

**HB 415,  
HD2, SD1  
Testimony**

# COMMUNITY ALLIANCE ON PRISONS

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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 415 HD2, SD1 - Financial and Management Audit of Public Safety**

**[WAMTestimony@capitol.hawaii.gov](mailto: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 415 HD2, SD1 directs the auditor to conduct a financial and management audit of the Department of Public Safety's contract with the Corrections Corporation of America and the Federal Detention Center as well as the closure of Kulani Correctional Facility.

Mahalo for hearing this important bill. Community Alliance on Prisons stands in full support of this measure. In these dire economic times, we must use our precious resources wisely. Since Hawai'i has never audited our contracts with private prison vendors despite the dramatic increase from 300 contract beds in 1995 to more than 2,000 in 2008. A good hard look is, therefore, long overdue.

Regarding the contracts with CCA, the first point we would like to make is that Hawai'i does not have a contract with Corrections Corporation of America. The contract for the prison beds in Arizona is a government to government contract between Hawai'i and the city of Eloy - whose mayor was a correctional officer at Red Rock at the time the contract was signed. *"The contract was not let out for bid because it was a government-to-government transaction between the state of Hawai'i and Eloy, Ariz., that is exempt from competitive bidding. Hawai'i officials say the "highly unusual" situation involving Eloy Mayor Byron K. Jackson isn't covered by the Hawai'i state procurement law, but does raise questions about the contract."* (Source: <http://the.honoluluadvertiser.com/article/2007/Jan/21/ln/FP701210379.html>, State's prison deal 'unusual', The Honolulu Advertiser, Sunday January 27, 2007)

## **WHY WE NEED AN AUDIT:**

Community Alliance on Prisons has been raising questions about decisionmaking, resource allocation and expenditures of public funds at the Department of Public Safety for more than a decade. We have

supported measures calling for transparency and accountability at PSD for years so that the public knows where and how their hard-earned tax dollars are being spent. CAP has delivered a handout for the committee to see the shocking number of problems we have had at CCA facilities...and how few you have actually heard about.

**THE HASTY CLOSURE OF KULANI CORRECTIONAL FACILITY RAISES MANY QUESTIONS:**

- *Why close a minimum security facility when PSD has testified for years on the need for minimum beds?*

The 2008 Preliminary Reclassification Study projected that 35.9% of the women should be classified at the minimum custody level and 22.2% should be classified at the community custody level (a total of 68.1% of the women were projected to be classified at the minimum or community custody level). The study found that 56.3% of the men should be classified at the minimum custody level and 5.7% should be classified at the community custody level (a total of 62% of the men were projected to be classified at the minimum or community custody level). Why are so many of these individuals in medium security prisons?

- *Bad planning and sixty-five years of records up in smoke*

The inmates at Kulani were transferred out to other facilities leaving about 5 people to close down Kulani. Short-staffed and being pressured from Honolulu, inmates from HCCC had to be bussed up to Kulani daily to help with the closure. In the rush to turn over the keys to the Department of Defense on November 20<sup>th</sup>, 65 years of records were burned in a pit!

- *Kulani was home to the Hawai`i Correctional Industries Program*

The men at Kulani worked on skilled worklines. They built the Pahoia pool, the Hale Nani education center, roads, etc. This program provided millions of dollars in labor to the County of Hawai`i - this is a devastating loss to the county and the people of Hawai`i Island.

- *Decisions are being made without consulting with legislatively appointed bodies*

Why wasn't the closure of Kulani Correctional Facility brought before or discussed with the Corrections Population Management Commission, a legislatively appointed-body?

- *Where is the purported \$2.8 million in savings?*

Here is PSD's explanation of the purported savings of \$2.8 million in saving a year that the closure of Kulani would bring:

Kulani Correctional Facility 2010 Appropriation:	\$5,181,327
Inmate Population at KCF as of 6.30.09 - 120	
Savings from Health Care & Program Svcs \$35/day/inmate	(996,450)
Savings from Administrative Cost @ \$11/day/inmate	(313,170)
Transfer 65% of KCF inmates to FDC @ \$87/day	2,476,890
Transfer 35% of KCF inmates to HCF @ \$75/day	<u>1,149,750</u>
Cost to house KCF inmates on Oahu	2,317,020
Projected Cost Savings	2,864,307

This begs the question: Was the decrease of Kulani's population intentional to justify its closing? It operated with 220 incarcerated individuals with no problem and was cost effective. Why was the population decreased over the last several years?

- ***Most Effective Sex Offender Treatment Program in the Nation Closed***  
Why was the most effective sex offender treatment program in the nation shut down? PSD testified that no programming for individuals in Kulani's sex offender and substance abuse treatment programs would be interrupted – this is NOT TRUE.
- ***Programs Interrupted!***  
Men who were in the sex offender treatment program at Kulani are at the Federal Detention Center (FDC) still awaiting a program – for more than six months! Why?
- ***Sex Offenders in Substance Abuse Treatment Program at Kulani***  
Men who have been convicted of sex offenses and who were in Kulani's substance abuse treatment program were also promised that their programming would not be interrupted – NOT TRUE. They're at medium security Halawa because Waiawa doesn't take sex offenders. PSD officials didn't know that Waiawa doesn't take sex offenders?
- ***Deconstructing the Myth***  
The questions that need to be asked are:
  - *Why was the flow of inmates to Kulani decreased over the last several years?* Warden McDonald testified under oath that when there were 220 men at Kulani the facility ran well, was fully programmed and cost effective, and all the men worked. Isn't this what we want in a minimum security prison – individuals working to reintegrate back to their communities?
  - *Why would the administration shut down the most effective sex offender treatment program in the nation while they pushed for more and more punitive laws?* If the administration truly cared about Hawai'i's people, wouldn't they also have pushed for more sex offender treatment to stop the cycle, and credit Kulani's program as a model? Why has this program never been mentioned?
- ***Kulani's Closing – Mis-handled, haphazard, and hurtful to Hawai'i Island families***  
HILO, HAWAII – Six Hawaii Adult Corrections Officers employed at the Hawaii Community Correctional Center (HCCC) in Hilo, filed a complaint against their union, the United Public Workers (UPW) and their employer, State of Hawaii with the Hawaii Labor Relations Board, their attorney Ted Hong announced today. ... "On October 5, 2009, the State handed Adult Corrections Officers at HCCC layoff notices and gave them hours to choose to move to another island or be terminated. Having to make a decision to move to another island or lose a job in just a few hours was unfair and caused a great deal of anguish that they are still trying to come to grips with today," Hong says.  
(Source: Hawaii Reporter, *Hawaii Corrections Officers File Complaint Against Union, State*, December 2, 2009, <http://watchdog.org/1935/hawaii-corrections-officers-file-complaint-against-union-state/>)

Besides the disregard for the families involved, the haphazard closing of Kulani has created public safety issues for our communities. We will have sex offenders who have maxed out (served their entire sentence) before they have completed their programming – which is unavailable to them. How will this protect our communities?

An old Japanese Proverb describes this action accurately:

***"Vision without action is a daydream; Action without vision is a nightmare."***

## WE NEED ACCOUNTABILITY & TRANSPARENCY:

- ***PSD has opposed all bills calling for accountability and transparency***

Every bill calling for transparency and accountability over the last several years has been vehemently opposed by the department. This is odd since the Governor, as a candidate, wrote in A New Beginning for Hawai'i:

### *Making Government Work Better*

*"Restoring integrity to government requires us to share information openly with the public so the people of Hawai'i will know the true condition of state government, the programs it operates and the results of its efforts. Both elected leaders and the public must know the information essential to good decision-making. Government resources are limited, so all spending and policy choices must be based on reliable information and clearly articulated values and objectives, rather than short-term political considerations. ...Financial accountability and openness are essential if government leaders are able to make sound decision and then be held accountable for the actual results. They are absolutely necessary to break the vicious cycle of corruption and favoritism in state contracting, and to restore trust and integrity in government service."*

Why would her administration do something in direct opposition to her promise to the people of Hawai'i?

- ***Hawai'i data is often not included in BJS Studies***

CAP routinely reviews studies from the Bureau of Justice Statistics that report what each state is doing in a certain sector of criminal justice, Hawai'i statistics are often missing.

- ***Public Safety is 5% of the state budget (The Judiciary is 2.6%)***

Public Safety is approximately 5% of the budget, yet the majority of Hawai'i's incarcerated population is composed of non-violent individuals who are projected to be classified as minimum and community custody individuals.

- ***There are more effective ways of addressing crime***

Incarceration is the most expensive sanction and there are better, more efficient and cost-effective ways of addressing the root cause of much of Hawai'i's crime. Since substance abuse treatment is the most effective way of dealing with the root cause of much of Hawai'i's crime, re-purposing money now used for incarceration to community treatment can show amazing returns \$18 in savings for every \$1 spent on treatment in the community.

*(Source: Aos, Steve, Polly Phipps, Robert Barnoski, and Roxanne Lieb. 2001. The comparative costs and benefits of programs to reduce crime. Olympia: Washington State Institute for Public Policy.)*

- ***Public Safety's skyrocketing budget - + 75.5% in the last decade!***

The fact that PSD's budget has increased 75.5% (\$128 million in 2000 to \$225 million in 2009) in the last decade should prompt an investigation.

## THE 192% INCREASE IN CCA & FDC CONTRACT PRISON BEDS BEGS THE QUESTION:

- ***Why are we sending minimum and community custody individuals to medium security prisons?***

The 2008 Preliminary Classification Study - a PSD study sample that included 2400 individuals' files of the then 6,010 inmate population. The researchers sampled from every category - prisons

and jails in Hawai'i, private contract prisons in the U.S. and U.S. Interstate Compact Prisons and showed that the majority of Hawai'i's incarcerated population should be classified as either minimum or community custody. Why are these individuals in a medium security prison?

- ***PSD Is Not Following Best Practices***

Housing minimum security individuals in a medium security prison (Halawa, FDC, and CCA) is against correctional best practices. Research shows that housing an individual at an increased classification (custody level) only serves to increase criminality. Why are we doing this?

- ***CCA and FDC Contracts for Medium Prison Beds + 192% in the Last Decade!***

The budget for contract prison beds (CCA and the Federal Detention Center) has increased by 192%. Do you want our hard-earned tax dollars to go to a corporation who is accountable first and foremost to its shareholders?

- ***Shouldn't we be including the cost of lawsuits for the sexual assaults and other civil right violations at private prisons into the audit considerations?***

When our women were in Brush, CO and two women were sexually assaulted, the state settled the lawsuit, which cost the taxpayers money. These settlements and legal costs must be included in the contract investigation. There are still many outstanding cases yet to be tried and/or settled.

- ***There has never been an audit of Private and Federal Contracts***

It is long overdue that the taxpayers find out the benefit the expenditure of millions of their hard-earned dollars has brought the community. Could we have spent the money more wisely and caused less community and family destruction?

The research shouts, YES! Let's get the facts about where our money has been going and how effective it has been in achieving our desired outcomes.

A financial and management audit of PSD is long overdue. We need to look at who is incarcerated and determine who actually needs to be there. We can then repurpose that money into programs that help individuals transition back to the community.

The data provided by this audit will give you, as policymakers, the necessary tools and a snapshot of our correctional system so that you can best determine where to allocate funding to accomplish the vision most of us have - safe and healthy communities.

We are Hawai'i - we care for each other and about each other.

We urge passage of HB 415 HD, SD1 - even in these financially strapped times - because you need to know the most effective ways to spend our hard-earned tax dollars.

Mahalo for this opportunity to share our thoughts with the committee. Please see our handout outlining *some* of the problems at CCA facilities.

It's time to stop the spin and do what works. We know what works. The data is clear.

TREATMENT WORKS, PRISONS DON'T!

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## SUPPLEMENT TO HB 415 HD2, SD1 TESTIMONY

Over the years there have been numerous incidents including deaths, riots, sexual assaults, rapes, etc. at the contract prisons run by Corrections Corporation of America (CCA). Here is a sampling of CCA facility incidents. Community Alliance on Prisons was shocked when the PSD Director called Saguaro Correctional Center in Arizona a 'well-run facility' with a 'professional staff' only days after the brutal murder of Bronson Nunuha. Something is VERY WRONG.

### SOME INCIDENTS AT CCA FACILITIES 2000-2009

#### FLORENCE CORRECTIONAL CENTER, FLORENCE, ARIZONA

**September 12, 2000** - About 20 Hawai'i inmates at Florence Correctional Center join in the so-called "Rice Riot." Three corrections officers were injured as inmates smash windows, computers, television sets and food carts.

**April 11, 2001** - Riot in a recreational yard at Florence Correctional Center involves 23 inmates, with two corrections officers injured and one inmate seriously injured.

**April 16, 2001** - Hawai'i inmate Iulani Amani, 23, dies after packets of crystal methamphetamine burst in his stomach, causing a drug-induced heart attack.

**April 30, 2001** - Monitors reports also show that a year after the first Hawai'i inmates were placed at Florence, the prison still is not offering educational and rehabilitation programs that are required by contract and included in the contract price.

**April 2003** - More than one out of every four inmates who underwent drug testing came up positive for drug use.

#### DIAMONDBACK CORRECTIONAL CENTER, WATONGA, OKLAHOMA

**June 2003** - The chief of security at Diamondback Correctional Facility reports to Hawai'i monitors that prison staff believes 2 ounces of crystal methamphetamine were being smuggled into the prison each week.

**October 17, 2003** - Hawai'i monitors sent to inspect the Diamondback Correctional Facility at Watonga, Okla. warn conditions at the prison are "deteriorating," and urge the state to freeze the number of inmates there.

**May 14, 2004** - About 500 inmates from Arizona riot for several hours at Diamondback. An investigation by Arizona corrections officials finds inadequate staffing at Diamondback meant prison staff was unable to prevent the disturbance.

TALLAHATCHIE CORRECTIONAL FACILITY, TUTWILER, MISSISSIPPI

July 17, 2005 - 2:30 AM - Cell doors in lockdown area open 'in error' and two Hawai'i inmates are beaten. One suffered a broken jaw and the other was severely beaten and brain damaged - he now needs 24/7 care and is in Hawai'i State Hospital. His case has not gone to court yet.

December 2006 - Female prison guard Irons was arrested for distributing \$6,000 worth of crystal methamphetamine to Hawai'i inmates

March 2007 - Warden Robert Parker, Sergeant Willy, and other prominent staff members at TCCF were fired by CCA following yet another incident where a Hawai'i male inmate was found walking around the facility naked, paranoid, and high on crystal methamphetamine. This was around the time that the inmates were on lockdown for over a month with no contact with family and friends.

July 2007 - Counselors not reporting for work - show up once a week instead of daily.

SAGUARO CORRECTIONAL FACILITY, ELOY, ARIZONA

August 3, 2007 - The staff at Saguaro Correctional Facility inadvertently opened security doors, releasing Hawai'i inmates from their cells. Seven inmates left their cells when the doors opened, one was injured in a fight with another inmate and a third inmate had to be subdued for refusing to return to his cell.

August 12, 2007 - The heads of the education and addiction-treatment programs at a private Arizona prison holding Hawaii inmates abruptly quit their jobs complaining of poor management, inadequate facilities and lack of staffing.

November 2007 - The Hawai'i Delegation was repeatedly told that the prison was 'ramping up,' which was why this 'program intensive' prison was program-shy. Why did we pay for services that were not being delivered?

February 17, 2010 - Hawai'i inmate, Bronson Nunuha, was murdered in his cell in the SHIP II 'program', where individuals are locked down 22 hours a day. How could this happen???

RED ROCK CORRECTIONAL CENTER, ELOY, ARIZONA

It was reported during the November 2007 Hawai'i Delegation visit that cell doors had opened 'inadvertently' four times at Red Rock.

OTTER CREEK CORRECTIONAL CENTER, WHEELWRIGHT, KENTUCKY

October 2005 - Women are processed into Otter Creek (from Brush, CO). Diarrhea and vomiting widespread and persisted for the first several months. Women advised by nurse not to drink the water - nurse later sanctioned.



**December 1, 2005 - Hawai`i woman, RR, rushed to the hospital with pneumonia after being denied help at the medical unit. Denied follow-up doctor's visit. (CAP has letter from doctor)**

**December 18, 2005 - Hawai`i woman, WK, rushed to the hospital after many pleas for medical help because of persistent arm and leg pain. It took security seven minutes to open her door to give her nebulizer and 2 hours to get to Hazard Medical Center. WK underwent triple by-pass surgery.**

**December 31, 2005 - Sarah Ah Mau, Hawai`i inmate, died after being repeatedly threatened with lockdown if she continued to ask for medical help**

**January 15, 2006 - (phone call from women) Women with diabetes made to take medicine at inappropriate times. Several Kentucky inmates are in the hospital**

**January 19, 2006 - (phone call from women)WK up and walking in yard for the first time. Still no follow-up surgical visit.Women still denied their asthma and physician-prescribed medication. Women being told they are not Kentucky prisoners, but Hawai`i tells them they are under Kentucky's control - mass confusion and conflicting rules**

**January 27, 2006 - WK rushed to hospital at 2:30 AM**

**May 2006 - report in local Kentucky newspaperthe Lexington Herald-Leader reported that Eldon Tackett, a 43-year-old guard at Otter Creek, had been accused of providing food and candy to a female prisoner in exchange for oral sex. The Kentucky-based Floyd County Times reported that Otter Creek's drug counselor, Tanya Crum, 32, had been arrested for trafficking in methadone.**

**February 2007 - Fluorescent tube lights on ceiling are 'night lights' (enough light to read by)**

**August 27, 2007 - Latasha Glover, Kentucky inmate, died**

**January 22, 2008 - Carla J. Meade, Warden Joyce Arnold's secretary smuggles a LOADED 22 CALIBER GUN into prison and commits suicide in the Warden's office.**

**July 2009 - Letter sent to Hawai`i alleging multiple sex assaults at Otter Creek by staff (including ACOs and Chaplain) listing names of alleged victims and alleged perpetrators**

**September 2009 - Hawai`i cancels contract with Otter Creek and brings all but one woman (Totie Tauala, the first Hawai`i woman sexually assaulted in 2007 at Otter Creek) back to Hawai`i**



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

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 Ohta, Executive Director

RE: HB 415 HD2 SD1 Relating to Public Safety  
Hearing: March 31, 2010, 9:30 a.m., Room 211

Position: Strong Support

I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawai'i. Thank you for this opportunity to testify in strong support of HB 415 HD2 SD1 which requires an audit of the Department of Public Safety's contracts with the Corrections Corporation of America and the Federal Detention Center in Honolulu focusing on a comparison of quality of programming, costs and economic benefit to the state of housing Hawai'i inmates in mainland facilities and in the federal detention center with housing Hawai'i inmates in local facilities operated by the state.

In the report, the auditor will address the closure of the Kulani Correctional Facility and will make recommendations on the advisability of continuing the policy of housing inmates on the mainland.

The Department of Public Safety has said that closing the Kulani facility would save \$2.8 million per year; however, the public should know whether those savings have been realized, in view of the fact that other claims have not been realized.

Sex offender and drug abuse treatment programs were interrupted. Interruption of treatment programs often leads to longer prison stays, which ends up costing the state more money.

Closing Kulani has also meant that inmates classified as minimum security are housed in medium security facilities, which goes against correctional best practices. Kulani was the only facility with a mandatory work policy, offering a range of educational and occupational skills training. These skills are essential for successful reentry from prison back into the community.

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 the contracted prisons. It is extremely important that this \$50 million of public money be audited.

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The taxpayers of Hawai'i deserve to know if the medical, mental health, substance abuse treatment, education, vocational training, and food services contracted for are being fulfilled.

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, and their costs low, 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.

An audit seems even more appropriate as the Department of Public Safety has reported that the rate per day is going. Before committing the state to these higher rates, there should be an independent examination of existing agreements and the impacts to Hawai'i on spending taxpayer money outside of the state.

I ask the committee to pass HB 415 HD2 SD1 so that we may have an independent report on how the Department of Public Safety has chosen to allocate public money.

**From:** [Mary Elizabeth](#)  
**To:** [WAM Testimony](#)  
**Subject:** HB 415 HD 2, SD1  
**Date:** Tuesday, March 30, 2010 10:08:32 AM

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**COMMITTEE ON WAYS AND MEANS**

Senator Donna Kim, Chair

Senator Shan Tsutsui, Vice Chair

Wednesday, March 31, 2010

9:30 a.m.

Room 211

**STRONG SUPPORT HB 415 HD2, SD1**

**Audit of Corrections; Kulani; CCA; FDC & Ad Hoc Committee**

Dear Chair Kim, Vice Chair Tsutsui, and Committee Members:

Thank you for this opportunity to submit my testimony.

An audit is sorely needed and I strongly support the passage of this bill and your committee funding it.

The audit would answer so many questions about the operation of CCA involving our inmates at SCC. How is it that medical records are not kept on inmates so, whenever there's a turnover in staff, they cannot get the medication they were receiving. Tests which they were scheduled for are pushed back at least another year because there's no record. If there is a cancerous tumor, even one month is too late. To wait another year or more is simply unethical. Also, where is the profit from commissary sales going?

The closing of Kulani. There was no detailed accounting of the closure of Kulani. It was never discussed with the legislators or the Corrections Population Management Commission. Is the savings of 2.8 million dollars a year in closing Kulani really a saving considering they were doing public works for the state/city and producing income? The employees were retained in other positions. And, the state administration's proposed upgrading of Kulani's facilities with \$1.8 million in loans for the Hawaii National Guard usage doesn't seem to justify closing Kulani. With the closure of Kulani, the inmates have no program.

The inmates at Kulani that went to FDC have no program. The inmates at Saguaro in AZ who were programmed to return now cannot because there is no program. Without a program, they can't get released early so have to "max" out. More cost to the State for keeping them incarcerated longer.

To cut the cost of keeping nonviolent inmates, isn't it time the state of Hawai'i establish positive standards, like other states, where they get points deducted for good behavior so only those who cannot improve while in prison will be incarcerated, and those nonviolent inmates would be put on probation or worklines.

To prepare them for release, what kind of classes do they have and how many are eligible to attend. What about the others who are not eligible to attend because of their classification? The inmates pay high prices for their commissary goods. Who gets the profit?

Without an audit, we will continue to fund an everincreasing prison system blindfolded and not know how we can improve the system and cut costs.

Mahalo,

E. Funakoshi

455-9136