

STATEMENT IN OPPOSITION TO THE TRANSFER OF PRISONERS TO U.S. PRISONS BY THE DEPARTMENT OF CORRECTIONS OF PUERTO RICO

The undersigned are united in their opposition to the policy of the Department of Corrections and Rehabilitation of Puerto Rico's that would transfer 3,200 prisoners in Puerto Rico to private prisons in the United States because the goal of rehabilitation cannot be superseded by economic or organizational rationales.

A massive prisoner transfer of this type will significantly affect prisoner rehabilitation provoking anguish and suffering among their families and friends whose ties to their loved ones in prison, established through regular visitation, will be severed accordingly. Moreover, we are fully aware that such a transfer will impede the prisoners' access to justice as it will reduce their ability to seek redress in the courts of Puerto Rico. While we can envision these immediate problems far less is known about the ability to return to prisons in Puerto Rico for those prisoners who will discover the cruel reality of life in private prison facilities in the U.S.

As lawyers, students of prison policies, professionals in social environments and defenders of human rights we cannot remain silent; we are duty-bound to speak for those for whom the incarcerated state has silenced. Incarceration due to the commission of a crime is no excuse to dispose of people with no consideration to their well-being and that of their families.

The Secretary of Corrections has insisted in multiple ways that these transfers will be done on a "voluntary" basis. We question the "voluntary" basis that these transfers pretend to uphold. What promises are being offered to the incarcerated population that would make them agree to leave the country? Are these prisoners aware that they will be transferred to prisons run by the private sector? Are they made aware of the serious denunciations of violence that have been lodged by prisoners in privately run prison facilities in the U.S.? It is important to note here that after a 2016 report from the U.S. Office of the Inspector General¹ was issued regarding the conditions in private prisons in the country, the Obama administration announced it would end all future contract renewals with the private prison sector. The only reason that has not been effectuated to date is because of the arrival of the Trump administration not because of any amelioration of the serious accusations of the violation of prisoners' rights.²

It is imperative that the Secretary of Corrections explain in clear fashion what would occur if he cannot not secure 3,200 prison transfers – especially since he has stated his intention to close between 12 and 15 prisons on the island.³ It does not take much to recognize that these acts will only result in overcrowding even more prisoners in limited space. The transfer of prisoners to U.S. prisons is already subject to a regulatory scheme that must be complied with in all respects by the corrections agency. We demand to review in advance, any contract under consideration in this regard. We also demand a review of any form that is offered to prisoners for their signature that evidences the "voluntariness" of their agreement to a transfer; an accounting of what

¹ <https://oig.justice.gov/reports/2016/e1606.pdf>

² <https://www.aclu.org/other/aclu-statement-discussing-private-prisons-and-human-rights-united-nations-working-group>

³ <https://www.elnuevodia.com/noticias/locales/nota/insistenqueelprocesoderelocalizarreosseratotalmentevoluntario-2414567/>

segments of the prison population will be asked to agree to a transfer; and the full listing of all of the 3,200 prisoners who are so targeted.

We firmly believe that the government cannot cede to the private sector any of its public responsibilities. Accordingly, we reject the perverse logic that undergirds an economic justification to explain these prisoner transfers since as the report of the Office of the Inspector General notes the costs of housing a prisoner in private prisons cannot be less than in the public sector given the need to provide extensive monitoring of the performance of private prisons so as to ensure that the government can guarantee that the rights and necessities of prisoners are fully met. To that end we completely agree that it is of the utmost importance that both the Secretary of Corrections and the Governor of Puerto Rico be as transparent as possible in this regard.

Prison walls shield civil society from a considerable portion of the problems of our prisons. The challenges of a carceral state must be considered from the lens of human rights – in furtherance of that universal truth, we are fully convinced. To that end we must address the absurdity of incarceration in all matters and the need to revise disproportionate sentencing guidelines that have been codified in law; the need to fully implement credits for sentencing reductions; the creation of new criteria that reward rehabilitation with early release; the recognition of more instances that permit suspended sentences, prison diversion or house arrests; the elimination of the criminalization of minor offenses that in fact do not compromise public safety; the substantial removal of procedural hurdles that restrict the right to bail; the repeal of sentencing fines for all indigent persons; and the decriminalization of possession for personal use of all controlled substances.