

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
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No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 2657  
RELATING TO PUBLIC SAFETY

By

Clayton A. Frank, Director  
Department of Public Safety

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

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) **strongly opposes** House Bill 2657. This measure seeks to require the Department to work with Ohana'opakele and other restorative justice groups to plan for the creation of a pu'uhoonua or wellness center on lands owned by the State, giving preference to the grounds of the former Kulani Correctional Facility (KCF).

While the State continues to own the land where the former KCF was located, including the buildings, infrastructure, and surrounding lands, the PSD has entered into a memorandum of agreement (MOA) with the Department of Defense (see attached MOA), which authorizes their use of the former KCF, buildings, infrastructure, and surrounding lands for a Youth Challenge Academy. Therefore, PSD does not currently have operational control of the former KCF, the buildings, infrastructure, nor the surrounding lands.

Since the Youth Challenge Academy is solely for juveniles, and because there is an inherent risk to juveniles if programmed along side adult offenders, PSD strongly advises the legislature against any attempt to co-mingle these two populations at the same location.

In addition, at present there is no funding available to develop, staff, and operate a wellness center. The funds required to do so would be in addition to funding required to provide security to prevent thefts, vandalism, and hunters from accessing the property.

Further, when reviewing programs for possible implementation, among other requirements, PSD requires the programs to have evidenced based curriculum that have measurable outcomes, and provide relevant knowledge and/or skills to the offenders serviced. Programs cannot exclude any offender regardless of race, religion, sex, ethnicity, sexual orientation, economic status, etc. As written, HB 2657 could be seen as prejudicial or discriminatory as other ethics groups would not be provided with the same and/or similar programs. Therefore, this measure exposes the State to potentially costly federal litigation.

Finally, given the current unprecedented economic realities facing the state coupled with the inherent federal legal challenges of implementing this measure, PSD respectfully requests HB 2657 be held.

Thank you for the opportunity to provide testimony on this measure.

Attachments



the  
**Drug Policy  
Forum**  
of hawai'i

February 19, 2010

To: Representative Marcus Oshiro, Chair  
Representative Marilyn Lee, Vice Chair and  
Members of the Committee on Finance

From: Jeanne Y. Ohta, Executive Director

RE: HB 2657 Relating to Public Safety  
Hearing: February 19, 2010, 2:00 p.m., Agenda #4

Position: Support

The Drug Policy Forum of Hawai'i writes in support of HB 2657 Relating to Public Safety to plan for a model wellness center to be built in East Hawai'i.

DPFH supports the use of culturally competent programs and the establishment of a wellness center based on the concepts of pu'uhonua where people can go to heal. This proposal provides for a holistic approach including cultural identity, spirituality, and strength to get to the core, the reason for drug addiction or drug abuse.

DPFH also supports the use of the site of the Kulani Correctional facility for the wellness center.

This measure has great merit. We urge the committee to pass this measure so that Hawai'i will start treating drug use, drug addiction, and drug abuse using health and wellness measures. Using public health approaches are more effective in treating drug addiction than incarceration and other criminal justice approaches. Thank you for this opportunity to provide testimony.

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# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair

Rep. Marilyn Lee, Vice Chair

Friday, February 19, 2010

2:00 p.m.

Room 308

**STRONG SUPPORT HB 2657 – Wellness Center**

**[FINTestimony@capitol.hawaii.gov](mailto:FINTestimony@capitol.hawaii.gov)**

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our 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 2657 requires the department of public safety to plan for a model wellness center to be built in East Hawai'i and report to legislature in 2011.

CAP is in strong support of culturally competent programs. We need to look to the practices of our host culture to heal our communities. Restorative justice has been practiced by aboriginal peoples since the beginning of time.

MEO's BEST Reintegration program has proven that culturally competent programs reduce recidivism – their rate is 40% compared with the more than 50-60% recidivism rate experienced by the state.

The effectiveness of restorative practices (like restorative circles included in Act 8, The Community Safety Act, Hawai'i's reentry law) is illustrated in the following studies by the University of Cambridge, showing a 27% reduction in recidivism. Restorative practices hold lawbreakers accountable and allows for the healing of the spirit, something that is not generally not included as part of rehabilitation.

### **RESTORATIVE PRACTICES REDUCE RECIDIVISM BY 27%**

A University of Sheffield report (*Source: <http://www.admin.cam.ac.uk/news/dp/2008070103>*)

Evaluating seven Cambridge University-led experiments in restorative justice found, *"The experience of "restorative justice", in which offenders confront their crime victims, reduces the frequency of reconviction by an average of 27%, the independent evaluators of the scheme have found."*

*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%.*

An article on tampabay.com on February 14, 2010 entitled, "Christ backs rehab for inmates", (We distributed copies to the committee on Wednesday) reports: *"If state prison officials trim recidivism by just 1 percent, they will save \$8 million a year.*

*"Particularly in austere budget times, re-entry (programs) really make good business and public safety sense," Florida Department of Corrections Secretary Walt McNeil said. "It comes from the lock-them-up-and-throw-away-the-key (policies) – the evidence shows it has not been very effective."*

#### **RESTORATIVE PRACTICES PROMOTE EMPATHY AND HEALING**

*"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."*

#### **RESTORATIVE PRACTICES SAVE MONEY**

The news release from the University of Cambridge states, *"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.*

#### **RESTORATIVE PRACTICES ARE EFFECTIVE**

*"These results leave little doubt that restorative justice is both effective and cost-effective at preventing crime," Sir Charles Pollard said. "Since 75% of all convictions in England and Wales are reconvictions of repeat offenders, in principle we could see restorative justice reduce crime substantially across the country."*

Directly addressing an individual's pathway to crime is the best way to rebuild lives, restore families and revitalize communities. Ignoring the spiritual side of human beings has not been successful. Hawai'i must look to our host culture and their practices to heal our communities and bring people together. Marginalizing individuals only promotes crime. **We are Hawai'i. We care for each other and we care about each other.**

PSD's own study on reclassification showed that we are over-classifying individuals, which is against correctional best practices. Lawbreakers who are ready to be placed in the community could be sent to a pu'uhonua to assist their reentry and successful reintegration. These are the things that have been shown to help individuals exiting incarceration. Let's pursue what works.

Hawai'i is lucky to have practitioners who are ready, willing, and able to step up to help our community. Let's use our wonderful community resources to build safe and healthy communities. Community Alliance on Prisons is in strong support of HB 2657 and urges the committee to pass this important bill.

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

**Ohana Ho`opakele**

P.O. Box 5530

Hilo, HI 96720

HOUSE OF REPRESENTATIVES – REGULAR SESSION 2010  
COMMITTEE ON FINANCE

February 19, 2010  
2:00 p.m., Conference Rm. 308

HB 2657 – RELATING TO PUBLIC SAFETY

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

Aloha. My name is Samuel Kaleleiki, Jr., President of Ohana Ho`opakele, an organization dedicated to rescuing our *pa`ahao* or incarcerated brothers and sisters in prison. I speak in strong support of HB 2657 which seeks to work with the Department of Public Safety and other restorative justice groups to prepare a plan for the creation of a *pu`uhonua* or wellness center on lands owned or controlled by the State, giving preference to the site formerly used as the Kulani correctional facility on the island of Hawaii.

First, we want to thank the members of the Committee on Public Safety, especially Chair Faye Hanohano for unanimously passing HB 2657 on to the Committee on Finance.

I hope you have read my written testimony to the Committee on Public Safety and that of our advisor Mr. Dante Carpenter. Since the cooperation of the Department of Public Safety is crucial to the implementation of this bill, I want to direct my comments to concerns raised in the testimony by the director of the department.

First, the name of our organization is Ohana Ho`opakele, not “Ohana`opakele” as printed in the director’s testimony.

Second, I want to question the accuracy of the wording in the second paragraph of the director’s testimony, which begins, “While the State continues to own the land where the former KCF (Kulani Correctional Facility) was located, ..., the PSD has entered into a memorandum of agreement (MOA) with the Department of Defense ....” Our research of TMK (3) 2-4-008-009 reveals that this land was designated “Crown” Lands under the Mahele, namely the Ahupuaa of Waiakea in the District of Hilo and portions of the Ahupuaa of Olaa in the District of Puna. Under Governor’s Proclamations the land in question was designated Waiakea Forest Reserve and portions of the Olaa Forest Reserve. Then under Executive Orders #1225 dated March 3, 1948 and #1588 dated October 6, 1953, almost 8,000 acres

were removed from forest reserve lands to form Kulani Prison Farm. To summarize my argument, if Kulani Correctional Facility has been closed by a governor's decision, the land should rightfully revert to its original designation of "Crown" Lands, shouldn't it? The Kingdom of Hawaii was a Neutral nation, which vowed never to be involved in any act of aggression to any other state. This "Crown" Land should not be used by the Department of Defense for training youth with military purposes in mind.

Third, the funding of a *pu`uhonua* or a wellness center depends first upon obtaining land. Ohana Ho`opakele has always envisioned working together with the State of Hawaii, the Office of Hawaiian Affairs and other restorative justice groups to assist in the raising of funds to build the model *pu`uhonua* or wellness center.

Fourth, Kulani Correctional Facility is almost an ideal location for a *pu`uhonua* or wellness center. Besides having the infrastructure of continuing a correctional facility, it can sustain a model *pu`uhonua* or wellness center on the same site though separate. I present a summarized list that Warden Peter McDonald presented of the "Kulani Correctional Facility Community Service Cost Savings" for the years from 1997 through June 2009. The grand total of \$ 2,267,387.91 does not include the savings to the State of Hawaii from the woodwork produced at KCF, the repairs to transport vehicles, picking of maile leis, raising of cattle and pigs, and the growing of vegetables. In other words, KCF has the best resources to raise finances to cut down on operational costs.

Fifth, HB 2657 directs the Department of Public Safety to work with Ohana Ho`opakele and other restorative justice groups. This is the best formula to produce programs that "have evidenced based curriculum that have measurable outcomes, and provide relevant knowledge and/or skills to the offenders serviced."

Sixth, although w and others have pointed out the disproportionate number of native Hawaiians, or more accurately Kanaka Maoli, who are incarcerated today, Ohana Ho`opakele has no intention of excluding any *pa`ahao* from our programs based on ethnicity or other factors.

Seventh, although HB 2657 states, "the site formerly used as the Kulani minimum security prison in East Hawaii would be an ideal site for such a wellness center," it does not stop the Department of Public Safety from looking for other lands in East Hawaii to fulfill the requirements of this bill.

Finally, forgive me for taking so much time to comment on the merits of this bill. However, I and other members of Ohana Ho`opakele, *pa`ahao* and *ex-pa`ahao* have dreamt of a *pu`uhonua* or wellness center for years. Mahalo for your kind attention!



**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

Fax SB6-6001

FAXED  
2/16/10  
2008 Jee

Dante K. Carpenter  
3054 Ala Poha Place, #401  
Honolulu, HI 96818

HOUSE OF REPRESENTATIVES – REGULAR SESSION 2010  
COMMITTEE ON FINANCE

February 19, 2010  
2:00 p. m. Conference Rm. 308

HB 2657 – RELATING TO PUBLIC SAFETY

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

Aloha kakou. My name is Dante Keala Carpenter, Member-Advisor to 'Ohana Ho'opakele. I speak in support of HB 2657, Relating to Public Safety, which seeks to work with the Dept. of Public Safety and other restorative justice groups to utilize the former Kulani Correctional Facility 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.

Notwithstanding the budget crisis and its implications on state facilities and operations, Kulani Correctional Facility has in the past and should continue in the future to serve a critical need for re-integrating *pa'ahao* back into communities in Hawai'i. Except that this time around, its former *pa'ahao*, with appropriate cultural programs and training as advocated by 'Ohana Ho'opakele, would return with a positive outlook and as contributing members of its society!

Mahalo to President Sam Kaleleiki (Kupuna Sam) and members, for a continued 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 Pukui & Elbert'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.

Obviously, any correctional complex or *pu'uhonua* should pose no threat to the community! Therefore, security classification of *pa'ahao* should be minimal, at best. Among other goals, the facility should incorporate in its design and operations, a fitting "work-place atmosphere" with establishment of programs incorporating the best agricultural model available coupled with established Hawaiian cultural teachings in order to approach self-sufficiency in production of necessary foodstuffs and respect of humanity. The programs would minimize costs to the taxpayer, provide opportunities to earn "good time," participate in vocation education training and prison industries, and support the facility's manpower needs, as well.

Further, while there have been several "escapes" by inmates from Kulani over the past 20 years, the security classification of *pa'ahao* has been carefully monitored. Subsequently, little or no danger is posed to the Big Island citizens and communities.

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Committee on Public Safety  
February 19, 2010  
Page 2

One of 'Ohana's goals would incorporate the return of deserving *pa'ahao* from mainland incarceration facilities which provide no opportunities to reduce recidivism, but rather encourage hardening and contributing to family disorientation, disintegration, and dissolution.

I formerly held the position of a Senate Judiciary Committee Chairman, which committee exercised oversight over Hawaii's Justice System, including operations of prison facilities. Without doubt, prison facilities and present activities, no matter how well-intended, still leaves a great deal to be desired regarding the rehabilitation and re-integration of *pa'ahao* back into the community.

Finally, I'm particularly mindful of a recent and positive meeting with Lt. Governor Duke Aiona in which Kupuna Sam, Reverend Ron Fujii, Kini Burke and I had recently. Lt. Governor Aiona encouraged the organization in its efforts with the *Pu'uhonua* Cultural Concept and its application. I believe 'Ohana Ho'opakele is on the right track in its efforts to undertake a difficult but necessary task and wish them well in their endeavors.

We strongly recommend passage of HB 2657.

E laulima pu kakou! (Let's all work together.) Mahalo a nui loa.

2 of 2 pages

## **FINTestimony**

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**From:** diasohana1@hawaiiantel.net  
**Sent:** Thursday, February 18, 2010 2:16 PM  
**To:** FINTestimony  
**Subject:** Support of HB 2657

COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair

Rep. Marilyn Lee, Vice Chair

Friday, February 19, 2010

2:00 p.m. – Agenda #4

Room 308

**STRONG SUPPORT of HB 2657**

Those of us listed below are registered voters and we strongly support

**HB 2657 – PBS, FIN**

**Public Lands, Kulani Correctional Facility**

How is it that Governor Lingle gave the Kulani Program a “Governor’s Award” last year for being such a great and successful program, then closed it down?

1. The Kulani “Wellness” Center must be restored or a similar program put in its place
2. Lingle should be impeached (This statement is indirectly related to this bill and directly related to this committee)

Sincerely,

Lela  
Hubbard  
Mary K.  
Dias  
Kekoa A.K.  
Dias  
Keoki A.W.  
Dias  
Margaret Dias  
Pilago  
Regina Dias  
Tauala  
Earl Peahi

Jr.  
W. Sterling Reid