



Via E-mail: PBSTestimony@Capitol.hawaii.gov
Committees: Committees on Public Safety and Legislative Management
Hearing Date/Time: Thursday, April 2, 2009, 10:30 a.m.
Place: Room 309
Re: Testimony of the ACLU of Hawaii in Support of HCR 199, Requesting the Auditor to Conduct a Private Prison Performance Audit of Saguaro Correctional Center

Dear Chair Hanohano, Chair Tokioka, and Members of the Committees on Public Safety and Legislative Management:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in strong support of HCR 199, which requests the Auditor to conduct a private prison performance audit of Saguaro Correctional Center.

Simply put, an audit of the CCA contracts could save the State of Hawaii substantial sums of money. For example, the State of Oklahoma recently withheld nearly \$600,000 from CCA because CCA was not complying with its contractual obligations.¹ These payments were only withheld after the Oklahoma Legislature requested a performance audit of the prisons.

Private prisons must be carefully scrutinized to determine whether they are a wise use of our limited funds. The ACLU of Hawaii’s experience with private prisons has been consistently negative, in that we continue to receive hundreds of requests for assistance from Hawaii inmates in CCA facilities.

The ACLU of Hawaii conducted in-person interviews with over sixty inmates at Saguaro in February; although we only resort to litigation when all other methods of dispute resolution have failed, we fear that we will have no other choice but to sue to rectify the myriad constitutional violations that exist at the facility unless the Legislature takes swift and decisive action.

The reports we have been receiving from inmates suggest that CCA is not meeting its most basic of constitutional obligations in housing inmates. Furthermore, we have received several reports suggesting that CCA may be keeping inmates longer than necessary; because Hawaii pays CCA per inmate per day of incarceration, the longer inmates are held, the more money CCA receives. We have received several complaints of inmates being granted parole by the Hawaii Paroling Authority, then being held for four months or more by CCA (based on

¹ Tom Lindley, In Get-Tough Stance, DOC Withholds Prison Payments, *Tulsa World*, Dec. 16, 2008, available at http://www.tulsaworld.com/news/article.aspx?subjectid=11&articleid=20081216_16_A1_OKLAHO157983.

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Hon. Rep. Hanohano, Chair, PBS Committee,
Hon Rep. Tokioka, Chair, LMG Committee
and Members Thereof

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vague and unsubstantiated reasons for ignoring the paroling authority's orders). One month of additional incarceration can easily cost the State and the taxpayers nearly \$2,000 – money that is sorely needed for other programs like drug rehabilitation, mental health care, and education – and the Legislature need not (and should not) allow these reports to be ignored.

An audit will help to determine whether the millions of dollars paid to private prisons to house Hawaii's inmates is the most effective use of that money. They will also indicate whether CCA is complying with its contractual obligations.

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,



Daniel M. Gluck
Senior Staff Attorney
ACLU of Hawaii

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the
**Drug Policy
Forum**

April 2, 2009

To: Representative Faye Hanohano, Chair
Committee on Public Safety

Representative James Kunane Tokioka, Chair
Committee on Legislative Management

From: Jeanne Ohta, Executive Director

RE: HCR 199 Requesting the auditor to conduct a private prison performance
audit of Saguaro Correctional Center
Hearing: April 2, 2009, 10:30 a.m., Room 309

Position: Strong Support

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawaii. Thank you for this opportunity to testify in strong support of HCR 199 which requests the auditor to conduct a performance audit Saguaro Correctional Center.

Hawai`i now has over 2,000 people in mainland prisons. This audit is long overdue. In 14 years there has never been an independent audit of contracted prisons. It is extremely important that at least one facility be audited. The taxpayers of Hawai`i deserve to know if the services contracted for are being fulfilled. Other states have audited private prisons.

Private prisons are for-profit corporations, accountable as most of those businesses are to their shareholders and investors; with profits as their primary motive. They have a self-serving interest in keeping their census up to capacity, much like hotels and other lodging businesses. It is because of this self-interest on the part of private prisons that an audit should be conducted and because of the numerous complaints that have been made at Saguaro.

An audit seems even more appropriate as the Department of Public Safety has recently reported that the rate per day is going up from \$57 to \$78. Before committing the state to these higher rates, there should be an independent examination of the existing agreement.

I ask the committee to pass HCR 199 so that we may have this independent report on the use of taxpayer money. Thank you for this opportunity to testify.

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TO: HOUSE COMMITTEE ON PUBLIC SAFETY

FROM: PAMELA LICHTY, MPH, PRESIDENT

HEARING DATE & TIME: APRIL 2, 2009, 10:30 a.m. , room 309

RE: HCR 199 REQUESTING THE AUDITOR TO CONDUCT A PRIVATE PRISON PERFORMANCE AUDIT OF SAGUARO CORRECTIONAL CENTER—
IN STRONG SUPPORT

The Drug Policy Action Group is in strong support of HCR 199. Despite the fact that more than 2,000 Hawai'i prisoners are serving their time on the mainland, despite the fact that all of our contracts are with Corrections Corporation of America, and despite the many problems with CCA that have been reported in the national press, there has never been an independent audit of any of the private prisons that Hawai'i contracts with.

Despite the cost of an audit, it is imperative and yes, cost effective, that we have one performed. The state pays out hundreds of thousands of dollars annually to settle PSD claims and many of these could be prevented if we had a better understanding of what's really going on with our prisoners in Arizona and elsewhere.

We should demand the same accountability from CCA as we do from our inmates; this audit is way overdue.

Thank you for hearing this reso and for allowing me to present testimony in its support.

The Drug Policy Action Group is a sister organization to the Drug Policy Forum of Hawai'i. Since 1993 DPFH has been Hawaii's leading organization dedicated to promoting responsible, effective, and research-based drug policies.

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HCR 199

Na Koa Ikaika, an ohana that supports Hawaiian and human rights, is aghast that a \$50 million contract has never had an independent audit in 14 years. That appears to be resoundingly poor business practices.

Those who operate corrections facilities are in a very lucrative business and should be watched constantly as most businesses with a captured clientel will cut corners. Moreover, as a taxpayer I believe that is the responsibility of our legislators to insure that our money is spent properly, that we are getting the services and programs we contracted for if the department appears to be fiscally irresponsible.

The \$500,000 cost to audit the three private prisons is less than one per cent of our cost for the 2000 inmates housed by CCA. And the cost is increasing roughly 20 per cent per inmate. Per diem costs increase from \$57 to \$78 or \$ 28, 470 per year per inmate. We need to look with new eyes to verify that the money is meeting the needs of the inmates.

We need to be frugal during this financial crunch. However, every dollar of the \$500,000 for the audit will insure that all parts of these contracts are carried out as stipulated.

Lela M. Hubbard
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**LATE
TESTIMONY**