

**NEIL ABERCROMBIE**  
GOVERNOR



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

**TESTIMONY ON HOUSE BILL 1088**  
**RELATING TO CORRECTIONS**  
by  
Jodie F. Maesaka-Hirata, Interim Director  
Department of Public Safety

Committee on Health  
Representative Ryan I. Yamane, Chair  
Representative Dee Morikawa, Vice Chair

Tuesday, February 15, 2011, 10:00 AM  
State Capitol, Conference Room 329

Chair Yamane, Vice Chair Morikawa, and Members of the Committee:

The Department of Public Safety is testifying in support of H.B. No. 1088, which revises Chapter 353 of the Hawaii Revised Statutes in order to permit the Department to seek court orders for the involuntary administration of mental health medications.

Adopting the revisions in this statute would permit the Department the ability to request the courts to hear cases pertaining to the clinical need to administer mental health medications on an involuntary basis to refusing inmates that present a danger to themselves and others due to mental illnesses.

The Department's mental health services are undergoing improvements, beginning at the Oahu Community Correctional Center (OCCC) and eventually throughout all facilities administered by the Department. These changes and improvements have been initiated in response to a Settlement Agreement between the Federal

Department of Justice (DOJ) and the State of Hawaii. The goal of the Settlement Agreement and both parties is to bring mental health care and treatment in the Department's facilities to a level that comports with national correctional standards of practice.

As a result of this initiative, significant progress has been made towards compliance at OCCC. The Settlement Agreement not only required the expansion of mental health staffing at OCCC, but also require major changes in the ways we administered and delivered treatment to inmates with mental health disorders in our facilities. Many new policies and procedures governing the treatment of the mentally ill had to be developed and implemented. These policies and procedures have been reviewed and approved by the Department of Justice and the Independent Court Monitor and most of these have been implemented at OCCC.

One of the most significant gaps in treatment remains our inability to comport with national standards regarding securing the ability to pursue the involuntary medication of inmates who remain a danger to themselves and others due to their mental illnesses. Without the ability to secure treatment for these individuals, we will remain deficient in a treatment requirement that is critical in brining the state into compliance with the Settlement Agreement, and extracting the state from Federal oversight.

The Department of Justice and the Independent Monitor have read and approved the policies and procedures related to the administration of court authorized involuntary medications. However, the Department of Public Safety has been advised by the Attorney General's Office that we must enact a change in the statutes to permit and authorize our practice, as well as operationalize these policies and procedures.

From a clinical perspective, it has been empirically demonstrated that individuals who remain untreated for their mental illnesses experience greater brain damage as the

result of cycling in and out of psychosis. Individuals treated for their mental illness have a better prognosis, and are able to more meaningfully participate in other forms of treatment targeted at rehabilitation, recovery and community reentry.

The present system of care in our correctional facilities allows individuals to refuse necessary medications, continuing the downward spiral of their disorders. When these individuals decompensate to the point of presenting a danger to themselves and others, they are frequently secluded and/or restrained, and administered short-term emergency medications; only to cycle through the same presentation over and over again. When cases become extreme, these individuals can be transferred to Hawaii State Hospital. The transfers to the state hospital almost always results the hospital securing an order for involuntary medications. Subsequently, these individuals are stabilized on medications and returned to the correctional system only to begin the cycle of refusal, decompensation, dangerousness, seclusion, restraint, emergency medications and rehospitalization all over again. This is inhumane, unnecessary, inefficient and terribly costly from a medical perspective for the individual, as well as from an administrative perspective for the state.

Another group of mentally ill inmates for whom this proposed statute change would be effective, as well as have significant treatment and cost implications for the state are individuals who are admitted to our facilities for the purpose of determining fitness - competence to stand trial and criminal responsibility. Those who are truly mentally ill generally require treatment with medications to "restore fitness", thus permitting them to be "able to understand the nature of the charges against them", as well as to "assist in their own defense"

It is not uncommon for these individuals to be among the refusers that mentioned earlier in this testimony. Left untreated, they are almost always determined "unfit to proceed", and subsequently sent to the State Hospital. The State Hospital

restores them to fitness by securing an order for involuntary medications. Once "restored", they are returned to the correctional facility, only to decompensate again, be found unfit again and then sent back to the state hospital. These cases present even greater systemic problem and cost implications; as these individuals are not only bouncing between correctional facilities and the state hospital, but also in and out of our courts, being restored and becoming unfit, and continuously being examined and reexamined for fitness.

Thank you for the opportunity to testify on this measure.