roots organization of residents of Vieques, proposed a plan it had been working on during the years coinciding with the protests, called the “Guidelines for Sustainable Development.” A year later, Governor Sila Calderón signed Law 153, which adopted the basics of this development plan. But a lack of funding and the inability to use much of the land because of the congressionally-mandated restrictions hampered the plan’s progress.

10 YEARS LATER

One who visited the island in 2003 and journeys back there today may be struck by how little has changed. Isabel Segunda and Esperanza are still the only two small towns, with little or no evidence of expansion. The roads throughout the island are still narrow, mostly in disrepair and populated by the occasional herd of grazing, free-range horses. There are no major stores, and only two gas stations, which are prone to be without gas at some point in any given month. The one ferry terminal and one small airport have not seen any significant upgrades.

Health Problems

The decades of military bombardment have had a toxic toll on Vieques and its people. As far back as the Dellums hearings in 1981 and before, the people had been complaining of serious

health effects. The departure of the Navy in 2003 gave the islanders hope that better days were ahead.

The Agency for Toxic Substances and Disease Registry (ATSDR) of the Department of Health and Human Services' Centers for Disease Control and Prevention carried out four studies of Public Health Assessment data between 2001 and 2003 to investigate a possible link between the Navy's exploded and unexploded ordnance and the remarkably high level of health problems that Viequenses were experiencing. Astonishing to many, the ATSDR stated in each of the studies that the levels of heavy metals and explosive compounds found in the island's soil, groundwater, air, and fish were not a health hazard.

This contradicted the findings of several scientists, including Dr. Jorge Colón of the University of Puerto Rico who, based on hair samples from Viequenses, found that 34 percent of the population has toxic levels of mercury, 55 percent are contaminated with lead, 69 percent with arsenic, 69 percent with cadmium, 90 percent with aluminum, and 93 percent with antimony. All are substances found in the types of ordnance that were used on the island.²¹ Other findings by the Puerto Rico Department of Health pointed to abnormally high rates of cancer. In 1997, the Puerto Rico Central Cancer Registry reported that Vieques' cancer incidence rate was 23.8 percent higher than in the mainland during the period between 1985 and 1989.²² Abnormally high rates of hypertension, liver disease, and diabetes are also claimed by many Viequenses.

In another study, ecologist James W. Porter of the University of Georgia sampled the areas surrounding the U.S.S. Killen, a ship used as a target for nuclear tests in the Pacific in 1958 and later scuttled off the coast of Vieques. Porter "expect[ed] to find evidence of radioactive matter - instead he found a link to cancer. Data revealed that the closer corals and marine life were to unexploded bombs from the World War II vessel and the surrounding target range, the higher the rates of carcinogenic materials."²³

The bitter controversy over the cause of the Viequenses' health problems has continued to the present day among administration scientists, public health and academic scientists, Congress, and the courts.

On February 12, 2008, presidential candidate Barack Obama wrote a letter to the Governor of Puerto Rico, Aníbal Acevedo Vilá, promising that if elected, he would "pay close attention to the issues that have an impact on the well-being of the people of Puerto Rico," and that his administration would "closely monitor the health of the people of Vieques and promote appropriate remedies to health conditions caused by military activities conducted by the U.S. Navy on Vieques."²⁴

The ATSDR came under fire in Congress for general shortcomings in its work, including its work in Vieques. On March 10, 2009, in preparation for hearings, the majority staff of the House Science and Technology Subcommittee on Investigations and Oversight issued a report to its chairman, Rep. Brad Miller (D-North Carolina), titled *The ATSDR: Problems in the Past, Potential for the Future?* noting professional scientific skepticism of the ATSDR's work on Vieques and elsewhere.²⁵ While testifying before the Subcommittee, ATSDR Director Dr.

Howard Frumkin, a physician and epidemiologist, defended the agency but said he would reopen the Vieques health assessments and agreed to conduct a new and more reliable study.²⁶

On November 13, 2009, Dr. Frumkin and the ATSDR announced that it had found reasons to change its earlier conclusions regarding the safety of environmental exposures on Vieques.²⁷ The agency also announced that it was initiating several efforts to get better data and work with health officials to conduct more in-depth evaluations of health outcomes.

Two years later, on December 8, 2011, the ATSDR, under the leadership of Dr. Christopher J. Portier, released a draft of its new review of the health, environmental, and biological data on Vieques and—reversing again—found that it “could not identify a relationship between military activities and health problems experienced by the island’s residents.”²⁸ The report noted a problem with high levels of mercury in the fish that islanders eat, and concluded that the exposure was causing some health problems. It determined that the mercury likely originated from regional environmental sources, and that there was no discernible connection to the military. The report recommended that the islanders be shown how to make better choices in the fish they eat.

In the House of Representatives, Puerto Rico’s Resident Commissioner, Pedro Pierluisi, blasted the draft report and called for congressional hearings. He later issued a 15-page letter, offering a point-by-point rebuttal of the draft report and several recommendations to ATSDR Director Portier.²⁹ The National Puerto Rican Coalition, an advocacy organization based in Washington, DC, issued a blistering statement. “The U.S. citizens of Vieques have paid a huge price defending our national security... The Department of Defense has the blood of U.S. Citizens on its hands, which in this case is worse than enemy fire,”³⁰ said Rafael Fantauzzi, president of the Coalition.

On March 19, 2013, the ATSDR issued its final, 405-page report on the updated evaluation of data. The findings remained essentially unchanged from the December 2011 draft of the report, but noted data gaps that continued to prevent definitive conclusions on the questions of what has caused the islanders’ adverse health effects. The agency recommended at least six additional health and environmental studies to fill those data gaps.³¹ Whether such studies will ever be funded and conducted remains up to the Environmental Protection Agency and the Navy.

Presidential Task Force

A Presidential Task Force on Puerto Rico’s Status was established in 2000, and in October 2009, President Obama broadened its mandate by executive order to include health care and economic development issues.³² Additionally, the Environmental Protection Agency established a Vieques Sustainability Task Force, which requested that the Department of Health and Human Services conduct a Vieques health care services needs assessment.

Currently, the health care delivery system on Vieques is extremely limited. There is no hospital, no skilled nursing facility, no outpatient rehabilitation facility, no nursing home, no community mental health center, and no ambulatory surgical center. The people avail themselves of assistance at the Susana Centeno Family Health Center (*Centro de Salud Familiar Susana*

Centeno, CSFSC), a small community of health care professionals administered by the Puerto Rico Department of Health. In the case of emergencies, it is usually staffed by only one general practitioner at any time.

In a report issued in February 2013, the Department of Health and Human Services acknowledged that, “Due to its unique historic experiences as an island that sustained military bombing exercises for 60 years, Vieques residents are keenly aware of the link between their health and the environment as well as the impact of military operations on its ecology and by extension, its economy.”³³ The Department’s report made several recommendations; among them was upgrading the CSFSC to a Health Center Program Grantee in order to improve emergency care, and especially to foster comprehensive, coordinated primary care for the island’s people.

The Department’s report also bemoaned poor transportation links to the main island, citing them as a significant hurdle to quality health care for the population. It stated that the “biggest gains for improved health outcomes for Viequenses is in the full implementation of a comprehensive primary care system, to include the unencumbered access to specialty care by bringing services to Vieques.”³⁴

The Courts

In September 2007, a federal torts lawsuit was filed in the United States District Court for the District of Columbia on behalf of 7,125 residents of Vieques, claiming that significant harm was done to them by the nearly six decades of Navy bombardment of their island and by the toxins that remained from the exploded and unexploded ordnance.³⁵

In February 2012, the First Circuit Court of Appeals upheld a decision to dismiss the case on procedural grounds and without ruling on the merit of the actual claims. It cited the “sovereign immunity” of the Navy and “because Congress did not intend to allow suits by private parties for damages under these circumstances [and the court] has also determined that the federal courts lack jurisdiction over these claims.”³⁶

The dissenting appellate judge in the case, Juan Torruella of Puerto Rico, wrote that “Nowhere does the medieval concept of ‘the King can do no wrong’ underlying the doctrine of sovereign immunity sound more hollow and abusive than when an imperial power applies it to a group of helpless subjects. This cannot be a proper role for the United States of America.”³⁷

The opinion did acknowledge the seriousness of the actual claims. They wrote, “Nonetheless, while the majority’s view is that the dismissal of the suit must be affirmed, and the dissent disagrees, the plaintiffs’ pleadings, taken as true, raise serious health concerns. The majority and the dissent agree that these issues should be brought to the attention of Congress. The Clerk of the court is instructed to send a copy of this opinion to the leadership of both the House and Senate.”³⁸

The Puerto Rican Bar Association posted an article by Christopher Gabriel Arce arguing that several laws, international treaties, and covenants were violated by the military activity on

Vieques. Among them are the National Environment Policy Act of 1969; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; Article 55 of the Charter of the United Nations; the Constitution of Puerto Rico; the World Summit for Social Development of 1995; the Universal Declaration of Human Rights; the Declaration on the Right to Development; and more. According to the article, together they represent the violation of four basic human rights: “the right to development, the right to the highest attainable standard of physical and mental health, the right to safe and sound environment, and the right of a child to an environment appropriate for physical and mental development.”³⁹

A Toxic Legacy

Spanning the health, public safety, and land rights issues is the problem of addressing the results of nearly six decades of weapons bombardment and munitions disposal, resulting in contamination of unexploded munitions, munitions toxins, and heavy metals in the soil, groundwater, and surrounding coral reef and marine ecosystems.⁴⁰ While many argue that the estimate is low, the Navy says that 23,000 acres endured more than 300,000 munitions fired during military operations from the mid-1940s to 2003.⁴¹ These included naval gunfire, air-to-ground bombing, and marine artillery fire. Several other activities on the ground included small arms fire, flame-thrower exercises, 2.75 rocket fire, grenades, and more. An expansive range of the weapons in the military arsenal were lobbed at Vieques, and the nuclear contamination from the sunken U.S.S. Killen is still a concern.

At the former Naval Ammunitions Support Detachment (NASD) on the western end of the island, stored ammunition and disposed munitions have contaminated the soil and groundwater. Also at the NASD site is the former Solid Waste Management Unit 4, a heavily contaminated area that had been used for munitions and chemical disposal. At the former Eastern Maneuver Area and the Inner Range of the Atlantic Fleet Weapons Training Facility on the eastern end of the island, there exists a wide range of contamination and unexploded ordnance. According to the EPA, the hazardous substances include TNT, napalm, depleted uranium, mercury, lead, and other chemicals, including PCBs.⁴²

The EPA added Vieques to its National Priorities List (NPL) of most hazardous waste sites in February of 2005, after a request from Governor Sila Calderón in 2003.⁴³ The Navy is responsible for conducting the cleanup in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). This process is overseen by the EPA and the Puerto Rico Environmental Quality Board, which must approve the Navy’s work plans. “The CERCLA process is a slow and tedious legal system of checks and balances. It is meant to be that way because that is how you get it done right,” according to Daniel Hood, a Naval Facilities (NAVFAC) Remedial Project Manager on site.⁴⁴ Currently, there are approximately 100 unexploded ordnance field workers, most locally trained and earning about \$15 an hour, clearing the areas included in the Eastern Maneuver Area and the Live Impact Area.

For fiscal years 2001 through 2012, the amount spent on cleanup of all the areas on the eastern and western ends of Vieques was over \$180 million, making it the most expensive military cleanup project in the world. And the work is far from done.⁴⁵

“It’s amazing that a CERCLA site of this magnitude has gotten cleaned up as much as it has,” said Hood of NAVFAC. But for many who live on the island, the cleanup is not quick enough, nor is it thorough enough. Broadly, there is widespread suspicion of the Navy’s effort because of lingering distrust after decades of unmet promises and harsh treatment of the local population by the military. There is also resentment that so much of the land was turned over for wildlife habitat, with many seeing that as an attempt to evade the responsibility to clean up the ranges to the degree necessary for human habitation. Some dispute the order in which areas are chosen for cleanup, arguing that the places that could eventually be used by people should come before the Live Impact Area, which is far less likely to be made safe for everyday use by humans.

The Navy’s efforts to involve the community in the process and to attend Restoration Advisory Board meetings have met with limited success. Some on the island, such as Robert Rabin—a local activist, historian, and member of the Committee to Rescue and Develop Vieques—resent the fact that the cleanup was outsourced to major corporate contractors, principally CH2M Hill, which is headquartered in Meridian, Colorado. Acknowledging that they are the ones who have the expertise, Rabin argues that more of an effort is needed to transfer technological expertise to local entities, allowing the people of Vieques themselves to lead the effort to clean up their island and to reap a greater share of the economic benefits of the extraordinary cleanup expenditures.⁴⁶

Fabian Martinez Rivera, the municipal secretary in the Office of the Mayor of Vieques, says that the people of the island are particularly concerned about the “Open Burn/Open Demolition” procedures involving disposal of munitions on site in the open, instead of in protective chambers. “Most people believe that while this may be the least costly, it only adds to the contamination the people have already been exposed to,” said Martinez.⁴⁷

Each stage of the process has the potential to reignite local animosity. According to press reports, a former storage site on the western end of the island was turned over to the Department of the Interior in 2012 and declared a nature reserve, even though many acres were still not cleared of munitions and debris, enraging local activists and local officials.⁴⁸

Naval Facilities Command expects to be working on the restoration program for at least another 24 years, with the work on land projected to end in 2022 and the underwater work done by 2027. They estimate the total cost will be approximately \$356 million.⁴⁹

Who Gets the Land?

The disposition of the land previously controlled by the Navy is still in progress. The first major land action was the conveyance of approximately 8,114 acres of land from the former Naval Ammunition Storage Detachment. This included 4,000 acres of land to the Municipality of Vieques and about 3,100 acres to the U.S. Department of the Interior. About 800 acres was also conveyed to the Conservation Trust of Puerto Rico. All of these are on the western end of the island, and the conveyance was the result of legislative action, not the normal Base Relocation and Closure (BRAC) process. In 2003, the Vieques Naval Training Range (VNTR) land on the eastern end was transferred to the Department of the Interior. These 14,573 acres include the vast

majority of Navy holdings, including the Eastern Maneuver Area, the Surface Impact Area, the Live Impact Area and the Eastern Conservation Area.⁵⁰

Mike Barandiaran is a biologist and the Refuge Manager for all of the Department of the Interior's Fish and Wildlife Service lands on Vieques. Though not a native Viequense, he is very knowledgeable about the history of island and is passionate about the protection of the entire 17,771 acres under the Service's management. He describes the area as an excellent home for at least four endangered plant species and 10 endangered animal species, as well as an ideal nesting site for leatherback, hawksbill, and green sea turtles and the Antillean manatees that inhabit the sea grass beds along the coast. He feels that the land, under the protection of his agency, is being put to the best and highest use it can be, with animals and plants receiving their deserved protection.⁵¹

However, many residents view Fish and Wildlife not so much as the protector of the environment but, as the noted academic Katherine McCaffrey describes it, "as the island's most recent usurper. They see the mandate to protect former base land as an extension of restrictions and absolute control over the land established by the Navy."⁵² There are frequent disagreements between Fish and Wildlife personnel and the locals over when and how they can use the properties. Local fishermen are also known to frequently criticize the Service for restrictions on their livelihood.

Some had hoped that the land transfer from the Navy would eventually lead to a reversal of the forced relocation they suffered 60 years earlier, with ownership of properties and their use for their private development. Those hopes were dashed when the Department of the Interior took possession from the Navy. Larger developers, who may have dreamed of being able to purchase land for their hotel and resort businesses, were also mostly shut out.

Economic Development

According to the 2010 census, 46 percent of the 9,313 people who reside on Vieques are living below the poverty level. The population on Vieques declined 14 percent between 2000 and 2010.⁵³ In the first half of 2010, the unemployment rate hovered between 18 percent and 22 percent, having reached as high as 27.2 percent in the fall of 2009.⁵⁴

The President's Task Force on the Status of Puerto Rico issued a report in 2011 laying out seven recommendations to the federal government on health care, environmental issues, and tourism to improve the quality of life for the people of Vieques.⁵⁵

A year later, the EPA issued an update on the work it is doing to carry out these recommendations.⁵⁶ The Sustainability Task Force's stated goals are to advance the Superfund remediation and to support economic development and job creation projects.

In the private sector, there has been some job creation since the Navy left, but not enough to lift the people of Vieques out of poverty. A new resort hotel, the W, has hired Viequenses for 80 percent of its work force, according to its general manager Greg White, and has trained them in language and hotel industry skills as necessary. Other small hotels have sprung up around the

island; one, the Hacienda Tamarindo in Esperanza, has a staff comprised entirely of Viequenses, according to its owner, Burr Vail.

The Committee for the Rescue and Development of Vieques has established the Vieques Microbusiness Incubator as a part of its plan for sustainable development. The project, according to Robert Rabin, has brought over \$250,000 of non-governmental assistance to local small businesses in an effort to help them get started.⁵⁷

In Washington, Resident Commissioner Pierluisi has suggested to the President's Task Force a coordinated interagency effort launch a wide variety of green initiatives. His plan calls for educational programs, recycling and conservation efforts, renewable energy production projects, mass transportation investments, and incentives for the use of hybrid vehicles.⁵⁸

As in the case of so many economic and health initiatives, suggested or planned, the funding for Vieques is elusive or nonexistent. While projects such as those suggested in the EPA's Sustainability Task Force report would be very beneficial if funded and put in place, many feel that the very fact that it is still a matter of planning—a full 10 years after the Navy left—is proof of a lack of sincere interest in the plight of the people on the island.

VIEQUES TODAY

The people of Vieques have been put through a lot in the past 60 years. Their sustained peaceful protests and civil disobedience did, in fact, precipitate the departure of the Navy. But they also endured for most of those decades as quiet, patriotic citizens. As difficult as the situation was for the islanders, they had put up with these adversities for most of these years with little complaint. When their complaints were heard, they went along with the Navy's promises to be a better neighbor, only to be disappointed time and time again.

On the matter of their health problems, it remains the clear perception of the people of Vieques that statistics show a wide variance between health norms on their island and those of Puerto Rico's main island. Regardless of who prevails in the debate on why that is, the Viequenses believe they have a right to have their health issues addressed in a much more aggressive manner, particularly considering the huge cost the federal government has invested in using their island as a target for the military.

But for most on the island, the central and overriding issue is getting to the cause of the health problems and funding the necessary care for those suffering from them. The ATSDR and the Department of Health and Human Services do not take on the responsibility to do the costly and necessary biomonitoring and epidemiological studies that would solve the medical mysteries of the island people. Instead, they suggest that the poorly funded Puerto Rico Department of Health take on the expense and the effort.

And if not the Department of Health and Human Services, why not the Department of Defense, some ask. The list of Department of Defense medical research programs is a long one; it currently includes at least 19 programs.⁵⁹ From autism to ovarian cancer to tuberculosis and more, money is available for the Pentagon to do extensive research. Some wonder why the

Department of Defense couldn't turn some of their apparently available medical research funds toward necessary studies for the people of an island that they spent untold hundreds of millions of dollars using as a target.

On the matter of the use of the land, Congress had a specific intent when it wrote the language ceding most territory to the Department of the Interior and its Fish and Wildlife Service. First, it denied the people of Vieques an opportunity to directly benefit from the use of the land for their own purposes. Congress, as stated above, debated this point and decided that to allow anything else would be to reward the people for forcing the Navy to leave its coveted training sites. Second, it set a low standard for remediating the land. If it is to be for human habitation, the requirements would be for the Navy to provide a nearly pristine habitat, whereas if it is for a wildlife refuge, some of which would be left off-limits to people altogether, the cleanup requirements are much lower and the cost savings are enormous.

The Navy lost its "crown jewel" of training ranges in 2003, but its training goes on, its warships deploy, and there are no complaints about missing Vieques as a site to bomb, strafe, and shell while completing readiness tasks. The people of Vieques all seem to have one unifying opinion: they are glad the Navy has stopped bombing their island. But the serious matters of economic, health, and environmental justice remain. They have endured the Navy, and now they endure the endless task forces, reports, and plans.

The military spared no expense bombing the island of Vieques. Viequenses now deserve a coordinated, well-funded federal response to the decades of abuse, if even at a fraction of the cost of that abuse.

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