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No. _____

TESTIMONY ON SENATE BILL 3110
RELATING TO THE COMPREHENSIVE OFFENDER REENTRY SYSTEM

by
Clayton A. Frank, Director
Department of Public Safety

LATE TESTIMONY

Senate Committee on Public Safety
Senator Will Espero, Chair

Tuesday, February 5, 2008; 2:45 p.m.
State Capitol, Conference Room 225

Senator Espero, Senator Nishishara and Members of the Committee:

The Department of Public Safety (PSD) fully supports Senate Bill 3110, which amends several key sections of ACT 8, First Special Session Laws of Hawaii 2007, also known as the Community Safety ACT of 2007. This bill addresses the wide range of concerns we have expressed to the legislature regarding the implementation of ACT 8.

As you know, several different amendments to ACT 8 have been introduced this year in both the House and Senate and are moving through the legislative process. While some of those measures address several concerns we previously raised regarding ACT 8, they do not address the entire range of concerns our department, as well as other departments have with this measure.

Therefore, we respectfully request your committee support SB 3110, as it best addresses the concerns raised and reflects the results of our collaborative efforts thus far with other agencies in an effort to comply with the provisions of ACT 8.

Further, it should be noted that some of our discussions with various agencies regarding ACT 8 had not yet taken place when we met with some legislators to initially provide recommended changes to ACT 8 to the chair of this committee.

The department has already coordinated with the Hawaii Paroling Authority, the department's of Human Services and Taxation, and is currently in discussions with the department of Labor and Industrial Relations to further our efforts to comply with the amended provisions of ACT 8 as outlined in SB 3110. We have also made contact with several public and private entities regarding explanation and enhancement of our comprehensive reentry system.

We have begun to address barriers prisoners face when trying to maintain a healthy relationship with their children by moving forward with the expansion of the SKIP program, the "Read to Me" program at the Saguaro facility, the video visitation systems, and other initiatives designed to assist in maintaining the family unit as much as practical, feasible, and possible under the current circumstances.

Further, we are currently in the process of testing and implementing a new inmate classification system that is more accurate than the current system, which will provide us with more detailed information regarding our current jail and prison population. We anticipate that a greater number of inmates will be classified at both, the minimum and community custody levels. The custody level information will allow for the update of housing unit assignment plans. These plans are designed to facilitate the movement of inmates through the sequential phasing process to less restrictive custody levels and lower costing bed space.

One of the key amendments in SB3110 reappropriates \$1,820,000.00 to the department for the development and implementation of an enhanced offender monitoring and supervision system. We envision this system to be multi-faceted and multi-layered. This will allow for the release of additional inmates, who have been classified as minimum and community custody on extended furlough and possibly parole without jeopardizing the public's safety.

In addition, we have already begun to plan for the return of as many female prisoners as possible from Kentucky back to Hawaii. While this plan is still being developed, we are hopeful that we can begin to relocate at least the first 40 to 50 female prisoners back to Hawaii prior to the end of this year contingent upon appropriate funding from the legislature for the transfer, housing, program and transitional needs of the returning prisoners.

Further, our department respects the work of the committee on Public Safety and sees no need for an additional legislative oversight committee to accomplish the tasks of analyzing and evaluating the department's performance. At present, there exists the Senate Committee on Public Safety and Military Affairs as well as your committee, which together can perform the role of the oversight committee formed by ACT 8. It should also be noted that the Corrections Population Management Commission (CPMC) was established in 1993 under the provisions of HRS 353F, and is responsible for 1) establishing maximum inmate population limits for each correctional facility and 2) formulating policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility.

The CPMC also makes recommendations to the appropriate authorities regarding cost-effective mechanisms, legislation, and policies to prevent the inmate population from exceeding the limits established pursuant to section 353F-2 HRS. The CPMC also considers and makes recommendations on issues such as:

1. Strategies for the management of projected growth in the inmate population.
2. Bail and other pretrial release programs.
3. Legislation relating to sentencing.
4. Judicial sentencing policies.
5. Intermediate punishments and other alternatives to incarceration.
6. Probation programs.
7. Inmate classification systems.
8. Reintegration and treatment programs for inmates.
9. Paroling policies and supervision programs.
10. Future construction of correctional facilities.

As such, CPMC can also provide invaluable information to the Senate Committee on Public Safety and Military Affairs and the department of public safety in their combined and collaborative efforts to address the wide range of issues and challenges that exist with managing correctional facilities, programs, and reentry needs of the incarcerated population, those on parole, and probation.

Therefore, we strongly urge this committee to support and pass SB 3110. Thank you for the opportunity to provide testimony on this matter.

Testimony
By Ted Sakai
Senate Bill 3110, Relating to the Comprehensive Offender Reentry System
Senate Committee on Public Safety
Senator Will Espero, Chair
Senator Clarence Nishihara, Vice Chair
Tuesday, February 5, 2008, 2:45 p.m.
Conference Room 225, State Capitol

Senator Espero, Senator Nishihara, and Members of the Committee on Public Safety:

This testimony is to express concern with Section 13 of SB 3110.

The Big Island's Going Home Committee is a network of over 70 partners, including public agencies, private agencies, and concerned individuals. Going Home focuses on helping the criminal offender in the community – particularly the offender returning to the community from incarceration. Through Going Home a number of innovative services have been developed on the Big Island.

The work of Going Home partners is guided by a few basic principles:

- In order to be effective, we must work with the whole person. We cannot compartmentalize an offender into substance abuser v. parent v. job holder. We must integrate all factors, or the offender's chances of success is diminished
- Re-entry is a process that must start long before the inmate walks out of the door.
- A community's needs are best addressed when people work in partnership with each other.

In their work with offenders who re-enter the Big Island community, Going Home partners have found that many need help in overcoming the criminal thinking that led them to commit crimes in the first place. Cognitive restructuring programs, which help inmates with overcome their thinking errors, are available in many prisons, including some in Hawaii. However, there is no program to address this need at Hale Nani, which serves as the re-entry center for the Hawaii Community Correctional Center. We also found that cognitive restructuring programs are limited at the Kulani Correctional Facility, a primary feeder for Hale Nani. Therefore, in 2007, Going Home asked for funds to start an integrated pilot program for the Big Island facilities. The Legislature recognized the need and appropriated \$33,000 for this purpose.

Section 13 of SB 3110 would allow the Department of Public Safety to use this appropriation in location other than on the Big Island facilities. While we recognize that PSD needs to be concerned about all of its facilities, we ask that the Legislature continue to recognize the pressing need on the Big Island, and not amend this appropriation. Thank you for your consideration.

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LATE TESTIMONY

COMMITTEE ON PUBLIC SAFETY

Sen. Wil Espero, Chair
Sen. Clarence Nishihara, Vice Chair
Tuesday, February 5, 2008
Room 225 at 2:45pm

Oppose SB 3110 Relating to the Comprehensive Offender Reentry System
(Recommend Amendment to Strengthen Legislative Oversight Committee)

Aloha Chair Espero, Vice-Chair Nishara, and Members of the Committee:

My experiences as a former Public Defender and Civil Rights Enforcement Attorney, current staff member of a reentry program on Maui and member of Community Alliance on Prisons have shaped my advocacy efforts to promote accountability and transparency within our correctional system, and improving how individuals are prepared in prison for release as law-abiding, contributing members of their `ohana and our community.

I oppose the following amendments proposed by the Department of Public Safety:

1. **Return of out of state inmates.** The proposed bill seeks to create a novel standard to trigger the return of Hawaii inmates from out of state prisons at least one year prior to the inmate's parole or release date. I have serious concerns because this standard ("when the department determines it is practical and financially feasible, and the safety of staff, inmates and the public are not endangered") is broad and ambiguous and may be used as a catch-all excuse for failure to meet the important rationale for returning individuals to Hawai'i. Evidenced based practice research dictates that reentry planning should start on day 1. It makes sense to return individuals home at least one year prior to release eligibility to begin the family reunification process, become reacquainted with community resources, obtain employment and housing, and slowly transition back into the community.

While I understand PSD's concern for greater flexibility, fiscal resources and safety, Act 8 already provides PSD with the opportunity to explain the reasoning and circumstances for non-compliance in its annual report. In effect, compliance with the mandate to return individuals home at least one year prior to parole or release should be the rule, and non-compliance the exception.

2. **Visitation.** PSD seeks to diminish its role to enhance visitation and maintenance of family relationships by deleting the word "Facilitate" and adding the word "Promote." Strengthening healthy families has proven to contribute to successful reintegration. Accordingly, PSD should actively facilitate such practices.

3. **Restorative Justice Practices.** I disagree with PSD's suggested amendment to delete the paragraph pertaining to restorative justice practices. PSD should work with community based organizations and volunteers to coordinate restorative justice practices. For example, allowing more restorative justice circles to take place at each facility, rather than limiting it to once a month.

4. **Legislative Oversight Committee.** I am staunchly opposed to PSD's amendment to repeal the Legislative Oversight Committee. Chapter 353 H, part II provides clear statutory authority for the Oversight Committee to ensure transparency in the operations of the Department, conduct Site Visits and have access to all areas in correctional facilities within the constraints of safety and security. In fact, I recommend strengthening the powers and reach of the Oversight Committee by appointing community advocates as members. These members could serve as extra eyes and ears to the Oversight Committee and report their findings in response to concerns raised by incarcerated persons. Another alternative is for the Oversight Committee to hire an individual/s that would serve as a monitor for out of state prisons and draft reports for the Oversight Committee.

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.

5. **Enhanced Monitoring and Supervision System.** PSD seeks to repeal establishment of a pilot day reporting center and to instead re-appropriate associated funding of \$1.82 million to develop and implement "an enhanced monitoring and supervision system." *What does that mean?* The proposed change is vague and ambiguous and does not provide sufficient information for the community to determine what that funding will be used for, and whether such an appropriation would be effective in reaching one of our shared goals – reducing recidivism rates and building a safer community. I believe it is incumbent upon PSD to provide more details concerning this amendment and to demonstrate that such practices are evidence based best practices or promising practices.

In closing, it is important for us to keep in mind that PSD cannot do reentry alone and must work in partnership with other government agencies, community based organizations and other stakeholders to create a successful re-entry focused correctional system. At the same time, PSD must take the lead and be held accountable for implementing programs, policies and procedures under Act 8 that will better prepare individuals for their release into the community after prison.

Mahalo for this opportunity to submit written testimony on SB 3110.

Sincerely,

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LATE TESTIMONY

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COMMITTEE ON PUBLIC SAFETY

Sen. Will Espero, Chair

Sen. Clarence Nishihara, Vice Chair

Tuesday, February 5, 2008

2:45 PM

Room 225

OPPOSITION TO SB 3110 - COMPREHENSIVE REENTRY SYSTEM

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 a decade. I respectfully offer our testimony, 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 3110 amends the parameters of the comprehensive offender reentry system program (Act 8 of 2007) to ensure its provisions are in compliance with good governance of correctional facilities. It eliminates provisions allowing contact between former inmates and those still in prison, requires the return of out of state prisoners only when the safety of the staff and inmates is not endangered, and involves relevant State agencies in helping with family, education, and housing needs of inmates.

Community Alliance on Prisons is a strong supporter of Community Safety Act of 2007 and we are saddened to see the sincere efforts of the legislature rebuffed in this proposal. We have been working on these issues for over a decade and this committee's efforts to assist the Department of Public Safety is absolutely unprecedented.

We have been contacted by other agencies named in this legislation who are outraged that "Public Safety is handing off their responsibilities to others." That is certainly the way SB 3110 reads.

Community Alliance on Prisons understands that reentry is a collaborative process, but reentry starts from Day One - and that is Public Safety's kuleana. PSD is entrusted with the rehabilitation of individuals entrusted to their care and is, therefore, the agency with the primary responsibility. Section 2 of this proposal spreads the responsibility among the Hawai'i Paroling Authority, Department of Human Services, Department of Health, and other agencies to 'continuously update comprehensive reentry plans. This is a surefire way to get nothing done. There has to be a primary agency that takes responsibility for implementation of the legislature's policies. The Department of Public Safety MUST be that entity--they have primary custody of individuals, they contract with providers for services, they are the ones who assess and program individuals in preparation for reentry. There is no getting around it, rehabilitation and preparation for reentry is the Department of Public Safety's kuleana. Please don't let them wiggle out of this responsibility.