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**TESTIMONY ON HOUSE CONCURRENT RESOLUTION 214, HD2
REQUESTING THE AUDITOR TO CONDUCT A PERFORMANCE
AUDIT OF THE DEPARTMENT OF PUBLIC SAFETY, MAINLAND
AND FDC BRANCH, ON CONTRACT COMPLIANCE OF PRIVATE
PRISONS THAT HOUSE HAWAII INMATES**

by

Clayton A. Frank, Director
Department of Public Safety

Committee on Public Safety
Senator Will Espero, Chair
Senator Clarence K. Nishihara, Vice Chair

Tuesday, April 22, 2008; 8:45 a.m.
State Capitol, Conference Room 312

Senator Espero, Senator Nishishara, and Members of the Committee:

The Department of Public Safety (PSD) opposes House Concurrent Resolution 214, HD2, which requests the auditor to conduct a performance audit of PSD's Mainland and Federal Detention Center (FDC) Branch on contract compliance of private prisons that house inmates.

Currently, the Mainland and FDC Branch undergoes a comprehensive audit by KMH Limited Liability Partnership, which is contracted by the State Auditor to conduct the audits. The audits are very complex, extremely thorough, and specifically designed to ensure the department's compliance with appropriate state laws and generally accepted accounting principles and practices.

The most recent audit conducted by KMH LLP for fiscal year ending June 30, 2007, found no deficiencies and/or non-compliance areas relating the Mainland and FDC Branch. In fact, the last few audits have not found any deficiencies, non-compliance and/or areas of concern related to the Mainland and FDC Branch.

Given the fact that the Mainland and FDC Branch of PSD has had no noted deficiencies during any of the recent independent audits conducted by KMH, LLP, HCR 214 HD2, is clearly unnecessary and simply a waste of valuable and limited financial resources that could be put to better use elsewhere.

This measure appears to be based on the premise that PSD is not ensuring contract compliance with the Corrections Corporation of America nor agreement compliance with the Federal Detention Center Honolulu. If this is the case, it is simply not true. Moreover, even if the intent is to implement the process of performance audits to provide accountability and transparency to the public regarding services provided by any vendor for any contract and/or memorandum of agreement between agencies or jurisdictions, these audits should apply to all State contracts and memorandums of agreement and not be limited to just PSD.

Therefore, for the reasons explained in our testimony, the PSD does not support House Concurrent Resolution 214, HD2, and we believe this measure to be a waste of limited and valuable financial resources.

Thank you for the opportunity to provide testimony on this matter.



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The Twenty-Fourth Legislature, State of Hawaii
Hawaii State Senate
Committee on Public Safety

Testimony by
Hawaii Government Employees Association
April 22, 2008

H.C.R. 214, H.D. 2 – REQUESTING THE AUDITOR
TO CONDUCT A PERFORMANCE AUDIT OF
PUBLIC SAFETY, MAINLAND AND FDC BRANCH,
ON CONTRACT COMPLIANCE OF PRIVATE
PRISONS THAT HOUSE HAWAII INMATES

The Hawaii Government Employees Association supports H.C.R 214, H.D. 2, which calls for the Auditor to conduct a of the Department of Public Safety's Mainland and Federal Detention Center Branch regarding contract compliance of private prisons that house Hawaii inmates. The performance audit of private prisons will focus on the treatment and services provided to Hawaii inmates, the facilitation of family and community connections through visitations, videoconferencing and the department of public safety's monitoring and enforcement of those contracts.

It is disturbing there has never been an audit of the private mainland prisons Hawaii has contracted with to house the State's inmates, despite the fact that the state spent more than \$50 million in 2007 to transfer inmates from Hawaii to private prisons in Arizona and Kentucky. What is especially disturbing is that deaths and serious injuries have occurred at several of the contract prisons. We believe that an independent audit could be helpful in determining how cost-effective it is to transfer prisoners out-of-state and whether it reduces or increases recidivism.

Thank you for the opportunity to testify in support of H.C.R. 214, H.D. 2.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director

testimony

From: Kat Brady [communityallianceonprisons@hotmail.com]
Sent: Saturday, April 19, 2008 8:00 AM
To: testimony
Subject: In case you couldn't open previous attachment...

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY

Sen.. Will Espero, Chair
Sen.. Clarence Nishihara, Vice Chair
Tuesday, April 22, 2008
8:45 a.m.
Conference Room 312

STRONG SUPPORT for HCR 214 HD2- Audit of Private Prisons

Aloha Chair Espero Vice Chair Nishihara and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on prison reform and criminal justice issues in Hawai`i for more than a decade. I respectfully offer our testimony, always being mindful that Hawai`i has more than 6,000 individuals behind bars with more than 2,000 people serving their sentences abroad - thousands of mile away from their homes and their loved ones.

HCR 214 HD2 requests the auditor to conduct a performance audit of the three private contract prisons that currently house Hawai`i prisoners.

Community Alliance on Prisons strongly supports this resolution. Hawai`i has been exporting our prisoners for twelve years, yet no audit has ever been performed to determine the efficacy of this policy decision. Since more than \$50 million a year in public money is spent, CAP asserts that you, the policymakers, and the community have the right to know what is happening inside these facilities.

Ninety-five percent of incarcerated individuals *will* return to the community, therefore, it is in everyone's interest to provide the tools and assistance needed by these individuals to successfully reenter the community upon their release.

Are we getting \$50 million + in the services our tax dollars pay for? Are our people returning to Hawai`i in better shape then when they were sent to these facilities? Are individuals returning with marketable job skills and employment-ready?

This audit is THE most important prison legislation this session. Lawmakers must receive accurate information oh which to base policy decisions, yet we know that the March 13th TIME magazine article focused on a whistle blower who testified that there are two sets of books at CCA, a set for internal

purposes (kept secret) and a set that is shown to clients and the public (whitewashed or 'doctored'). Now you know that you are not getting the full and accurate information you need.

It is time for Hawai`i to find out if we are getting what we are paying for or if we are being bilked by these prison profiteers. Corrections Corporation of America's (CCA) 2005 Annual Report stated:

Our growth is generally dependent upon our ability to obtain new contracts to develop and manage new correctional and detention facilities. This possible growth depends on a number of factors we cannot control, including crime rates and sentencing patterns in various jurisdictions and acceptance of privatization. The demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction and sentencing practices or through decriminalization of certain activities that are currently proscribed by our criminal laws. For instance, any changes with respect to drugs and controlled substances or illegal immigration could affect the number of person arrested, convicted, and sentenced, thereby potentially reducing demand for correctional facilities to house them. Legislation has been proposed in numerous jurisdictions that could lower minimum sentences for some non-violent crime and made more inmates eligible for early release based on good behavior. Also, sentencing alternatives under consideration could put some offenders on probation with electronic monitoring who would otherwise be incarcerated. Similarly, reductions in crime rates could lead to reductions in arrests, convictions and sentences requiring incarceration at correctional facilities.

This excerpt from CCA's 2005 Annual report clearly explains why CCA calls The Strikes Laws a 'Home Run'. In one quarter their profits increased by 27% due to the transfer of Hawai`i prisoners from Tallahatchie Correctional Facility in Tutwiler, MS to Saguaro Correctional Facility in Eloy AZ . Everything CCA does is orchestrated for the bottom line. Accountable to their shareholders first and foremost. Our people in their facilities are just keeping the beds hot. They keep the money machine rolling. Our people are just numbers to them and they want plenty more.

Community Alliance on Prisons urges the committee to pass HCR HD2. CCA should be held accountable for their actions. To date their score is not good: riots, deaths, serious illnesses, rapes, assaults, suicides, and under-trained staff whose 'mistakes' led to a Hawai`i prisoner now requiring 24/7 care because of the brain injury he suffered.

It is time to take an independent look at what is going on inside CCA's facilities that house Hawai`i prisoners. CAP urges the passage of HCR 214 HD2.

Mahalo for this opportunity to testify.

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Community Alliance on Prisons
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COMMITTEE ON PUBLIC SAFETY

Sen. Wil Espero, Chair
Sen. Clarence Nishihara, Vice-Chair
Tuesday, April 22, 2008
8:45 a.m.
Conference Room 312

STRONG SUPPORT: HCR 214 HD2 AUDIT OF PRIVATE PRISONS

Aloha Chair Espero, Vice Chair Nishihara and Members of the Committee:

My name is Carrie Ann Shirota, and I am writing in strong support of HCR 214 HD2 that requests the auditor to conduct a performance audit of private prisons that currently houses Hawai'i prisoners on the American continent.

Although Hawai'i has earned the dubious distinction of having the highest rate of out of state prisoner transfers in the United States, the State has never conducted an independent performance audit of private prisons to determine the efficacy of this policy decision. The Department of Public Safety has consistently opposed an independent audit based on its claim that internal reports and audits conducted by the Mainland Division Branch are sufficient in monitoring private prison contracts and resolving problems reported at private prisons.

However, as outlined by Michele Deitch, Adjunct Professor of Public Policy at the University of Texas, and Soros Senior Justice Fellow, **the essential elements of an effective prison monitoring system would include the following:**

- **They must be independent of the correctional agency and able to do their work without interference or pressure from the agency or any other body;**
- Monitors must have unfettered and confidential access to facilities, prisoners, staff, documents, and materials, and they should have the ability to visit at any time of the day without prior notice;
- They must be adequately resourced, with sufficient staffing, office space and funding to carry out their monitoring responsibilities, and the budget must be controlled by the monitoring entity;
- They must have the power and the duty to report their findings and recommendations, in order to fulfill the objective of transparency, and they should control the release of their reports and
- They must taken a holistic approach to evaluating the treatment of prisoners, relying on observations, interviews, surveys, and other methods of gathering information from prisoners as well as on statistics and performance based outcome measures.

See Effective Prison Oversight, Michele Deitch, Prepared for the Commission on Safety and Abuse in America's Prisons, 4th Hearing, Los Angeles, February 8, 2006.

Our current monitoring system of CCA contracts does not contain the essential elements of an effective prison monitoring system. Most notable is the fact that the Contract Monitors are not independent of the Department of Public Safety. Creating a mechanism for effective

prison monitoring would help to achieve the twin objectives of transparency of public institutions, private prisons, and accountability for the safe and human operation of prisons and jails.

Mahalo for this opportunity to submit testimony in support of HCR 214 HD2.

Sincerely,

Carrie Ann Shirota

testimony

From: kaianahaili [kaianahaili@hawaii.rr.com]
Sent: Monday, April 21, 2008 1:25 PM
To: testimony
Subject: SUPPORT for HCR 214 HD2

COMMITTEE ON PUBLIC SAFETY

Sen.. Will Espero, Chair
Sen.. Clarence Nishihara, Vice Chair
Tuesday, April 22, 2008 @ 8:45 a.m.
Conference Room 312

STRONG SUPPORT for HCR 214 HD2– Audit of Private Prisons

Aloha Chair Espero Vice Chair Nishihara and Members of the Committee

My name is Ka`iana Haili I am the director of Ke Kahua Pa`a providing rehabilitation programs with cultural and spiritual based curriculum and facilitators. I work with Nā Maka Hāloa 501c3 non profit organization that obtains grants and funding for these programs. In addition, we work with numerous individuals and organizations implementing these programs in Hawai`i and mainland facilities.

We strongly support this bill SB 2342 calling for the legislative auditor, Marian Higa, to do performance audits of the three contract prisons on the mainland. We are extremely concerned that there has never been a performance audit or an independent audit of these operations since Hawai`i began to export inmates to the mainland in 1996. Hawai`i is CCA's second largest customer. The contracts, though paid with public funds, have been unobtainable, despite repeated requests for copies or for them to be posted on the department's website. The monitor's reports should be publicly posted on the department's website with the performance records of the contractor[s] including treatment and services provided to inmates; Facilitation of family and community connections; and PSD's execution of its statutory duties to monitor, enforce and provide public access to monitoring reports.

Hawai`i has a responsibility to ensure that the private prisons that Hawai`i contracts with are complying with our contract. The state is responsible for the care of individuals entrusted to them. Lawmakers and the general public need to know what is going on in these prisons thousands of miles away. We are paying for a treatment-intensive prison, built exclusively for Hawai`i inmates in the mainland but are these contracts actually providing treatment programs that are consistent and effective, if so and what are the results?

If we demand accountability from our inmates, it is only right to demand the same from CCA, DPS and our legislation. This bill is crucial and your responsibility to provide the public with this audit as the consequences are imperative.

Mahalo for doing that which will benefit all of Hawai`i nei.

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April 22, 2008

COMMITTEE ON PUBLIC SAFETY
Senator Will Espero Chair
Senator Clarence K. Nishihara, Vice Chair
Tuesday April 22, 2008
8:45 a.m.
Conference Room 312
Hawaii State Capitol
SUPPORT – HCR 214, HD2
RELATING TO THE AUDITOR

My name is Andy Botts, author of *Nightmare In Bangkok*. I strongly support this bill, and have followed it through the previous committees. I was alarmed when I heard the Dept of Public Safety object to this bill in a previous hearing, especially when they stated that CCA wouldn't negotiate another contract if we required them to disclose their records. Assuming this to be true, this raises concerns that we have become dependant on them. It also signals a cover-up, as people who have something to hide, usually have something to hide. An article that I read in *Time* magazine, regarding the CCA, convincingly suggests that the CCA is in fact covering-up of their records.

In this case, considering where and how much of the taxpayer's money is being invested in CCA, it would be scandalous not to disclose this info to the public. Accountability of tax dollars should be treated in the same manner as any investor in a corporation or any business. We are the investors, and we have a right to know where our hard earned dollars are going. I strongly support this bill, and I urge you to pass it on behalf of the investors of this state.

Aloha, Andy Botts

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COMMITTEE ON PUBLIC SAFETY

Senator Will Espero, Chair
Senator Clarence Nishihara, Vice Chair
Tuesday, April 22, 2008
8:45 AM
Room 312

RE: STRONG SUPPORT - HCR 214 HD2 - AUDIT OF PRIVATE PRISONS

Aloha Senator Espero, Senator Nishihara, and Members of the Committee!

My name is Clair Doctor, and I am in strong support of HCR 214 HD2. I am a graduate of the School of Social Work at the University of Hawaii and I am honored to hold a bachelor and master's degree in this profession that I am very passionate about. I have worked for the Department of Human Services for the last 5 years and I have also interned at TJ Mahoney's transitional home for women several years ago.

My clients have been reporting to me for years the corruption, incompetence, and indecencies that occur within the prison system, which includes, but is not limited to the CCA. In the last two years, I have had first hand experience of these issues after a loved one was incarcerated. Unfortunately, it has taken this first hand experience to fully acknowledge that the issues are very real and unexaggerated.

The CCA does not provide the type of service that it personifies on its brochures and websites. I have visited their prison. The CCA is strictly a money making business. It is also extremely frustrating that the Department of Public Safety (DPS) continually supports the CCA instead of the tax paying citizens that are paying for this service. I have written several letters to the DPS informing them of unethical and incompetent practices of the CCA and little is ever done about any complaint.

The CCA does not hire competent employees. Several of the employees of the CCA have never had prison work experience and/or are qualified to run treatment and rehabilitative programs. The DPS does not provide the public with the credentials of the CCA employees or program curriculums due to this issue.

Below is a list of problems that I have been made aware of by an inmate residing in a CCA prison and in turn, I have written to the DPS regarding these issues with minimal acknowledgement, concern, reply, and follow up:

- Drug treatment counselors are incompetent and run their programs subjectively instead of by its curriculum, thus, they often abuse their power and pick and choose who can be enrolled and/or terminated from a program depending on how they feel instead of the inmate's participation and work in the program.
- Drug treatment counselors often do not show up to teach the classes on its given days.
- The prison guards and counselors abuse their power and control.

- The inmates are fed food that is packaged with labels that say “not to be used for human consumption” (reported by a former inmate and head cook at Oklahoma prison). I recently saw this on a television show like “48 hours” that confirmed this illegal practice of prisons.
- Female guards are allowed to supervise male inmates showering.
- Female and male guards have been caught having sex with inmates (CNN recently covered a similar story).
- Female guard in Mississippi prison provided “lap dances” to the male inmates on New Years Eve in Mississippi.
- Female guard was arrested for bringing in crystal methamphetamine into Mississippi prison.
- Male inmate was high on crystal methamphetamine in Mississippi and the prison was on lock down for over a month, past the allotted time by federal guidelines. The DPS did not disclose this to the public. *Inmates in Mississippi do not receive visitors due to the distance and cost from Hawaii, thus, the staff has to be bringing in the drugs (Mississippi newspaper confirms overextended lock down with no response from CCA).
- The CCA has a high turn over rate due to corruption among the staff, including a warden, sergeant, and gang detail person, (Mississippi), and incompetent staff. The employees of the CCA were found guilty and fired.
- In order to receive medical treatment, the inmates have to pay approximately \$6.00 to be seen by the doctor, otherwise, an inmate could be denied services.
- The only medication that the CCA provides is aspirin for every single ailment no matter how bad the conditions are.
- The CCA makes it very difficult for inmates to receive adequate healthcare at a nearby hospital if necessary and inmates medical conditions are often life threatening and incurable by the time they receive necessary healthcare.
- The CCA hires physicians that do not think highly of their patients because they are inmates, thus, they are unempathetic and violate their own medical code of ethics by not providing adequate care. I have written a complaint to the Arizona Medical Board due to this issue.
- Several inmates have died or have been mutilated while incarcerated in CCA prisons, but the public often is not aware of it (Honolulu Advertiser covered story of an inmate who’s lips were cut off after being in a “secured” section of the prison).
- Several inmates are missing teeth due to lack of preventive dental care and often are missing an eyeball due to lack of eye care. A walk -through Saguaro Correctional Center will validate this.
- The CCA does not properly train their employees and they often treat family members of inmates disrespectfully when they are law abiding citizens.
- The CCA decides who will visit inmates and the DPS defers to their authority. This is frustrating for family members who have to deal with an out of state private prison and have to follow their procedures that are often lengthy and difficult to get in touch with instead of receiving permission from the local “mainland branch” in Hawaii who is responsible for monitoring the contract.
- The CCA does not allow Hawaii people to use their own telephone company, although it would be cheaper, and instead monopolizes the phone company local families can utilize. It costs approximately \$3.00 to accept a collect call from the CCA and 50 cents a minute thereafter. This is beyond costly and heartbreaking for families that have loved ones on the mainland and are already struggling financially in Hawaii.
- The CCA is not culturally competent although they report that they are. The Warden of the Saguaro Correctional Center was interviewed on a Hawaii News Channel and he commented condescendingly that the inmates surprisingly requested spam and eggs and was surprised that that it was their favorite meal. Hawaii is well known for liking SPAM across the country.

- The DPS does not make unannounced visits to the CCA prisons. The DPS did not respond to my inquiry on why they did not do unannounced visits to ensure that the prison is running the way it ought to.
- The CCA does not provide information to family members and friends on transportation, lodging, and visitation rules. Upon insult to injury on paying thousands of dollars to visit out of state, visitors have to find out pertinent information regarding their visits when they arrive at the prison (if they are lucky to find it).
- The CCA does not provide the money sent the inmate via Western Union in a timely manner. Although the money is sent immediately, the CCA has taken weeks to provide the inmate with the money, thus, store orders and telephone calling cards are unable to be met when needed. This is frustrating again for families who want to hear from their loved ones and inmates who may have to order things due to allergies due to the CCA's refusal to make accommodations for allergic reactions to the products they provide cost-free.
- The calling cards that the CCA provides the inmates are expensive even though it is within the United States of America. There are calling cards available to call foreign countries for the same allotted time that is cheaper than the ones that CCA provides within the states.

Please do the right thing and support this bill. For all the reasons I have listed above and several other reasons, it is pertinent that the CCA is audited. I am also speaking on behalf of all the families that I have worked with and met through this tragic experience. Many families that I have met do not exercise their right to testify and often feel hopeless that nothing will be done about it anyway. I still believe in the system although at times I wonder why. Please pass this bill.

Thank you and please support HCR 214 HD2.

Sincerely,
Clair Doctor
Concerned Citizen

You can read more about this at the Private Corrections Institute website at www.privateci.org/Hawaii_shame.htm

Evette Moore
87-131 Helelua Street # J102
Wai`anae, HI 96792

Committee: COMMITTEE ON PUBLIC SAFETY, PBS
Hearing time/date: 8:45 am, April 22, 2008
Place: State Capitol, 415 South Beretania Street
Conference Room 312

Re: HCR214, HD2: Audit of Private Mainland Prisons

Position: Strongly Support

Senator Will Espero, Chair
Senator Clarence K. Nishihara, Vice Chair

Good morning members of Committee on Public Safety,

My name is Evette Moore; I am a student at the University of Hawai`i in the BSW program, and as a result of my future profession, I have a vested interest in advocating for any group of at-risk-peoples. As a consequence, I offer my full support in HCR214, HD2.

Not only is it important to conduct an audit of Corrections Corporations of America (CCR), but I would like to propose an amendment, to at least consider, returning these inmates back to the islands.

Research tells us that inmates have a better chance of succeeding upon release, if they maintain strong ties with their `Ohana. One California study found that inmates with no visitors were six times more likely to re-enter prison during the first year of parole, as opposed to those who received regular visits from at least three family members.¹

Since many of these inmates come from low income families who probably struggle with keeping in contact via telephone, thus being able to afford a trip, to the mainland, is most likely not probable. Many of these inmates have wives in which the distant could be devastating to their marriage, disastrous for their children's psychological needs, as well as to their rehabilitation process.

It is our kuleana to care of all of our residents, in-house and abroad, not just to those who are privilege with assets, or those who are disciplined enough not get involved with illegal activities, but also those who have made mistakes and are paying for them, by way of the criminal justice system.

¹ From miles away, troubled boy finds father knows best:
<http://the.honoluluadvertiser.com/article/2005/Oct/02/lh/lh10a.html>

It amazes me how this state can afford \$50 million dollars a year, to outsource our citizens, due to “lack of space”, but have somehow managed to find the space to build million dollar condominiums in which many residents will never be able to afford, then surely you can audit all of CCR’s private prisons, as well as finding the space to build a prison system on any of the Hawaiian islands.

Thank you for the opportunity to present testimony, please support this measure.

Evette Moore
BSW Student
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