

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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No. _

TESTIMONY ON HOUSE BILL 1818, HD1
RELATING TO COGNITIVE RESTRUCTURING

By

Clayton A. Frank, Director
Department of Public Safety

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

LATE

Friday, February 19, 2010; 2:00 PM
State Capitol, Conference Room 308

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

The Department of Public Safety (PSD) opposes HB 1818, HD 1, which would require cognitive behavioral therapy with Hawaiian holistic interventions in all new reentry/reintegration program contracts. Cognitive behavioral therapeutic premise is most effective and applicable in treatment programs rather than in the educational or vocational development programs that are designed to assist offenders with their successful reentry/reintegration into society.

PSD does not support mandating the integration of cognitive behavioral therapy in all of its reentry/reintegration programs. PSD also finds that restricting "all new contracts for reentry/reintegration programs," to those with native Hawaiian holistic interventions, as stated in Section 2(a), line 14 through line 20 (Page 1) and Section 2(b), line 1 through 3 (Page 2), of this measure is discriminatory to offenders of other ethnic backgrounds or religious beliefs and will expose the state to liability for violation of offender's First and Fourteenth Amendment rights with respect to freedom of religion, equal protection, or disparity in the treatment of offenders. Throughout the county, including Hawaii when offenders have been required to participate in programs with religious or ethnic aspects, the courts have held that the requirement to participate is a

violation of the offenders Constitutional rights.

The Department continues to be very supportive of programs with strong cultural persuasions. In the recent past, the Department collaborated with a non-profit organization to implement a pilot project funded by the Office of the Hawaiian Affairs to provide indigenous strategies that coincided with cognitive restructuring for inmates in transition. Although the program sought funding during the 2009 legislative session, fiscal difficulties prevented the support of this program. The Department acknowledges that this measure has merit for therapeutic treatment programs, but should be **on a voluntary basis on the part of the offender**; however, to require all new reentry/reintegration programs within Hawaii's correctional facilities to offer cognitive behavioral therapy with **native Hawaiian holistic interventions** as part of the curriculum is clearly prejudicial and will ensure federal intervention into State matters.

In addition, in order to implement the provisions of this measure, already scarce financial resources would be diverted from existing program funding to add the required native Hawaiian holistic interventions curriculum, which effectively equates to fewer inmates receiving required services prior to the expiration of their minimum sentence(s). If offenders have not completed all of their required programs prior to the end of the minimum sentence(s), their release on parole could be delayed.

Further, given the current extreme fiscal difficulties facing the State now and for the foreseeable future, it would not be prudent to pursue enactment of this measure as written at this time. With an ever growing offender population in both, our jails and prisons, PSD's very limited financial resources should be used to provide services to as many offenders as possible, not to fewer offenders as a result of adding program requirements that violate offenders First and Fourteenth Amendments rights, and which will prove to be costly via federal law suits from offenders of other ethnic and cultural backgrounds.

Therefore, PSD respectfully requests that this measure be held. Thank you for the opportunity to provide testimony on this matter.

HB 1818 - Late Testimony
COMMENTS

LATE

DATE: Friday, December 18, 2009
TO: Ohana Hoopakele
FROM: Ronald Fujiyoshi
RE: Report on research on Kulani Correctional Facility land

Background: On Tuesday, December 15, 2009 researched in Archives on grounds of Iolani Palace in Honolulu. Beginning from the three Executive Orders named in the request for a permit by the Army Corps of Engineers at the Board of Land and Natural Resources meeting in Honolulu on November 19, 2009 related to Tax Map Key (3) 2-4-008:009, namely Executive Order #1225, Executive Order #1588 and Executive Order #3092. From previous visit to County of Hawaii Tax Office information on the first two executive orders were obtained. In summary form, the following information on the three executive orders are:

Executive Order #1225:

Dated March 3, 1948. Removed 5600 acres from Upper Waiakea Forest Reserve and the Olaa Forest Reserve to form Kulani Prison Farm. Signed by Governor Ingram Stainback.

Executive Order #1588:

Dated October 16, 1953. Removed 2300.27 acres to add to the Kulani Prison Farm. Signed by Governor Samuel Wilder King.

Executive Order #3092.

Dated November 2, 1981. Withdrew 656 acres from Kulani Prison Farm to be used as Natural Area Reserves. Signed by Governor George Ariyoshi.

[Copies of the three executive orders are in our possession but not notarized copies.]

Significance: Ex-Sergeant Major Samuel Kaleleiki, Jr. said "The military will always capture the highest ground first!" Pu`u Kulani, which means _____ stands at least 3340 meters above sea level. It stands at the Government Survey Triangulation Station "Kulani" being 3429.18 feet North and 3638.78 feet West. This pu`u is the boundary marker of the districts of Hilo, Puna and Kau. It is no wonder that the U.S. military wants the use of this land.

As far as I know the vast majority of this land was Crown Lands as the Waiakea Ahupuaa in the District of Hilo. See Mahele Book p. 25. Crown, Government and Fort Lands, Enumerated. L. 1848, p. 22; C.C., p. 374. This land borders the Keauhou Ahupuaa in the District of Kau that was assigned to V. Kamamalu. Still need to research small portion of the Kulani Prison Farm located in the Upper Olaa Forest Reserve in the District of Puna.

Argument so far:

1. According to the U.S. Public Law 103-150 the overthrow of the Kingdom of Hawaii was illegal. Therefore all following Executive Orders by the governors of the Territory of Hawaii or the State of Hawaii are null and void. Right?
2. The executive orders took land that was Crown Lands for the purposes of the Kulani Prison Farm. If the Kulani Prison has been closed by a governor's decision, the land should rightfully revert to its original designation of Crown Lands. Correct?

3. Under the Mahele Laws the Waiakea Ahupuaa was designated as Crown Lands in "Allodium." Doesn't allodial mean absolute title, inalienable, which cannot be taken by any operation of law for any reason whatsoever? In other words, this land cannot be alienated from the Crown of the Kingdom of Hawai'i. Correct?
4. This land should NEVER be used by a foreign nation for the training of military practices, NEVER.

Further research:

Governor's Proclamations prior to 1948:

Governor's Proclamation dated October 13, 1913

Governor's Proclamation dated December 31, 1918

Governor's Proclamation dated January 3, 1923

Governor's Proclamation dated December 22, 1928

Mahele designation of Olaa Forest Reserve in the District of Puna.

KULANI CORRECTIONAL FACILITY COMMUNITY SERVICE COST SAVINGS

YEAR	COST SAVINGS PER YEAR
1997	427,208.61
1998	151,678.86
2000	26,152.54
2001	57,403.31
2002	291,334.91
2003	175,762.92
2004	20,803.12
2005	153,537.29
2006	30,506.41
2007	886,212.91
2008	29,002.41
2009	17,784.62

GRAND TOTAL 2,267,387.91

\$ 189,000
~~*190,000*~~
Per Year

2/18/10
Rep. Antonio -
Pu'uhonua
Kaleleiki
Dante

Dante K. Carpenter
3045 Ala Poha Place., #401
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HOUSE OF REPRESENTATIVES – REGULAR SESSION 2010
COMMITTEE ON FINANCE

Feb. 19, 2010
2:00 PM, Conference Rm. 308

HB 1818, HD1 – RELATING TO COGNITIVE RESTRUCTURING

Chair Rep. Marcus Oshiro, V. C. Marilyn B. Lee and Committee Members:

Aloha Kakou. My name is Dante K. Carpenter, Member-Advisor to ‘Ohana Ho’opakele. I speak in support of HB 1818, HD1, Relating to Cognitive Restructuring. Its purpose “is to insure that reentry/reintegration programs within Hawaii’s correctional facilities offer cognitive behavioral therapy with native Hawaiian holistic interventions to address domestic violence, addictions, self mastery through identity, and community connections to promote the successful transition from incarceration to the community.”

President Sam Kaleleiki (Kupuna Sam) and members, have a continuing and unwavering commitment and dedication to the mission and purpose of ‘Ohana Ho’opakele: to advocate for alternatives to prisons in the form of *pu’uhonua for pa’ahao*. Literally *pu’uhonua* is defined in the Pukui & Elberts’s Hawaiian Dictionary (1986) as a “sanctuary, refuge asylum or place of peace & safety” for *pa’ahao* – prisoners, convicts and/or inmates. In modern vernacular it can best be defined or classified as a cultural wellness center with all that title entails.

To that end, the organization anticipates working with the Department of Public Safety and other restorative justice groups is to utilize appropriate facilities as a *pu’uhonua* or wellness center for substance abuse treatment and intervention programs that take a holistic and cultural approach to help redirect the lives of those affected, among other programs and activities.

We strongly support HB 1818, HD1.

Mahalo a nui loa.

LATE TESTIMONY