

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

CLAYTON A. FRANK  
DIRECTOR

DAVID F. FESTERLING  
Deputy Director  
Administration

TOMMY JOHNSON  
Deputy Director  
Corrections

JAMES L. PROPOTNICK  
Deputy Director  
Law Enforcement

No. \_

TESTIMONY ON HOUSE BILL 519, HD1  
RELATING TO INMATES

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 27, 2009; 12:00PM  
State Capitol, Conference Room 308

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

The Department of Public Safety (PSD) appreciates the legislature's interest in the development or expansion of in-state correctional facilities and the eventual return of our inmate's held in out-of-state prisons as outlined in House Bill 519, HD1. However, the PSD strongly opposes this measure.

With funding previously provided by the legislature, PSD is currently working closely with DAGS and several private entities under contract to both plan and design a new and larger correctional facility for the island of Maui to replace the Maui Community Correctional Center (MCCC). In addition, PSD is currently exploring the possibility of relocating and/or expanding the Oahu Community Correctional Center (OCCC) at its current site. Both of these projects are moving along and we hope to have more detailed information for the legislature during the next legislative session.

In Section 2c (Page 3, Line 16) , this measure requires the Director of Public Safety to return all out-of-state inmates to Hawaii prisons by December 31, 2015. This requirement is clearly unrealistic as it fails to consider what the inmate population may be in the

year 2015. Given the current economic conditions of the State and the strong potential for an increase in the jail and prison populations between now and the year 2015, HB 519, HD1 is extremely short sighted and fatally flawed. At present, the Department does not have the bed space capacity and institutional programs for the current prison population of 6,039 (5,299 male and 740 female) offenders. Even if the MCCC and OCCC projects were completed by the year 2015, the additional bed and program spaces provided by these projects would not reach the level required to return all of the out-of-state inmates to Hawaii, nor does Hawaii currently have the community-based beds and program infrastructure to accommodate such a large number of offenders.

Further, Section 3 (page 4, line 6) seeks to eliminate the provisions of HRS 353-16.2 that will place inmates and staff in danger. At present, PSD and the other state jurisdictions within the Western Interstate Compact use this provision to transfer inmates (usually on a one-for-one basis) that are high profile offenders, convicted felons requiring protective custody outside of their home state, and/or offenders that are required to be held in maximum custody due to their repeated unacceptable behaviors such as assaulting staff and other inmates. If PSD is removed from the Western Interstate Compact, we would be required to return to in-state facilities at least 22 Hawaii State offenders currently housed around the country under this provision. In addition, we would be required to notify several state jurisdictions of the Western Interstate Compact that they would immediately have to seek other housing options for the 17 out-of-state inmates PSD are currently housing from their respective jurisdictions.

It should also be noted that Section 4 (page 5, line 5) of this measure seeks to rescind the Executive Branches ability to negotiate with any appropriate out-of-state jurisdiction for the development of Hawaii correctional facilities to reduce prison overcrowding. If enacted, this measure would effectively tie the hands of the Executive Branch to efficiently, and effectively manage the State's correctional system and the offender population. As a result, the State may be forced to release untreated and/or unprogramed offenders in the community, which places the public at severe risk of continued victimization.

Therefore, PSD respectfully requests that this measure be held. A more appropriate means to address the legislature's concerns may be via a House Concurrent Resolution that would require the Department to provide the legislature with a report on the status of our reentry efforts and the on-going projects for both, the MCCC and OCCC facilities prior to the start of the next legislative session.

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

# COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phone/E-Mail: (808) [533-3454](tel:533-3454)/[kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON FINANCE

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Friday, February 27, 2009

Room 308

12 noon

## SUPPORT

**HB 519 HD1 – Return of Out of State Inmates**

[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. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that more than 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

HB 519 HD1 requires the return of all out-of-state inmates in private prisons by December 31, 2015 and requires the Department of Public Safety to plan, design, and construct sufficient facilities to house inmates in Hawai'i by that date. The HD1 changed the effective date to 2025.

Community Alliance on Prisons applauds the committee for hearing this bill. Hawai'i has been banishing individuals to the hands of prison profiteers since 1995, when we sent our first 300 prisoners to Texas. This was a 'temporary' situation, we were told. Today, 14 years later, Hawai'i has NO EXIT STRATEGY and the number of individuals sent abroad is rising, as the costs are soaring.

The Department of Public Safety is currently undergoing a re-classification of Hawai'i's incarcerated population. The preliminary findings of their consultants, Criminal Justice Institute, Inc. (CJI) reveal that Hawai'i has been over-classifying inmates and that the majority of Hawai'i's incarcerated population are nonviolent offenders who are classified as Minimum or Community Custody.

Interestingly, all the CCA prisons housing our people are Medium security prisons. When questioned about this, CCA said they had "low medium; medium medium; and high medium. Sounds like medium, yeah? And research shows how classifying people too high results in greater recidivism.

Research done by Keith Chen of Yale and Jesse Shapiro of the University of Chicago entitled, 'Does Prison Harden Criminals?' looked at 950 inmates with the same lengthy rap sheets and similar criminal histories but held in different classifications (some minimum custody and some low custody) and then studied them 1, 2, and 3 years after release to see if prison conditions and classification made them more apt for rearrest. **Their findings show that harsher prison conditions - classifications from low on up -- are associated with significantly more post-release crime.** Source: "Does Prison Harden Inmates? A Discontinuity-based Approach - [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=470301](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=470301)

So Hawai'i's over-classification of inmates has actually been counter-productive and has fueled recidivism.

Although CAP strongly supports bringing our people home, we are concerned with Hawai'i's lack of infrastructure to assist individuals reentering the community. This infrastructure would include an array of prison-based and community-based programs to serve the diversity of needs of our incarcerated population. Hawai'i has been so focused on incapacitation and incarceration, that we have very little infrastructure in the community to help folks be successful upon reentry.

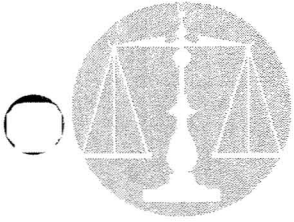
Before Hawai'i even considers building a prison, we should first determine how many 'hard' prison beds we need and then work from there. The re-classification work of CJI must provide the roadmap for the direction Hawai'i needs to take. Instead of bricks and mortar, we need to provide the tools and assistance necessary to help people rebuild their lives, restore their 'ohana, and revitalize their communities through successful rehabilitation and reentry programs. Building this infrastructure will provide a better Return on Investment (ROI) as it will help reduce recidivism and support individuals working to change their lives and behavior.

Why are we spending the most expensive sanction - prison - to punish people who have drug problems? Research by Rand Corporation found that for every \$1 spent on treatment, we save \$7 in social costs.

This economic crisis presents an opportunity to review what we are doing and do what is efficient, not punitive. **We should incarcerate individuals who harm others, not people who we are mad at.**

In closing, we must bring our people home to something. We must have programs in place for returning Hawai'i inmates. HB 519 HD1 can force the department to develop an exit strategy since they obviously need a goal or we will continue to ship individuals around like chess pieces, a shameful policy with no aloha.

Mahalo for this opportunity to testify.



## COMMITTEE ON FINANCE

Rep. Marcus Oshiro, Chair

Rep. Marilyn Lee, Vice Chair

Friday, February 27, 2009

12 Noon

Room 308

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

### SUPPORT WITH AMENDMENTS: HB 519 HD1 RELATING TO INMATES

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

My name is Carrie Ann Shirota, and I am writing in support of HB 519 HD1 with Amendments. My experiences as a former Public Defender and staff member of a reentry program on Maui, as well as a member of Community Alliance on Prisons have shaped my advocacy efforts to promote rehabilitation, accountability and transparency within our correctional system, and alternatives to incarceration.

HB 519 requires the return of all out-of-state inmates in private prisons by 12/31/15 and requires the Department of Public Safety to plan, design, and construct sufficient facilities to house inmates in Hawai'i by 12/31/15.

**I support the provision under HRS 353H-7 that sets a deadline for the Department of Public Safety to return to all out inmates to Hawai'i by December 31, 2015.**

**However, I do not support the language under 353-16.35(c) and HRS 353H-7(d) that requires the Department to plan, design and construct sufficient facilities to house all prisoners to the committed to the Department's custody.** That language provides a green light for Hawai'i to build more prisons.

Similar to other members of our community, I am interested in safe neighborhoods, and the reduction of crime and recidivism. However, contrary to the myth, ***BUILDING MORE PRISONS IS NOT THE SOLUTION!***

- **The prison population growth in Hawai'i is linked to changes in our sentencing laws, not due to an increase in crime.** Accordingly, we must amend sentencing laws that contributed to the prison population growth.
- **The Sentencing Project's Report Incarceration and Crime: A Complex Relationship (2006) highlights the marginal connection between mass imprisonment and reduced crime.** The Report concludes that "the persistent removal of persons from the community to prison and their eventual return has a destabilizing effect that has been demonstrated to fray family and community bonds, and contribute to an increase in recidivism and future criminality." Moreover, the Report concludes that alternatives approaches to reduce crime, such as treatment and intervention, are more cost effective and protect families. Accordingly, we must invest in programs that have proven effective in reducing recidivism.
- **Other states, such as Wisconsin and Washington, which exported large numbers of its prisoners to other state or private prisons, are reversing this practice.** Policy makers and even correctional leaders in these States recognize that out of state transfers weakens family ties, reduces the likelihood of family visits, and creates other unintended consequences (i.e. increased growth of prison gangs).

I am encouraged that a growing number of our State Legislators support the return of our incarcerated brothers and sisters back home. Please continue to champion this cause by using a comprehensive strategy to reduce our overreliance on incarceration. Our community can achieve public safety goals with a reduction of incarceration if we have the political will and courage to support changes to our sentencing laws and alternatives to incarceration.

Mahalo for this opportunity to submit testimony in strong support of HB 519 HD1 with the suggested amendment of deleting provisions relating to the construction of new prisons.

Sincerely,

Carrie Ann Shirota, Esq.  
Wailuku, Hawai'i  
(808) 269-3858



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

February 27, 2009

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

From: Jeanne Y. Ohta, Executive Director

RE: HB 519 HD1 Relating to Inmates  
Hearing: February 27, 2009, 12:00 p.m., Room 308, Agenda #3

POSITION: SUPPORT

HB 519 HD1 requires the return of all out-of-state inmates in private prison by a specified date and requires the Department of Public Safety to plan, design, and construct sufficient facilities to house inmates in Hawai'i by a specified date.

DPFH supports the return of all inmates to Hawai'i, as housing prisoners on the mainland makes maintaining relationships with family members and children extremely difficult and makes successful reentry into the community more difficult.

However, during difficult times, we need to rethink our current policies; do they work for Hawai'i? Clearly, medium security incarceration is not the best policy. It is expensive and does not reduce recidivism rates.

We think this is the opportune time to focus on establishing community-based programs both for reentry and for drug treatment. We should be establishing a variety of programs that are gender-appropriate and culturally appropriate. These programs actually address the underlying cause of criminal behavior, are more effective than incarceration, and reduce recidivism rates, thus reducing the need for more prison space. In addition to being more effective, community-based programs are also less expensive than incarceration.

Thank you for this opportunity to provide testimony in support of this measure.

**Board of Directors**

Pamela Lichty, M.P.H.  
*President*

Kat Brady  
*Vice President*

Heather Lusk  
*Treasurer*

Katherine Irwin, Ph.D.  
*Secretary*

Michael Kelley, D.Phil.

Richard S. Miller, Prof. of  
Law Emer.

Robert Perkinson, Ph.D.

*Donald Topping, Ph.D.*  
*Founder 1929-2003*

P.O. Box 61233  
Honolulu, HI 96839

Phone: (808)-988-4386  
Fax: (808) 373-7064

Email: [info@dpfhi.org](mailto:info@dpfhi.org)  
Website: [www.dpfhi.org](http://www.dpfhi.org)



## **FINTestimony**

---

**From:** Mary Elizabeth [nugayou@yahoo.com]  
**Sent:** Wednesday, February 25, 2009 7:33 AM  
**To:** FINTestimony  
**Subject:** HB 519 HD1 - RELATING TO INMATES  
**Attachments:** stat330.jpg

### **COMMITTEE ON FINANCE**

Rep. Marcus Oshiro, Chair  
Rep. Marilyn Lee, Vice Chair  
Friday, February 27, 2009  
12 Noon  
Room 308

SUPPORT  
Bill #HB 519 HD1 - RELATING TO INMATES

Dear Chair, Vice Chair and committee members:

I support HB519, HD1, for the sake of keeping the families together and cutting the cost. Many of the inmates families cannot afford to visit their loved ones in Arizona because of the cost. Some have taken the drastic step of moving their families there so they can be close to them.

The State of Hawaii cannot go on shipping their incarcerated citizens out of state and out of sight thinking the problem will go away. Our prison population is increasing instead of decreasing because there is no plan. We need to address the problem of the escalating cost to our state coffers by finding solutions on how to decrease the population of the people presently incarcerated. With the general population desiring more people in prison for whatever offense they commit, we cannot keep adding to the prison population and the increased cost of maintaining them.

Bringing the inmates home will help to cut down on recidivism and maintain family structures.

I, therefore, ask that you support this bill and thank you for your consideration.

Sincerely,

Elaine Funakoshi

## FINTestimony

---

From: Peter Gellatly [pgellatly@mac.com]  
Sent: Thursday, February 26, 2009 4:57 PM  
To: FINTestimony  
Subject: HB 519 HD 1 RELATING TO INMATES STRONG SUPPORT

Aloha Chair Oshiro, Vice Chair Lee, 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 featuring goals and deadlines. In this context, we only need to ask two simple questions:

Do we want our inmates housed here?

If so, by when?

If the answer to #1 is "no," I request that you reconsider, for all the reasons of which you already are aware. Please don't be swayed by the difficulty of this effort. The pay-off, in dollars and common sense, is worth it.

If the answer to #1 is "yes," we must have a deadline. No magazine (my field) has ever been published without one, nor will a prison be built. If 2015 is too soon -- and I would argue strongly that it is not -- then 2025 will have to do.

In shipping inmates to the mainland, we have taken the easy way out. As we are learning in this awful economy, the easy way is neither the cheapest nor the best in the long run. The heart of President Obama's recovery plan is not hope. It is responsibility. I ask that you accept this on behalf of the people of Hawaii ... and pass this bill.

Thank you very much.

aloha,

Peter Gellatly

## FINTestimony

---

**From:** abraggs@aol.com  
**Sent:** Wednesday, February 25, 2009 10:36 PM  
**To:** FINTestimony  
**Subject:** HB 519 HD1 - NAACP Testimony

### **COMMITTEE ON FINANCE**

Rep. Marcus Oshiro, Chair  
Rep. Marilyn Lee, Vice Chair  
Friday, February 27, 2009  
12 Noon  
Room 308

Bill # **HB 519 HD1**

**RELATING TO INMATES** - Requires the return of all out-of-state inmates in private prisons by 12/31/15 and requires the Department of Public Safety to plan, design, and construct sufficient facilities to house inmates in Hawai'i by 12/31/15. The House Draft 1 (HD1) changed the return date to 2025 and made some technical changes.

### **NAACP POSITION: SUPPORT**

**Alphonso Braggs**  
**President**

---

Looking for work? [Get job alerts, employment information, career advice and job-seeking tools at AOL Find a Job.](#)