

Senate Minority Statement on the Report of the New Jersey Legislative Select Oversight Committee

Issued June 5, 2019

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Introduction

We, the Senate Republican members of the New Jersey Legislative Select Oversight Committee (“LSOC”), must abstain at this time on a vote of the Committee to approve and issue a final report detailing the Committee’s findings and recommendations.

Our abstentions are not intended to reflect disagreement with the general content of the report. Rather, this action reflects our belief that the work of the Committee remains incomplete.

We note that the Committee’s formative resolution, in part, charges us with investigating “all aspects of the policies and procedures regarding the screening of prospective employees and continued employment in the public sector of persons with questionable backgrounds.”

Further, the resolution requires the Committee to “issue a report of its findings and make recommendations on potential improvements to create meaningful policy changes.”

Simply put, we believe the Committee has not fulfilled the mission with which it was tasked when both houses of the Legislature adopted the resolution, SCR-148/ACR-203, without a single dissenting vote.

Until that work is complete, we believe the adoption of a final report is premature.

The Committee’s narrow focus on Albert J. Alvarez

To date, the Committee has focused the entirety of its investigatory efforts into understanding the circumstances of the matter involving Mr. Albert J. Alvarez and Ms. Katherine Brennan.

An investigation of the underlying allegations of criminal sexual assault is beyond the purview of the Committee.

The Committee’s interest, however, lies in understanding how or whether the knowledge of Ms. Brennan’s allegations of criminal sexual assault factored into the decision to hire Mr. Alvarez into a key supervisory role at a prominent State agency.

We note that the seemingly simple question of “who hired Al Alvarez?” remains unanswered despite the Committee taking testimony from and questioning under oath all of those who had hiring authority, except the Governor himself.

That leads us to two possible conclusions regarding Alvarez’s employment: someone on the Governor’s senior staff was untruthful in their testimony before the Committee; or, Governor Murphy personally hired Alvarez and has failed at every turn to take responsibility.

Without knowing who made the ultimate hiring decision, it is impossible to determine if, or to what extent, Ms. Brennan’s allegations were a factor in the consideration of Mr. Alvarez as a candidate for employment in the Murphy Administration.

It defies belief that the Governor is incapable of providing a definitive statement on the hiring and employment of Mr. Alvarez, a close confidant who had served as one of his first political staffers before the “Murphy for Governor” campaign even launched.

As understanding the tenure of Mr. Alvarez represents the sole attempt of the Committee to investigate the employment of a person of “questionable background,” the report adopted by the majority addresses this matter at length.

We note the Committee report’s analysis of the many factual discrepancies in the testimony provided by Governor Murphy’s closest advisors on the circumstances of Mr. Alvarez’s employment, from his initial hiring until his ultimate separation from State employment.

We have serious concern that some of the testimony provided by the Governor’s senior staff regarding Mr. Alvarez may have been intentionally perjurious to subvert the legitimate oversight efforts of the Legislature and the work of the Committee.

We agree with the majority’s conclusion that the misguided actions and poor decision-making of specific individuals, rather than ineffective policies and procedures, were the reason that concerns related to Alvarez were not handled appropriately.

While this may be an oversimplification of a complex matter, it appears almost certain that some combination of deliberate wrongdoing and preventable incompetence played a significant role in aggravating this matter at every step.

“Persons with questionable backgrounds” pervade the Murphy Administration

Despite the Committee’s singular focus on the employment of Mr. Alvarez, he is but one of many individuals with “questionable backgrounds” employed in senior positions by Governor Murphy.

Alarming news reports about these questionable hires preceded by weeks and even months the initial publication of Ms. Brennan’s accusations by the Wall Street Journal (“WSJ”) on October 14, 2018.

We note that our initial calls for legislative hearings into the hiring practices of the Murphy Administration pre-dated the WSJ article by nearly two weeks.

A letter from Senator Corrado to Senate President Stephen Sweeney on October 2, 2018 was prompted by concerns related to the Governor’s improper hiring of Marcellus Jackson, which is described in greater detail below.

Similarly, serious additional concerns related to employment matters at the New Jersey Schools Development Authority (“SDA”) and the New Jersey Economic Development Authority (“EDA”) were brought to light after the formation of the Committee.

Generally speaking, we believe that the Committee’s limited focus on Mr. Alvarez has hindered its ability to offer broader recommendations that address the hiring deficiencies that appear to be endemic to the Murphy Administration.

While the facts surrounding each of Governor Murphy’s many hiring failures are unique, studying them together may help the Committee to identify patterns and develop best practices that would prevent a recurrence if utilized effectively by the current and future administrations.

Therefore, we believe it is imperative that the Committee investigate the following matters in furtherance of its mission:

- The employment of Marcellus Jackson. Mr. Jackson, a former Passaic City councilman, was convicted on federal corruption charges for accepting bribes in an FBI sting operation. He was hired by Governor Murphy as a \$70,000 per year special assistant at the New Jersey Department of Education. Prior to this position, Mr. Jackson worked on Murphy’s gubernatorial campaign. His employment in government was prohibited by law due to his conviction. Nevertheless, the Governor defended Jackson’s employment in his administration, despite it being a clear violation of State law, even after the illegality of the hire was brought to his attention by news reports and concerned citizens.
- The employment of Derrick Green. Mr. Green is reported to have been paid \$2 million by the Murphy campaign for consulting work and was hired into a \$140,000 per year position in the New Jersey Secretary of State’s office. Employees at the Secretary of State’s office report not knowing Mr. Green or ever seeing him in the office, raising questions about the validity of his taxpayer funded position. Mr. Green was hired into these positions despite the fact that he was under investigation for a major campaign finance scandal in Bermuda at the time.

- The employment of Lewis Daidone. Mr. Daidone was hired as an assistant commissioner at the New Jersey Department of Transportation with an annual salary of \$131,000. According to press reports, he is a former executive at Citigroup who had been accused by the federal Securities and Exchange Commission of defrauding thousands of clients.
- The employment practices of the New Jersey Schools Development Authority. Dozens of career employees of the SDA were terminated without cause or explanation during the short tenure of Lizette Delgado Polanco, who was selected by Governor Murphy to head the agency at an annual salary of \$225,000. Mr. Albert Alvarez, mentioned above, effected the terminations in his role as the Authority's chief of staff at Ms. Delgado Polanco's direction. Those skilled employees were replaced, at greater cost to taxpayers through dramatically increased salaries, by apparently unqualified friends, family members, and associates of Delgado Polanco, several of whom have been found to have "questionable backgrounds" and lack the basic qualifications for the positions. Furthermore, it has been alleged in press reports that personnel files at the Authority have been tampered with to conceal "improper and unethical activities at the SDA." Delgado Polanco has since resigned the position, but many questions remain unanswered.
- The employment practices of the New Jersey Economic Development Authority. Ms. Allison Kopicki, who served as a member of Governor Murphy's transition team, claimed she was retaliated against by the Murphy Administration for reporting to senior officials during the transition that women working on Murphy's gubernatorial campaign were subject to a hostile work environment. Kopicki raised serious concerns regarding the conduct of Joseph Kelley, who had served as Murphy's deputy campaign manager. Kelley was later hired as a deputy chief of staff with the Governor's Office. Kopicki, who went on to work at the EDA, claims to have faced continued discrimination and hostility from Governor Murphy's senior staff for raising concerns about Kelley. She resigned her position believing it was impossible to do her job effectively in such an environment.

Governor Murphy's Apathy and Dismissiveness

While our Committee has not expanded its review of employment matters beyond the hiring of Mr. Alvarez, the tone from the top of the Murphy Administration appears to be a key factor that has negatively influenced many of the concerning occurrences that we have proposed for further investigation.

The combination of apathy and dismissiveness continually demonstrated by Governor Murphy appears to have fostered an environment among his closest advisers that eschews accountability and responsibility.

This has resulted in a toxic workplace for staff that has followed the Governor from his gubernatorial campaign to his post-election transition and into his present administration.

For example, we note that Governor Murphy, who pledged during his campaign to “restore protections for women,” is alleged by both Ms. Katherine Brennan and Ms. Allison Kopicki to have failed to protect their interests while they worked to advance his gubernatorial ambitions, and afterwards.

Both women notified senior officials working on the transition of serious incidents that are alleged to have occurred during the campaign to no avail, and both report that the Governor’s Office later failed – perhaps intentionally – to prevent additional harm after they joined the Murphy Administration.

We are deeply concerned by Governor Murphy’s failure to address these allegations appropriately. This dereliction of duty is troubling.

The majority’s report notes that top officials working for the Governor during the transition and current administration appear to have erred repeatedly in their handling of and response to Ms. Brennan’s allegations.

When transition and administration staff sought guidance on proper procedure, they approached Mr. Matthew Platkin, the Governor’s chief counsel, who appears to have deliberately misread the applicable law or was incapable of interpreting it properly, resulting in deficient legal advice on multiple occasions.

Additionally, it appears that Mr. Platkin may have violated the rules of professional conduct for attorneys by not disclosing to his client, Governor Murphy, the allegations of sexual assault that had been reported directly to him.

Shockingly, despite clear evidence that Mr. Platkin lacks the skills and judgment necessary to carry out his duties appropriately, Governor Murphy continues to employ Mr. Platkin in one of the most important positions in State government – Chief Counsel to the Governor.

Governor Murphy’s failure to hold Mr. Platkin and others on his senior staff accountable would seem to be inexplicable, except in an environment in which it is understood that the Governor’s inner circle can or should withhold important information from their principal.

It remains unclear if that environment of suppression is intended to shield Governor Murphy by providing plausible deniability, or if it is simply a result of an implicit understanding that the Governor does not want to know the details of unsavory matters that occurred under his watch.

Either scenario appears to be possible when considering Governor Murphy’s response to Ms. Brennan’s direct email outreach to him regarding the Alvarez matter. The Governor failed to look into the matter at all and willfully passed it off to Mr. Platkin, who subsequently failed to address the matter appropriately, as noted in the majority report.

The Governor's indifference to these matters is further demonstrated through the testimony provided to the Committee by the executive director of the transition, chief of staff in the Governor's Office, and chief counsel.

All three of these individuals testified that Governor Murphy never asked about the circumstances of Mr. Alvarez's employment even following the publication of Ms. Brennan's allegations in the WSJ.

That leads to the conclusion that the Governor either did not care, did not want to know, or already knew the answer to the question of who hired Al Alvarez, and failed to provide this information to the Committee.

Regardless, Governor Murphy's various actions and inactions over the course of these events have sent a clear message that supporting him politically is the most important factor for employment in his administration, far surpassing any ability to be an effective and trustworthy public servant.

Conclusion and Recommendations

Our Committee's mission from the outset always has been to understand and propose solutions to the pervasive flaws in the Murphy Administration's employment practices. Our Committee was never meant to be about one incident.

An examination of each of the aforementioned matters, along with any new concerns that arise, falls clearly within the scope of the Committee's work.

We recommend a thorough investigation of each of the matters described above, as the Committee's mandate requires. We believe this is necessary for the Committee to offer effective fixes to a broken process that has allowed numerous questionable hires to hold employment across the administration of Governor Phil Murphy without proper safeguards or accountability.

The people of New Jersey and the public servants who are dedicated to their jobs across administrations deserve to be protected regardless of the person sitting in the Governor's Office.

Until the Legislative Select Oversight Committee is able to offer those protections, our work will remain unfinished.

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