LINDA LINGLE GOVERNOR



### STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY

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## WRITTEN COMMENTS ON SENATE BILL 2342 SD2 RELATING TO THE AUDITOR

by Clayton A. Frank, Director Department of Public Safety

House Committee on Finance Representative Marcus R. Oshiro, Chair Representative Marilyn B. Lee, Vice Chair

Monday, March 31, 2008; 2:00 p.m. State Capitol, Conference Room 308

Representative Oshiro, Representative Lee, and Members of the Committee:

The Department of Public Safety (Department) opposes Senate Bill 2342 SD2. The measure requires performance audits of private prisons on the mainland housing Hawaii prisoners with regard to the issues of delivery of services, visitation, and the Department's monitoring of these contracts.

This measure is unnecessary and repetitive as the Department already conducts quarterly contractual audits of its private prison facilities using its subject matter experts from various divisions and branches (i.e. Heath Care Division, Substance Abuse, Education, Security, etc.). Further, if a problem is discovered, a detailed deficiency notice on all non-compliant contractual items is issued to the respective facility and a plan of corrective action is provided to the Department within thirty (30) days of the deficiency notice. The contract also allows the Department to assess liquidated damages for non compliance regarding staffing requirements and substance abuse programs. To date, no liquidated damages have been assessed as all deficiencies have been corrected within the required thirty (30) response period.

The Department contracts with Corrections Corporation of America (CCA) on its current out-of-state population. All CCA facilities nationwide are accredited and audited under the American Correctional Association (ACA). ACA performs comprehensive audits of all facility operations, as well as policies and procedures in regard to the national mandatory standards. PSD's' contractual terms and conditions require all private prisons to meet ACA standards and be accredited within eighteen (18) months of activation. In addition, PSD's contracts and monitoring reports are public record and are made available to the Legislature and the public.

This measure is based on the premise that performance audits should be applied to a very specific type of contractor (private prisons) under contract with the Department. If it is the intent to implement the process of performance audits to provide accountability and transparency to the public regarding the services provided by any vendor for any contract made with the State as a legal requirement, then it should apply to all State contracts and not be limited to just the Department of Public Safety.

Based on the foregoing reasons as well as any negative impact that a general fund appropriation may have on the Executive Supplemental Budget, this measure is unnecessary and repetitive and would be an additional expense to the government in a time of limited funds. Therefore, PSD opposes Senate Bill 2342 SD2.

Thank you for the opportunity to testify.



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www.hgea.org

The Twenty-Fourth Legislature, State of Hawaii Hawaii State House of Representatives Committee on Finance

Testimony by
Hawaii Government Employees Association
March 31, 2008

S.B. 2342, S.D. 2 – RELATING TO THE AUDITOR

The Hawaii Government Employees Association supports this bill. S.B. 2342, S.D. 2 requires performance audits of private prisons on the Mainland housing Hawaii prisoners concerning the delivery of services, visitation, 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 deaths and serious injuries have occurred at several of the contract prisons. Under this bill, the Office of the Auditor is charged with conducting these performance audits of these private prisons on the Mainland.

Thank you for the opportunity to testify in support of S.B. 2342, S.D. 2.

Respectfully submitted,

Nora A. Nomura

**Deputy Executive Director** 

#### COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Suite 203, Honolulu, Hawai`i 96817 Phone/E-mail: (808) 533-3454/communityallianceonprisons@hotmail.com



#### **COMMITTEE ON FINANCE**

Rep. Marcus Oshiro, Chair Rep. Marilyn Lee, Vice Chair Monday, March 31, 2008 2:00 PM Room 308

## STRONG SUPPORT - SB 2342 SD2 - PERFORMANCE AUDIT OF PRIVATE PRISONS HOUSING HAWAI'I PRISONERS

Aloha Chair Oshiro, Vice Chair Lee 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 a decade. I respectfully offer our testimony being always being mindful that Hawai'i has more than 6,000 people behind bars with more than 2,000 individuals serving their sentences abroad, thousands of miles away from their homes and their loved ones.

SB 2342 SD2 requires the auditor to conduct performance audits of private prisons on the mainland that house Hawaii prisoners and makes an appropriation for that purpose.

Community Alliance on Prisons strongly supports this bill.

#### This Audit Is Long Overdue

- Hawai'i started shipping people out the first 300 in 1996
- Twelve years later, Hawai'i still has no exit strategy for this 'temporary situation'
- In 2006, that number of inmates exported rose to 1,844 Hawai`i inmates serving their sentences in prisons across the U.S. continent
- As of January 7, 2008, we had 2,089 Hawai`i individuals serving their sentences abroad more than one-third of Hawai`i's entire incarcerated population of 6,010

#### Recent Reports Support Need for Independent Look

- Revelations in March 2008 publications of TIME magazine (March 13, 2008) and the New Yorker (March 3, 2008) have placed CCA under the national microscope
- Hawai`i, as CCA's second largest customer is sure to receive national notice as fallout from this scandal. The aloha state should at least show an interest in getting at the truth of these matters
- January 22, 2008 suicide by Warden Arnold's Secretary, who smuggled a loaded 22 through security into the prison
- Series of 'mistakes' that opened certain cells in lockdown leaving a Hawai'i individual so severely brain damaged that he needs 24/7 care
- Assaults in many facilities
- The death of Sarah Ah Mau on December 31, 2008, a Hawai`i woman serving her time at Otter Creek What if this were your daughter, or mother, or wife, or sister, or niece, or friend?

This is not an exhaustive list of what is happening; only those things we find out about through the coconut wireless.

Is it ironic that CCA 'spin doctors' are coming to Hawai`i in April? Maybe, maybe not. What's the purpose of their visit? Do they make routine visits to Hawai`i? If so, why? If not, why now?

The good people of Hawai'i support this Corporation through their hard-earned tax dollars – to the tune of \$52 million (plus extras) a year. We have a right to know if our tax dollars are making a difference or just supporting a broken system.

The Department has testified that they receive regular reports from the CCA prisons where Hawai'i individuals are serving their sentences. Well, CCA whistleblower Ronald Jones just blew that one out of the water! We got the 'doctored', the sanitized reports. Does 'altered facility schedule due to inmate action' sound like a riot to you? Me either.

When a Kentucky inmate died last August I asked the department the circumstances, they replied that she was not our inmate, so it was not of concern to us. What? We had 175 women there at that time – any person's death should be of concern and we should be told. The state is liable for the health and safety of individuals entrusted to their custody.

This bill would give us an independent view – un-doctored, if you will, of how our contracts are being enforced and how private prisons are complying with contract provisions. Something is very wrong. And now we know it. The nation knows it. How will Hawai`i respond?

The state is still responsible for the care of individuals sentenced by our courts regardless of where those individuals are housed. What liability does the state/taxpayer bear since now we know we are not getting the real story of what is happening to Hawai`i individuals entrusted to their care?

An audit – even if it cost \$500,000 - is a good investment since Hawai`i pays millions of dollars in settlements each year. The Superintendent of Schools had a piece in the Honolulu Advertiser recently proclaiming the usefulness of independent audits.

Twelve years of moving individuals around like chess pieces warrants a close examination and an exit strategy – let's start by getting at the truth.

We need answers, not more hardened criminals.

Community Alliance on Prisons urges the committee to pass SB 2342 SD2 with appropriate funding. An audit will provide the data you need to make necessary and important policy changes.

Mahalo for this opportunity to testify.



BY EMAIL: FINtestimony@Capitol.hawaii.gov

Committee:

Committee on Finance

Hearing Date/Time:

Monday, March 31, 2008. 2:00 p.m.

Place:

Room 308

Re:

Testimony of the ACLU of Hawaii in Support of SB 2342, SD2, Relating to

the Auditor

Dear Chair Oshiro and Members of the Committee on Finance:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in strong support of SB 2342, SD2.

This bill will increase government accountability and transparency in a system that currently offers almost none. The ACLU of Hawaii receives many requests for assistance each year from Hawaii inmates on the mainland claiming that contracted prisons are failing to provide them with fair and adequate treatment. It appears that there is little to no accountability on the part of the contract prisons and no transparency, since these private prisons are notorious for denying requests for information about their policies and procedures. With more than 2,000 Hawaii individuals serving their sentences in prisons across the continental U.S. and millions of state tax dollars paid to these private contractors, Hawaii residents should be informed about how their money is being spent.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple Staff Attorney ACLU of Hawaii

> American Civil Liberties Union of Hawai'i P.O. Box 3410 Honolulu, Hawai'i 96801 T: 808.522-5900 F: 808.522-5909

E: office@acluhawaii.org www.acluhawaii.org

CARRIE ANN SHIROTA, ESQ. 1839 Wells Street Wailuku, Hawaii 96793 Phone: 808-269-3858

#### **COMMITTEE ON FINANCE**

Rep. Marcus Oshiro, Chair Rep. Marilyn Lee, Vice Chair Monday, March 31, 2008 2:00 PM – AGENDA #1 Room 308

SUPPORT: SB2342 SD2 REQUIRING THE AUDITOR TO CONDUCT PERFORMANCE AUDITS OF PRIVATE PRISONS ON THE MAINLAND THAT HOUSE HAWAII INMATES

Aloha Chair Oshiro, Vice Chair Lee and Members of the Finance Committee:

My name is Carrie Ann Shirota, and I am writing in strong support of SB 2342 SD2. My experience as a former Civil Rights Enforcement Attorney and Public Defender, and current staff of a reentry program on Maui have shaped my advocacy efforts to promote accountability and transparency within our correctional system, and better prepare incarcerated persons for their return home as law-abiding, contributing members of their 'ohana and our community.

Given that the State of Hawai`i has the highest rate of out of state prisoner transfers in the United States, it is imperative that our elected officials and community are fully aware of the fiscal costs associated with these for profit private prison contracts, and whether this practice enhances or decreases public safety. In fiscal year 2007, the Department of Public Safety spent \$50,291,459.61 to transfer inmates from Hawai`i out of state private prisons in Oklahoma, Mississippi, Arizona, and Kentucky.

As a taxpaying citizen who believes in rehabilitation opportunities to stop the cycle of incarceration, I would like to know the breakdown of how the \$50 million dollars were spent. I am interested in learning about the amount of money spent on programs, such as education, substance abuse treatment, mental health services, vocational training and medical care, as well as the effectiveness of these services. I am also interested in the number of in person and teleconference visits, and contracts outlining the telephone rates. We should be investing in programs that work, and better prepare men and women for their transition back into the community.

In addition, the audit should detail the Department of Public Safety's execution of its duties in the areas of: 1) monitoring private prisons; 2) enforcement of contract provisions and c) public access to contract and monitoring reports. Public access to these contracts, monitoring reports, and other demographic data relating to persons housed out of state is critical in order to provide for accountability and transparency, and to determine if out-of-state transfers is cost-effective to reducing recidivism rates in Hawai'i.

As elected officials, our community looks to you for leadership in shaping legislation and ensuring that hard earned tax dollars are spent in a fiscally responsible matter. Please hold the Department of Public Safety responsible for an accounting of its \$50+million dollar expenditure. In addition, I humbly ask that you contemplate the <u>real costs</u> associated with warehousing prisoners both in Hawai`i and in out of state prisons. In order to reduce the revolving door to prison, we must increase educational and vocational training, treatment programs and reentry support services, including family strengthening and reunification services, starting from the first day of incarceration.

Mahalo for this opportunity to submit testimony in support of SB 2342 SD2.

Committee On Finance

Chair: Rep. Marcus Oshiro

Vice Chair: Rep. Marilyn Lee

Monday March31, 2008

Room 308

SB2342-SD2

Strong Support

Hello chair Oshiro, Vice chair Lee and members of the committee

My name is Cathy Tilley and I am a member of C.A.P. and I have a son incarcerated in Saguaro Correctional Facility in Eloy Arizona.

I strongly support SB2342-SD2 that requires performance audits of private prisons on the mainland that house Hawaii prisoners. With the information that has been coming out to the public about CCA and their 2 sets of books there is absolutely no question that we need to audit the facilities and demand accountability. The welfare of our family members are at stake as well as the fact the state is paying for services that we have no idea if we are getting what we are paying for. It is the states responsibility to insure the safety of the inmates and to provide the programs that are necessary for the inmates to reintegrate into our communities once they have been released.. I don't think any one on this committee can say we are getting what we are paying for because we really don't know. There has been no accountability.

I strongly urge you to appropriate the funds that will bring about the accountability that we as tax payers and as concerned family member so deserve. We need to know what is going on in the prisons that are so far away from home

Sincerely, Cathy Tilley 621 Pauku St Kailua, HI 96734 Ph 261 3170

From: Mary Lacques [hokuokekai50@msn.com]

Sent: Monday, March 31, 2008 8:00 AM

To: FINTestimony

Subject: Strong support of SB2342 SD2

Mary Lacques 61-131 Punalau Pl. Hale'iwa HI 96712

Testimony in strong support of SB2342 Relating to the auditor Monday March 31, 2008 2:00 PM Room 308

Submitted to Committee on Finance Rep. Marcus R. Oshiro, Chair Rep. Marilyn B. Lee, Vice Chair

Aloha Chair Oshiro and Vice Chair Lee,

as a taxpayer who expects the highest possible standard for the expenditure and accountability of our public funds, I strongly urge you to pass SB2342. And as a citizen deeply concerned about the physical and mental well being of our incarcerated Hawaii (as well as all prisoners) residents, I am writing with confidence that you will pass and prioritize this much needed and long overdue inaugural performance audit of these mainland contractors.

I am sure you have been made aware of the appalling conditions, mismanaged accounting, and lack of security at our contracted correctional partners over the last twelve years. We need to stand by our Hawaiian principles in honoring our Ohana by taking care of our own, leaving no one behind. The timeline and immediacy of this audit appeals to me because it exemplifies our commitment to ensuring our Hawaii residents are indeed receiving "treatment intensive" services, with reporting back before the start of 2009 Leg session.

Mahalo for the opportunity to testify.

Sincerely, Mary Lacques

From: Ronsan2224@aol.com

Sent: Monday, March 31, 2008 12:57 AM

To: FINTestimony

**Cc:** fmjrmalani@hawaii.rr.com; ja@interpac.net; KupunaSam@webtv.net; mblasermd@yahoo.com;

rebeccaavery@gmail.com; ulikini@earthlink.net

Subject: Testimony on SB 2342 SD2 and SB 2546 SD2, HD1

COMMITTEE ON FINANCE Rep. Marcus Oshiro, Chair

Rep. Marilyn Lee, Vice Chair

Dear Representative Oshiro, Representative Lee and members of the Committee on Finance:

My name is Ronald Fujiyoshi, and I am the Treasurer of a 501(c)3 organization Ohana Hoopakele. We have been working at developing a Pu`uhonua or Wellness Center as an alternative to prison. We have already produced a written Feasibility Study of the Pu`uhonua. We have also, since 2000 been visiting our incarcerated brothers in Diamondback Correctional Facility in Watonga, Oklahoma, assisting them in the opening and closing Makahiki Ceremonies, and more recently with our incarcerated brother in Suguaro Correctional Facility in Eloy, Arizona.

I want to speak strongly in favor of SB 2342 SD2 and SB 2546 SD2, HD1 for the following reasons:

Since 2000 Ohana Hoopakele has been monitoring the Corrections Corporation of America (CCA) in how it has been treating our brothers in Diamondback Correctional Facility and now in Suguaro Correctional Facility. We are in touch with inmates in Suguaro who have told us that the situation there is worse than that of Diamonback Correctional Facility when they left it for Arizona. Specifically, they have complained of: 1) the mail handling system, and 2) the use of restrictive funds. We highly believe that an audit of CCA will improve both the mail handling system and the use of restrictive funds. An audit by Marion Higa will most importantly help to improve the moral of our incarcerated brothers in Suguaro where the level of discontent is quite high at present. Food that was purchased by some prisoners themselves for the specific pani meal for the closing Makahiki ceremony on February 23, 2008 was not allowed in and the rumor is that it will be used for other purposes. As the auditor examines the Treatment and services provided to Hawaii inmates, she may be able to find out if CCA administration is too rigidly forcing Hawaii inmates to register either as "Christian" or "Hawaiian Spiritualist." Those who have registered as "Christian" have not been allowed to participate in the Makahiki ceremony. This is a violation of their religious rights by judging that a Christian Hawaiian cannot incorporate the Makahiki Ceremony into his religious beliefs.

Since so many of our Hawaii inmates are now all housed together at Suguaro Correctional Facility in Eloy, Arizona, it is even more important that the facility undergo an audit by the State of Hawaii auditor. If it is true that there has never been an audit of the CCA prisons in North America, then there is an urgent need to audit the new facilities at Suguaro because so many of our brothers have been moved there fairly recently. Please pass SB 2342 SD2 and SB 2546 SD2, HD1.

Thank you!

Ronald Fujiyoshi, Treasurer Ohana Hoopakele 1196 W. Kawailani St. Hilo, HI 96720 Tel. 808-959-9775; Fax. 808-959-2793 cc: Ohana Hoopakele board of directors

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video=15&ncid=aolhom00030000000001)

ent:

Karin Hokoana [KHokoana@hhsc.org] Monday, March 31, 2008 6:37 AM

To:

**FINTestimony** 

Subject:

testimony for SB2342 relating to the auditor

Importance:

High

Aloha kakou,

My name is Karin Hokoana and I am the mother of an inmate as well as a family member to many more. At this time, all are incarcerated in Saguaro Correctional Center, owned and operated by the Corrections Corporation of America (CCA).

Transparency in health and business has finally come of age and is being implemented across the nation. With this transparency comes accountability as secrets can no longer be maintained as well as in the past. CCA has proven to be a company that needs to be investigated and audited thoroughly.

The State of Hawaii pays a large sum of money to CCA, money that we desperately need to keep here. But we have no choice (due to improper planning and over crowding of our prisons), we must maintain a contract with them, or others like them, until we can solve the entire situation. Yet, by no means does that give them carte blanc. We hold our citizens and residents accountable for their actions, whether it be intentional or accidental. Should that not be done across the board? Should CCA not be held accountable?

Auditing CCA has never been more prudent than today. With allegations of "two sets of books", failure to provide what was promised per contract, an issue about the acquisition of the contract, possible insider trading, the list can go on pertaining to ethics. But for now, please, let's concentrate on the basics. Poor health care for the inmates (retired docs with no knowledge of modern practice, delays in treatment, denial of treatment, etc), undrinkable water leaving only the choice to "purchase" bottled water from CCA, missing property for over 6 months (and this is merely a move across the street), dual standards in their "few" existing programs, the addition of colored beanies (maybe CCA feels more gangs are needed to keep them busy), McDonald's food for the ones that can "pay". Yes, again the list can go on and on BUT a mere thorough audit can drastically change a lot of this. Why? An audit will mandate accountability. Both CCA and Department of Public Safety, should not have fear any audit if they are actually doing their promised, paid jobs.

The amount of money to conduct this audit, pales in what we continue to dish out to other organizations that mismanage funds within the State system. Eventually transparency will affect every vendor. For now, we need to step forward and take care of our inmate Ohana that are not allowed to stand up for what is right (that is unless they would like to be placed in SHIP, the only full functioning program CCA has to offer). To receive a true and impartial audit, the auditor should not be affiliated or associated with anyone from the Department of Public Safety, CCA or the City of Eloy, AZ. And when they do start this audit, hopefully a question on many of our minds, might be answered. That being: Who's making the interest off our money sent to loved ones? Since it takes WEEKS for it to get into the "cashbox", it must have traveled elsewhere, an interest bearing account maybe?

Please, hold CCA accountable, mandate the audit, pass this bill.

Mahalo for allowing my testimony, however late it may be.

Karin Hokoana

"We must be the change we want to see in the world" Mahatma Gandi

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# Andy Botts Poi Dog Publishers 1920 Ala Moana Blvd. #1104 Honolulu, Hawaii 96815 www.poi-dogpublishers.com

March 31, 2008

COMMITTEE ON FINANCE Rep. Marcus Oshiro, Chair Rep. Marilyn B. Lee, Vice Chair Monday, March 31, 2008 2:00 p.m. Conference Room 308 Hawaii State Capitol SUPPORT – SB 2342, SD2 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

From: L M [peaceofmindhawaii@yahoo.com]

Sent: Saturday, March 29, 2008 8:00 PM

To: FINTestimony

Subject: SUPPORT 2342 SD 2-RELATING TO THE AUDITOR FOR PRISONS

#### 2343 SD 2

## relating to the AUDITING FOR PRISONS MON 312ST MARCH

DEAR COMMITTE ON PUBLIC SAFETY

IN every private sector auditing is important to regulate fairness honesty and maintain civil and human rights..with prisons this is CRUCIAL..we are dealing with human lifes. where abuse, torture, inhumane unfair rape fowl play prejudise mistreatment has always and continues to not only jeapordize the health spirit and well being of each individual whether from staff and guards but also from within the prison gangs. TO MAINTAIN CONSTITIONAL EQUAL RIGHTS AND JUSTICE WE MUST MAINTAIN THE MEANS AND WAYS TO PREVENT SCRUPULOUS ACTS TO CONTINUE TO THE MOST VULNERABLE..THIS MUST BE STOPPED..AND IF THERE IS NOTHING TO HIDE..THERE WILL BE NO OBJECTION!!!

I AM IN STRONG AND CONTINUOUS SUPPORT OF 2342 SD2 THIS SHOULD NOT EVEN BE A QUESTION OR DEBATE THIS SHOULD BE MANDATORY!!! and also to include each and every detention and jail and prison in Hawai'i-juvenile,men & women ..and State Hospitals.

This is the *duty and responsibility* of our Dept. of PUBLIC SAFETY..for the *safety of the public held in these private businesses*..is this legitimate ??? having our people held as prisoners within a PRIVATE BUSINESS??? hmmm..

I AM in strong support of 2343 SD 2 relating to AUDITING PRISONS !!!!

mahalo, lynnette mau lynnettemaul@yahoo.com

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