



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 200/HR 162, Urging the Department of Public Safety to Allow for the Ombudsman to Investigate Complaints by Out-Of-State Inmates

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 support of HCR 200/HR 162, which urges the Department of Public Safety to include provisions in new (and existing) contracts with out-of-state prison facilities that inmate complaints are subject to investigation by the Ombudsman.

The ACLU of Hawaii has received hundreds of complaints about the treatment that Hawaii inmates are receiving at the mainland facilities; inmates have sent complaints to the Ombudsman, only to be told that the Ombudsman lacks “jurisdiction” over the inmates because they are on the mainland. Hawaii’s inmates are therefore left without any recourse, because the Arizona Ombudsman will not review their complaints either.

Inmates from Hawaii are left without an essential tool to address and resolve grievances with the mainland correctional institutions. Confirming that the scope of the Ombudsman’s jurisdiction extends to mainland facilities, and including these provisions in contracts, will ensure that the inmates’ legal rights, as well as their health and safety, are maintained.

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 is a non-partisan and private non-profit organization that provides free services to the public and does not accept government funds.

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 200/HR 162 Urging the department of public safety to include provisions in new contracts with private or out-of-state prison facilities that inmate complaints are subject to investigations by the ombudsman and to renegotiate contracts to allow the ombudsman to investigate inmate complaints

Hearing: April 2, 2009, 10:30 a.m., Room 309

Position: Support Intent

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawaii. Thank you for this opportunity to testify in support of the intent of HCR 200 and HR 162.

The Office of the Ombudsman currently asserts that they cannot investigate cases pertaining to those incarcerated in mainland facilities. In fiscal year 2007, the Office of the Ombudsman had 4,649 inquiries. Of those, 1,746 inquiries were categorized as prison complaints. Since 38% of complaints are regarding prisons, it is important that those on the mainland have access to the services of the Ombudsman.

We encourage the ombudsman's office to implement a process that would include the confidentiality of inmates who make complaints. They should not be subject to retaliation for making a complaint.

The fact that Hawai'i does not have sufficient prison capacity within the boundaries of the state should not prevent those who are sent away to mainland facilities from having their cases investigated by the Ombudsman. The office is charged with "investigating complaints made by the public about any action or inaction by any officer or employee of an executive agency of the State and county governments." In the past, the office has assisted in clarifying rules regarding prison visitation and ensuring that the rules are enforced properly and consistently.

Please HCR 200 and HR 162 to help ensure that the services of the Ombudsman's office are available to those incarcerated on the mainland and their families.

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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 200 URGING THE DEPARTMENT OF PUBLIC SAFETY TO INCLUDE PROVISIONS IN NEW CONTRACTS WITH PRIVATE OR OUT-OF-STATE PRISON FACILITIES THAT INMATE COMPLAINTS ARE SUBJECT TO INVESTIGATION BY THE OMBUDSMAN AND TO RENEGOTIATE EXISTING CONTRACTS TO ALLOW THE OMBUDSMAN TO INVESTIGATE INMATE COMPLAINTS– **IN SUPPORT**

The Drug Policy Action Group is in strong support of HCR 200. Currently the Ombudsman does not investigate complaints of Hawai'i inmates housed in Kentucky or Arizona despite the fact that everyone sentenced by Hawai'i remains the responsibility of our state – even if they serve their sentences on the mainland.

A method must be developed whereby inmates abroad have secure phone lines for calls and video conferencing, otherwise their rights to speak confidentially with their attorneys or to lodge complaints are impossible. The state should step up to all of their responsibilities to both the taxpayers and the inmates who are forced to serve out their terms far from friends, family and community.

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.

Na Koa Ikaika, an ohana which upholds Hawaiian and human rights, STRONGLY SUPPORTS these measures, **HCR 200/HR 162**

There must be a safe, secure way for inmates to voice their grievances. If you are raped by a guard, how do you get that information out? How do you prevent being thrown in the hole for complaining about this brutal assault? For a month and then another month on trumped up charges as retaliation for daring to try to get justice for the illegal act? This is not hypothetical. It happened. And in that facility, rape is a misdemeanor, not a felony. Shouldn't contracts reflect the consequences deviators would face in Hawaii and not the slap on the wrist penalty in Kentucky?

How many more of our people have to die for lack of needed medical services before we demand what we are supposedly paying for? Their treatment on the continent is immoral and uncivilized. How can we expect to rehabilitate those who are brutalized?

Contracts need to stipulate that if there are deaths, mistreatment, lack of services, lawsuits against the State regarding inmates in CCA's facilities, CCA is liable. CCA will pay the costs, damages, etc.. That is the reason it is important to have the Ombudsman investigating the allegations.

In each facility on the continent three computers will be available for the inmates to E Mail their family and friends from an approved list which will be on the computers as well as the Ombudsman's E Mail. The computers will be programmed so that the inmates cannot wander on the internet or create mischief. This will be a secure and safe process to air complaints and grievances. This will insure that our people are treated properly, that they have fresh fruit more than once every three months as well as nutritious and edible food, that they have the medical services and supplies they need, that they have access to drug treatment, that they have programs that give them skills to support themselves when they are released.

The State has sent these people away but is still responsible for them. To prevent abuses the Ombudsman must be available to investigate and to take legal action to stop unfair, unsafe and inhumane activities by CCA and its employees.

Lela M. Hubbard
Na Koa Ikaika

Mary K. Dias
Regina Tauala
Kelvin N. Kaapana
Thomasina Higa
Greg Schaller
Kumu Jack MacKeague
Lani Huber
Kawehi Lewis

**LATE
TESTIMONY**

COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Thursday, April 2, 2009

Room 309

10:30 am

STRONG SUPPORT

Aloha Chair Hanohano, Vice Chair Aquino, and members of the committee,

My name is Peter Gellatly. I am the president of Better Media and represent the local community on the state's Corrections Population Management Commission. I also am honored to be working on public safety issues within the Interagency Council on Intermediate Sanctions.

My greatest value in this and any public safety discussion, if there is any, lies in my orientation as a results-driven businessman. There are differences, of course, between private and public sector concerns, but both require business plans with deadlines, cost-effective goals -- and strict accountability.

This bill addresses a fundamental problem with housing inmates abroad -- out of sight, out of mind. Almost criminally, we also are out of pocket to the tune of over \$50 million per year, unsure of what, precisely, we are buying. In this time of economic crisis, an expense of this magnitude needs to be scrutinized and justified. On what else are we spending so much, knowing so little?

It will be argued that we do not have the money now to audit CCA. Is this really the case? In the past decade, we have spent \$5 million settling claims of the sort that undoubtedly arise from actions at prisons on the mainland, and not acting ASAP to stem this cash-letting is risky and foolhardy at best ... thoughtless and irresponsible in a business context. As a \$50 million customer, I want and deserve to understand my investment.

Please pass this resolution. It is one of the most important measures of this very challenging year.

Thank you very much.

aloha,

Peter Gellatly