



Lee Saunders
President

Elissa McBride
Secretary-Treasurer

Vice Presidents

Se'Adoreia K. Brown
Miami Springs, FL

Richard L. Caponi
Pittsburgh, PA

Stacy Chamberlain
Portland, OR

Connie Derr
Albuquerque, NM

Greg Devereux
Olympia, WA

Daniel DiClemente
North Chili, NY

Danny Donohue
Albany, NY

Denise Duncan
San Dimas, CA

David R. Fillman
Harrisburg, PA

Henry A. Garrido
New York, NY

Johanna Puno Hester
San Diego, CA

Danny J. Homan
Des Moines, IA

Nicholas J. LaMorte
Carmack, NY

Salvatore Luciano
New Britain, CT

John A. Lyall
Worthington, OH

Kathryn Lybarger
Oakland, CA

Roberta Lynch
Chicago, IL

Christopher Mabe
Westerville, OH

Glenard S. Middleton Sr.
Baltimore, MD

Douglas Moore Jr.
San Diego, CA

Frank Moroney
Boston, MA

Michael Newman
Chicago, IL

Henry Nicholas
Philadelphia, PA

Debbie Parks
Hamilton, NJ

Randy Ferreira
Honolulu, HI

Steven Quick Sr.
Indianapolis, IN

Lawrence A. Roehrig
Lansing, MI

Joseph P. Rugola
Columbus, OH

Eliot Seide
South St. Paul, MN

Alan F. Shanahan
Los Angeles, CA

Paul Spink
Milwaukee, WI

Mary E. Sullivan
Albany, NY

Braulio Torres
San Juan, PR

Anthony Wells
New York, NY

April 12, 2018

Natalie A. Jaresko
Executive Director
Financial Oversight and Management Board for Puerto Rico
P.O. Box 192018
San Juan, PR 00919-2018

Submitted via email to comments@oversightboard.pr.gov

Dear Executive Director Jaresko:

The American Federation of State, County and Municipal Employees (AFSCME), in coordination with its affiliate Servidores Públicos Unidos de Puerto Rico, writes to express its continued objections to the externalization of imprisonment services proposed by Gov. Ricardo Rosselló. We request that you make this letter available to each member of the Financial Oversight and Management Board.

On Jan. 24, 2018, the governor released a new fiscal plan proposing to off-shore 3,200 Puerto Rican human beings to private prisons in the mainland United States. The proposal – known as the “Out of State Program” – has faced criticism from many interested parties, including (1) a formal notice of violation issued by the Financial Oversight and Management Board for Puerto Rico, which stated that the Out of State Program lacked “sufficient detail and justification,” and (2) a blistering letter authored by Rep. Nydia Velázquez on behalf of 35 members of Congress, which argued that, in addition to causing humanitarian harm, the governor’s plan is not cost-effective and would actually increase the deficit thereby exacerbating Puerto Rico’s fiscal crisis.

On Feb. 12 and then again on March 23, the governor issued revised fiscal plans asserting that the prison off-shoring proposal would provide \$46.9 million in annual cost savings as justified by “per diem data included in the appendix of the Government Transformation section.” Neither fiscal plan included (at least publicly) any such appendix. On April 5, the governor issued yet another revised fiscal plan which finally included public release of the promised appendix. AFSCME would like to clarify numerous misstatements, inaccuracies and critical omissions in the appendix.

American Federation of State, County and Municipal Employees, AFL-CIO

TEL (202) 429-1000 FAX (202) 429-1293 TDD (202) 659-0446 WEB www.afscme.org 1625 L Street, NW, Washington, DC 20036-5687

At the outset, the appendix states that the Out of State Program only calculates the cost savings in terms of “direct operational costs,” thus acknowledging that the claimed savings are not being adjusted to account for the harm the Puerto Rico economy will suffer by spending scarce resources off-island. As detailed in Rep. Velázquez’s letter, even if the governor were correct that private prisons could deliver services through the Out of State Program for only \$60 per diem per inmate, that would mean shifting off-island spending of more than \$70 million annually, resulting in reduced tax receipts greater than any alleged cost reductions achieved by the Out of State Program and ultimately *increasing* the commonwealth deficit by \$46.6 million annually.¹ The governor has failed to address let alone counter this criticism.

The appendix itself demonstrates that the \$60 per diem number is completely arbitrary and without merit. It erroneously states that the per diem cost of California’s out of state private prison program is \$60 when in fact the per diem cost is \$80 as noted in the state’s corrections budget for 2017-18.² The appendix also incorrectly states that “the State of California has over 10,000 inmates through its Out-of-State Program.” As of April 11, 2018 – barely one week after the fiscal plan appendix was first released to the public – California had only 3,685 inmates in out of state private prisons according to an official prison population report that is readily available to the public online.³ That same report reveals yet another reason to believe that California is not an appropriate benchmark for how much the Out of State Program would cost Puerto Rico: California sends more than 80 percent of these inmates to neighboring Arizona, whereas Puerto Rico would need to fly all of its inmates across an ocean thereby increasing costs even more.

The appendix also misrepresents numbers for the only other state analogized to in the appendix – Kansas. The appendix asserts that the Puerto Rico government is “not in a position to reconfigure its current correctional facility infrastructure” because it does not have the requisite “financing capacity” to pay for a private prison like the one that it says cost the state of Kansas \$360 million for a 2,400-bed facility. Leaving aside that this \$360 million number represents total payments over 20 years rather than the substantially lower net present value of those payments, the appendix neglects to mention that the Kansas facility was entirely financed by the private company who built it – the state did not need to obtain any financing at all. Furthermore, had Kansas wished to finance the new prison through bonds, an official audit concluded that it would have only cost the state \$178 million in total over 20 years.⁴ It is also worth noting that the private

¹ See Letter from Rep. Nydia Velázquez to Ricardo Rosselló, governor of Puerto Rico, and Jose Carrión III, chairman, Financial Oversight and Management Board for Puerto Rico (March 23, 2018), available at <https://velazquez.house.gov/sites/velazquez.house.gov/files/3.22.18%20Letter%20to%20FOMB%20and%20Gov%20on%20prison%20privatization%20%28FINAL%20SIGNED%29.pdf>.

² See 2017-18 California State Budget, Department of Corrections and Rehabilitation, available at <http://www.ebudget.ca.gov/2017-18/pdf/Enacted/GovernorsBudget/5210/5225.pdf>.

³ See California Department of Corrections and Rehabilitation, Division of Internal Oversight and Research, Office of Research, *Weekly Report of Population* (as of midnight April 11, 2018), available at https://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/WeeklyWed/TPOP1A/TPOP1Ad180411.pdf.

⁴ See State of Kansas, Legislative Division of Post Audit, *Department of Corrections: Comparing the Merits of Lease and Bond Options for Replacing the Lansing Correctional Facility*, Performance Audit Report R-17-011 (July 2017), available at <http://www.kslpa.org/media/files/reports/media/files/temp/r-17-011.pdf>.

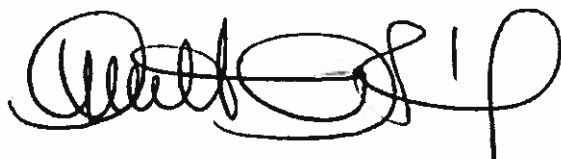
Natalie A. Jaresko
April 12, 2018
Page 3

prison company hired to build the prison employed as its lobbyist the former chief of staff to the governor of Kansas.⁵

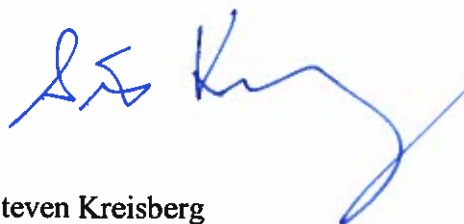
There is one last unsupported assertion in the appendix that is of great concern to AFSCME – the claim that the “consensus of inmates” about a 2012 prison privatization contract “was of satisfaction with the program.” As referenced in Rep. Velázquez’s letter, the fact is that this contract was cancelled less than two months after a prison riot in which, according to the actual prison incident report, the inmates “breached a door on the unit” and then “smashed windows, broke locks and electrical equipment, destroyed computers and telephones and knocked holes in walls.” The inmates “fashioned weapons out of destroyed property and were throwing items at staff.” Following the riot, the entire unit had the odor of “pepper spray and chemical gas lingering in the air, causing staff and [the contract] monitor to use tear gas mask to enter unit.”⁶ The appendix does not reference the riot at all nor does it mention the per diem cost under the 2012 contract.

The governor’s Out of State Program fails to demonstrate a viable path for achieving its claimed savings, and, unlike the present letter, does not cite a single source in support of its assertions. AFSCME believes that the governor’s prison privatization proposal should be rejected and on-island alternatives should be pursued.

Sincerely,



Annette González Pérez
President
Servidores Públicos Unidos de Puerto Rico /
AFSCME Council 95



Steven Kreisberg
Director
Department of Research and
Collective Bargaining Services

AP/SK:bd

⁵ See Hunter Woodall, *Kansas should have prison company design, build new Lansing facility, official says*, Kansas City Star (Nov. 30, 2017), available at <http://www.kansascity.com/news/politics-government/article187378433.html>.

⁶ See Cary Aspinwall, *Violence erupts at Cushing private prison*, Tulsa World (March 6, 2013), available at http://www.tulsaworld.com/news/local/violence-erupts-at-cushing-private-prison/article_f91922b5-2517-5ab7-9722-32667b2bedec.html.