

**HB 1818,
HD2, SD1
Testimony**

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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TESTIMONY ON HOUSE BILL 1818, HD 2, SD1
RELATING TO COGNITIVE RESTRUCTURING

by

Clayton A Frank, Director
Department of Public Safety

Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Wednesday, March 31, 2010; 9:30 AM
State Capitol, Conference Room 211

Senator Kim, Senator Tsutsui, and members of the Committee:

The Department of Public Safety (PSD) opposes HB 1818, HD 2, SD 1, as currently written. The Senate Committees on Public Safety and Military Affairs and Water, Land, Agriculture, and Hawaiian Affairs, amended this measure in Section 2.(a) to state that PSD "may" offer reentry programs with cultural or other interventions. However, this measure still states that PSD "shall" implement this Act with all new contracts in Section 2. (b). PSD strongly recommends to this Committee that this language be amended to read "should" instead of "shall" in this section.

Any provision that could be construed to **require all inmates** to participate in reentry/reintegration programs with a particular cultural intervention regardless of their ethnic, religious and/or cultural beliefs and backgrounds violates their First and Fourteenth Amendment rights with respect to freedom of religion, equal

protection, or disparity in the treatment. Therefore, participation in any program with cultural and other interventions curriculum should be strictly voluntary on the part of the offender. By amending Section 2. (b) to read "should" instead of "shall", there will be no misunderstanding in this measure in regard to mandatory participation in cultural intervention programming.

Thank you for the opportunity to provide comments on this matter.

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COMMITTEE ON WAYS AND MEANS

Sen. Donna Mercado Kim, Chair

Sen. Shan Tsutsui, Vice Chair

Wednesday, March 31, 2010

9:30 a.m.

Room 211

STRONG SUPPORT - HB 1818 HD2, SD1 - Cognitive Restructuring/Cultural Interventions

WAMTestimony@capitol.hawaii.gov

Aloha Chair Kim, Vice Chair Tsutsui and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a diverse community initiative working to improve conditions of confinement for Hawai'i's incarcerated individuals, enhance the quality of justice, and promote public safety by supporting smart justice policies. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that almost 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

HB 1818 HD2 requires the Department of Public Safety to establish a reintegration pilot program that combines cognitive behavioral theory with holistic interventions that address domestic violence, addictions, self mastery through identity, and community connections for successful transitions back into the community.

Community Alliance on Prisons is in **STRONG SUPPORT** of HB 1818 HD2, SD1.

Cognitive Restructuring:

Using cognitive restructuring in concert with cultural interventions can be an important strategy for the rehabilitation of Hawai'i's incarcerated individuals.

Cognitive theory is a proven technique that has been shown to have positive results for many. The **Evaluation of the Efficacy of a Cognitive Behavioral Program for Offenders on Probation: *Thinking for a Change*** (Lori Golden, Ph.D. University of Texas Southwestern Medical Center at Dallas, 2002.) found that *Thinking for a Change* group completers differed from untreated probationers, with about a 33% reduction in new offense charges.

An article that appeared on February 14, 2010 in a Tampa Bay, FL newspaper entitled, "Christ backs rehab for inmates" reported that, **"If state prison officials trim recidivism by just 1 percent, they will save \$8 million a year.**

An article by the head of Federal Probation in Nevada that appeared in Federal Probation in September 2008 talked about cognitive restructuring:

"CBT (Cognitive Behavioral Therapy) has been found to be one of the more promising methods of rehabilitative treatments for offenders. Offenders have been found to distort cognition, which impairs their ability to correctly read social clues, accept blame, and morally reason. This creates a greater sense of entitlement on the part of the offender (Lipsey, Landenberger, & Wilson, 2007). This distorted thought process can lead them to demand instant gratification, misperceive harmless situations as threats, and confuse wants with needs (Ross & Fabiano, 1985). CBT programs use behavioral learning techniques to alter the general adaptive behavior of offenders. This allows them to return to their natural environment with a bank of new skills that they can reinforce in socially acceptable ways instead of in their prior illegal ways (Pearson, Lipton, Cleland, & Yee, 2002).

Conclusion

Cognitive-behavioral programs have been shown to reduce recidivism as long as the programs are implemented well. As with any program, intensive planning about the program to use, logistics of providing the service, quality assurance, and evaluation of effectiveness should occur prior to actual implementation. Such planning will increase the likelihood of successful implementation, while evaluation of the program allows districts to address problems that may occur, particularly around program fidelity. With good cognitive-behavioral programming, districts can increase their effectiveness in addressing offender issues."

Source: http://www.uscourts.gov/fedprob/September_2008/07_cognitive_behavior.html

Cultural Interventions:

Cultural interventions have proven to be successful in program such as MEO's BEST Reintegration Program where recidivism is 10-20% lower than the state has been able to achieve.

There are more and more studies and articles emerging about the power of restorative practices to heal victims, communities, and wrongdoers themselves from the impacts of crime. These practices are based on those of aboriginal peoples who understood that much wrongdoing develops when connections are broken or lost. Restorative practices like ho'oponopono help reconnect people. They help heal those broken connections. These kinds of strategies are successful, especially in Hawai'i, as the majority of our incarcerated population is comprised of individuals of Hawaiian ancestry. The process of helping someone connect to who they really are is nothing short of transformative. I have seen many miracles, for which I am grateful and optimistic.

The research and experiences of those who have been involved in these processes is a strong call for Hawai'i - especially Hawai'i - to implement culturally competent interventions to help individuals understand the thinking that created their pathway to incarceration.

The Restorative Circles process, codified in Act 8 is an example of a restorative practice that assists people in understanding their own behavior. An article entitled, "Rights, religion, and community: Approaches to violence against women in the context of globalization" in the Law and Society Review by Sally Merry Engle (2001) discusses Restorative justice practices, such as ho'oponopono. (http://findarticles.com/p/articles/mi_qa3757/is_200101/ai_n8940957/pg_25/)

"During the 1980s and 1990s, there were also efforts to develop ho'oponopono as an alternative to the criminal justice system. In the 1980s, the Neighborhood Justice Center in Honolulu suggested ho'oponopono as an alternative to mediation (Shook 1985). However, it is different from mediation, which focuses more on compartmentalizing problems and less on a holistic approach (Meyer & Davis 1994).

In 1994, the Native Hawaiian Bar Association (NHBA), concerned with the rising population of incarcerated Native Hawaiians, set up a program to divert some family court cases out of the judicial system (Meyer & Davis 1994: 5). Encouraged by an enthusiastic group of family court judges, the NHBA sponsored the training of a cadre of ho'oponopono practitioners for court and Neighborhood Justice Center referrals by experts taught originally by Pukui. This included attorneys, people from the Neighborhood Justice Center, and from the community. One radical group protesting prison construction in 2000 suggested ho'oponopono as an alternative to incarceration for Native Hawaiians.

Ho'oponopono is now being incorporated into a burgeoning global movement to promote forms of restorative justice, many of which are based on indigenous peoples' judicial mechanisms. For example, New Zealand developed the family group conference in response to complaints by Maori people that the legal system was alienating and did not respond to their values or kinship system and that children were being removed from homes too often (Hassall 1996: 22). It emphasizes the central role of community elders and was mandated for all juvenile offenders in New Zealand in 1989 (Hudson et al. 1996: { 13).

The family group conference was adopted in parts of Australia in 1993 because of concern about the high rates of youth arrest and detention among Aboriginal peoples (Wundersitz & Hetzel 1996: 134-37) and has been tried in some parts of Canada, primarily for aboriginal communities (Longclaws et al. 1996: 195; see also McGillivray and Comaskey 1999).²² Although the family group conference was developed for juvenile cases, some in New Zealand have argued that its emphasis on restorative justice and the importance of the wider community could provide a more culturally appropriate mechanism in gender violence cases as well, eliciting the support of the wider community in shaming the offender and facilitating his reintegration into the community. This approach may provide better protection than the adversarial system (Carbonatto 1995: 13).

The emphasis on healing and reconciliation within ho'oponopono conforms to the core features of restorative justice, as does its location within an indigenous community. (see Roberts & LaPrairie 1996; Crnkovich 1996).

The Restorative Circles program has been hailed nationally and internationally as another successful strategy for reentry and it was born in Hawai'i.

A July 2008 press release from the University of Cambridge in England cited several studies that found that restorative practices have reduced recidivism and crime by 27%.

The report includes seven experiments designed and directed by the Wolfson Professor of Criminology at Cambridge, Lawrence Sherman, and his co-director Dr Heather Strang, who directs the Centre for Restorative Justice at the Australian National University. The experiments began in 2001 and were conducted in collaboration with the Justice Research Consortium, under the chairmanship of Sir Charles Pollard, former Chief Constable of Thames Valley Police and former Chairman of the Youth Justice Board for England and Wales.

The experiments compared almost 400 cases where offenders had attended restorative justice conferences to some 400 cases where they had not. During the conferences offenders listened to victims describe the harm the crimes had caused. Each conference lasted from one to three hours, often in prison settings. Victims found the process helpful and positive, while some offenders have described the meetings as "traumatic", as well as life-changing.

The Sheffield report estimates that £9 of costs to victims and the criminal justice system was saved for every £1 spent on delivering these conferences. The study examined whether offenders within the restorative justice group were reconvicted within a two-year period. It also shows the percentage by which the rate of reconviction within that period fell among different types of criminal in different parts of the country following the restorative justice programme.

The rate of reconviction for violent offenders sentenced to supervision by the Probation Service under a community sentence in Thames Valley, for example, fell by 55%. The rate of reconviction among career burglars in London fell by 15.5%.

The report notes that while the results of each experiment were uncertain if taken in isolation, the likelihood of the pattern of reductions in the frequency of crime for the seven Cambridge-led tests having occurred by chance was one in 100. These results show consistent benefits across many different stages of the criminal justice process.

(Source: University of Cambridge, July 1, 2008, <http://www.admin.cam.ac.uk/news/dp/2008070103>)

Hawai'i needs to go back to what works. Our host culture offers many strategies for reducing crime, closing the revolving door of our correctional facilities, and developing interventions that directly address individuals' pathways to crime and incarceration.

Community Alliance on Prisons urges passage of HB 1818 HD2, SD1.

Mahalo for this opportunity to share our thoughts with the committee.



the
**Drug Policy
Forum**
of hawaii

March 31, 2010

To: Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair and
Members of the Committee on Ways and Means

From: Jeanne Y. Ohta, Executive Director

RE: HB1818 HD2 SD1 Relating to Cognitive Restructuring
Hearing: Wednesday, March 31, 2010, 9:30 a.m., Room 211

Position: Strong Support

The Drug Policy Forum of Hawai'i writes in strong support of HB 1818 HD2 SD1 Relating to Cognitive Restructuring which allows the Department of Public Safety to ensure that reentry and reintegration programs in Hawaii's correctional facilities combine cognitive behavioral theory with cultural and other interventions that address domestic violence, addictions, self mastery through identity, and community connections for successful transitions back into the community.

Since such a large portion of our inmate population is native Hawaiian, it makes sense to include the restorative practices of that culture with cognitive restructuring and offer such programs in our prisons.

We must require that our prisons focus on reentry and successful reintegration in order to reduce recidivism rates which would then help bring our skyrocketing prison budget under control.

Our prisons should be program intensive and offer a variety of programs, since not everyone will respond to the same program. Culturally-based programs can be effective and should be among the programs offered in Hawaii's prisons.

We urge the committee to pass this measure so that more focus is placed on successful reentry back into the community. Thank you for this opportunity to provide testimony.

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Dear Chairperson Donna Mercado Kim & Vice-Chairperson Shan S. Tsutsui & Members of the Committee

Aloha, my name is Keala Kahuanui-Paleka. I'm here in support of HB 1818.

I was locked up for 10 years in and out prison due to crime and drugs. It was up to me and other inmates to implement Hawaiian Values and practices to rediscover our identity. By having more Hawaiian programs for many of the inmates transitioning back into the community, can help us all. 70% of inmates locked up in our prison are Native Hawaiian. We need these types of educational programs to keep Native Hawaiians rooted in our culture.

Currently I am a student at Kapiolani Community College and I am majoring in social work and also in Hawaiian studies. It was through Hawaiian education in which had helped me strive to better myself when transiting back to the community. But there are many more like me who need the guidance from kupunas and tutus.

I had the opportunity to join the crew of Hokulea and have been participating in all my cultural ethics. I also took up paddling and hula to implement my Hawaiian core values. I am continuing to follow after my ancestors ways that made them pono. I am also a teacher of the traditional Hawaiian dance called Ai Ha'a. If you have any question feel free to ask.

Mahalo nui loa,

Keala Kahuanui-Pelaka
808-354-5233

For: HB 1818 Relating to Cognitive Restructuring Requires the Department of Public Safety to ensure that reentry/reintegration programs in Hawaii's correctional facilities offer cognitive behavioral theory with native Hawaiian holistic interventions to address domestic violence, addictions, self-mastery through identity, and community connections for successful transitions back into the community. Effective July 1, 2020. (HB1818 HD2)

To: COMMITTEE ON WAYS AND MEANS: Senator Donna Kim, Chair; Senator Shan Tsutsui, Vice Chair

When: Wednesday, March 31, 2010 9:30 a.m.

Place: Room 211

WAMtestimony@capitol.hawaii.gov

HAWAII SUBSTANCE ABUSE COALITION

Good morning Chair Kim, Vice Chair Tsutsui and distinguished committee members: My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of more than 20 non-profit treatment and prevention agencies.

Support the intent with Recommendations:

Across the nation, the vast majority of prisoners who are drug abusing offenders are not getting the treatment they need in the Criminal Justice System despite two decades of research that demonstrate its effectiveness, according to researchers at the National Institute on Drug Abuse (NIDA), part of the National Institutes of Health.¹

Recommendations:

1. All cognitive restructuring language should be associated with treatment and include other effective coping strategies that are evidenced-based practices to include but not limited to motivational enhancement techniques, anger management, and methods that target criminogenic factors that are associated with criminal behaviors.
2. Expand the language to include all cultural references for all groups as well as gender. Since a clear majority of prisoners are of Native Hawaiian ancestry, it is preferable to keep language in the bill for Native Hawaiian practices; however, it must be voluntary or universal to avoid discrimination issues.
3. Recovery Oriented Community Services (ROCS) must be integrated with treatment and provide continuity of care that meets individualized needs for relapse prevention, continuing care, vocational rehabilitation, housing and pro-social skills development.

Reentry Systems:

There are two parts of reentry: Treatment and Recovery Oriented Community Services (ROCS). Following are specifics for effective reentry processes:

1. Cognitive restructuring primarily pertains to treatment. As part of offender treatment, evidence supports that coping strategies for individuals are improved through the use of intervention strategies such as anger management, cognitive restructuring, and/or motivational interviewing, as well as encouraging

- participation in alternative activities.² Also, treatment should target factors that are associated with criminal behavior.
2. Cultural competence is the ability to function effectively within the context of cultural differences. Building cultural awareness of group value systems is key to developing trust, understanding the dynamics of interactions, and adapting interventions to fit culture as a means to better connect with individuals.³
 3. ROCS is essential for drug abusers re-entering the community. After effective treatment, recovery requires management of the problem over time to include relapse prevention, continuing care, vocational rehabilitation, housing and social skills development. Reentry services must last long enough to ensure stable behavioral change.
 4. Moreover, scientific literature on drug abuse treatment and criminal behavior recommends that tailoring services to fit the needs of the individual is an important part of effective drug abuse treatment for criminal justice populations including developing an integrated treatment approach for offenders with co-occurring drug abuse and mental health problems. Also, it is important to work with criminal supervisory systems to develop a balance of rewards and sanctions that encourages pro-social behavior and treatment participation. Finally, medications are an important part of treatment for many drug abusing offenders.⁴
 5. Studies indicate that outcomes for those who are legally pressured to enter treatment are as good as or better than outcomes for those who enter treatment without legal pressure. "Treating drug-abusing offenders improves public health and safety," said NIDA Director Dr. Nora D. Volkow. NIDA suggests that the criminal justice system is in a unique position to encourage drug abusers to enter and remain in treatment.

TREATMENT SAVES MONEY AND REDUCES CRIME

Studies show that treatment can cut drug abuse in half, reduce criminal activity up to 80 percent, and reduce arrests up to 64 percent. Some communities cite costs as the reason for not treating drug-involved offenders; however, NIDA discusses the economic benefits of treating such offenders. "A dollar spent on drug courts saves about \$4 in avoided costs of incarceration and health care; and prison-based treatment saves between \$2 and \$6."

SUMMARY

Untreated substance abusing offenders are more likely than treated offenders to relapse to drug abuse and return to criminal behavior. This can bring about re-arrest and re-incarceration, jeopardizing public health and public safety and taxing criminal justice system resources. Treatment offers the best alternative for interrupting the drug abuse/criminal justice cycle for offenders with drug abuse problems.

Drug abuse treatment can be incorporated into criminal justice settings in a variety of ways. These include treatment as a condition of probation, drug courts that blend judicial monitoring and sanctions with treatment, treatment in prison followed by community-based treatment after discharge, and treatment under parole or probation supervision.

Outcomes for substance abusing individuals can be improved by cross-agency coordination and collaboration of criminal justice professionals, substance abuse treatment providers, and other social service agencies. By working together, the criminal justice and treatment systems can optimize resources to benefit the health, safety, and well-being of individuals and the communities they serve.

We appreciate the opportunity to testify today and are available for questions, if needed.

References:

1) Dr. Redonna K. Chandler and Dr. Nora D. Volkow from the National Institute on Drug Abuse (NIDA), a component of the National Institutes of Health (NIH), an agency of the Department of Health and Human Services (HHS): *Drug Abusing Offenders Not Getting Treatment They Need in Criminal Justice System: Treating Inmates Has Proven Public Health, Safety, and Economic Benefits: Journal of the American Medical Association* January 13, 2009 <http://www.drugabuse.gov/newsroom/09/NR1-13.html>

2) Kohn, C.S., Mertens, J.R., and Weisner, C.M. Alcoholism-Clinical and Experimental Research, 26(8), pp. 1228-1233, 2002.

3) The federal agency: Substance Abuse Mental Health Services Administration (SAMHSA): *CultureCARD: A Guide to Build Culture Awareness*; DHHS Publication No. (SMA) 08-4354; January 2009; http://download.ncadi.samhsa.gov/ken/pdf/SMA08-4354/CultureCard_AI-AN.pdf

4) National Institute on Drug Abuse (NIDA), a component of the National Institutes of Health (NIH), an agency of the Department of Health and Human Services (HHS): *Principles of Drug Abuse Treatment for Criminal Justice Populations: 2006* at www.drugabuse.gov/PODAT_CJ/principles/

For more information, see *Principles of Drug Abuse Treatment for Criminal Justice Populations: A Research-Based Guide* at www.drugabuse.gov/DrugPages/cj.html.