

**SR 45**

**SCR 72**

NEIL ABERCROMBIE  
GOVERNOR



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

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No. \_\_\_\_\_

**TESTIMONY ON SENATE RESOLUTION 45/ SENATE CONCURRENT RESOLUTION 72  
REQUESTING THE DEPARTMENT OF PUBLIC SAFETY TO RETURN HAWAII PRISONERS  
HELD IN MAINLAND FACILITIES AND TO CONSTRUCT A NEW CORRECTIONAL  
FACILITY AT PANAWEA NEAR HILO**

by

Jodie F. Maesaka-Hirata, Director  
Department of Public Safety

Senate Committee on Public Safety, Government Operations, and Military Affairs  
Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair

Thursday, March 31, 2011, 2:50 PM  
State Capitol, Conference Room 224

Chair Espero, Vice Chair Kidani, and Members of the Committee:

The Department of Public Safety (PSD) supports the intent of Senate Resolution (SR) 45/ Senate Concurrent Resolution (SCR) 72 that requests the PSD to return Hawaii prisoners held in mainland facilities and to construct a new correctional facility at Panaewa near Hilo. PSD is in the process of developing a comprehensive reentry plan that would include a thorough evaluation of the facilities needed and determine the most efficient and reasonable process that would allow PSD to bring the offenders who are currently housed on the mainland back to Hawaii.

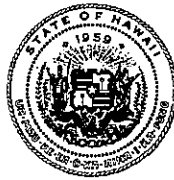
Therefore, we ask that this resolution be held in lieu of the development of PSD's comprehensive reentry plan. PSD appreciates the support in our reentry

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endeavors, and we look forward to future support on our completed comprehensive plan.

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

NEIL ABERCROMBIE  
GOVERNOR  
STATE OF HAWAII



ALBERT "ALAPAKI" NAHALE-A  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

ROBERT J. HALL  
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF ALAPAKI NAHALE-A, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEE ON  
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS

SR 45/ SCR 72, REQUESTING THE DEPARTMENT OF PUBLIC SAFETY TO RETURN  
HAWAII PRISONERS HELD IN MAINLAND FACILITIES AND TO CONSTRUCT A NEW  
CORRECTIONAL FACILITY AT PANAWEA NEAR HILO

March 31, 2011

Aloha Chair Espero, Chair Galuteria, and Members of the Committees:

The Department of Hawaiian Home Lands (DHHL) supports the purpose and intent of this resolution and is open to discussing the opportunity to develop a corrections facility on our lands in Panaewa. We also support SCR 123 as it calls for the establishment of a task force that includes our beneficiaries in this discussion and planning process for the construction of a new correctional facility on our lands.

Thank you for the opportunity to testify.

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS AND MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Michelle Kidani, Vice Chair

Wednesday, March 30, 2010

2:50 p.m.

Room 224

COMMENTS – SCR 72/SR 45 – Construction of Correctional Facility at Panaewa

<http://www.capitol.hawaii.gov/emailtestimony>

Aloha Chair Espero, Vice Chair Kidani and Members of the Committee!

My name is Kat Brady and I am the Coordinator Community Alliance on Prisons. This testimony is respectfully offered on behalf of the 6,000 Hawai'i individuals living behind bars, always mindful that almost 1,800 individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SCR 72/SR 45 requests the Department of Public Safety (PSD) to return Hawai'i prisoners held in mainland facilities and construct a new correctional facility at Panaewa.

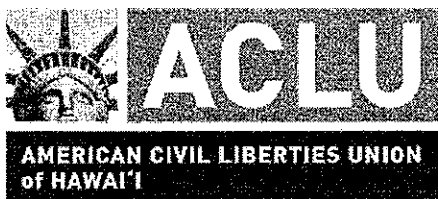
Community Alliance on Prisons supports returning our people from facilities on the U.S. continent.

Regarding the construction of any new facility, we again implore the legislature and PSD to gather the necessary data on who is incarcerated in our system before we waste more taxpayer money on designing facilities with little thought given to the population for whom we would be building. We continue to talk about needing more facilities to which we could bring people home, yet we never talk about the people we are bringing home.

The data show that the majority of our incarcerated population is nonviolent and a great number are serving sentences for drugs or drug-related crimes. We know that for every \$1 spent on drug treatment in the community, you save approximately \$18<sup>1</sup>.

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<sup>1</sup> 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.



Committee: Committee on Public Safety, Government Operations and Military Affairs  
Hearing Date/Time: Thursday, March 31, 2011, 2:50 p.m.  
Place: Conference Room 224  
Re: Testimony of the ACLU of Hawaii in Support of S.R. 45

Dear Chair Espero and Members of the Committee on Public Safety, Government Operations and Military Affairs:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of S.R. 45.

As this Committee is undoubtedly aware, there are innumerable problems with the State's use of private prison facilities on the mainland.

In 2009, the Legislature adopted House Concurrent Resolution 199, which requested the Auditor to conduct a performance audit of the CCA-Saguaro facility. The Legislature found that "many problems exist at Saguaro Correctional Center, the Corrections Corporation of America multi-level security prison built in Eloy, Arizona, for Hawaii inmates as a program-intensive prison, including lack of programming, poor medical care, and two deaths since August 2008, all of which have increased the State's liability[.]" HCR 199. In 2009, the Legislature adopted House Concurrent Resolution 199, which requested the Auditor to conduct a performance audit of the CCA-Saguaro facility. The Legislature found that "many problems exist at Saguaro Correctional Center, the Corrections Corporation of America multi-level security prison built in Eloy, Arizona, for Hawaii inmates as a program-intensive prison, including lack of programming, poor medical care, and two deaths since August 2008, all of which have increased the State's liability[.]" HCR 199.

As this Committee is well aware, a male inmate was recently killed at the CCA-Saguaro facility. The Department of Public Safety recently removed all of Hawaii's female inmates from CCA's Otter Creek facility in Wheelwright, Kentucky – but only after an epidemic of sexual assault allegations came to light. As reported in the New York Times:

Hawaii investigators found that at least five corrections officials at the prison, including a chaplain, had been charged with having sex with inmates in the last three years, and four were convicted. Three rape cases involving guards and Hawaii inmates were recently

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Substance abuse treatment provided in the community is more cost-effective than imprisonment. Individuals with substance abuse histories compose a large portion of the prison population. Substance use/abuse plays a role in the commission of certain crimes. Treatment delivered in the community is one of the most cost-effective ways to prevent such crimes.

If we truly want the outcomes we say we want (safe and healthy communities), let's heed the wisdom of His Holiness the Dalai Lama:

**"Each individual has a universal responsibility  
to shape institutions to serve human needs."**

Let's think through what we are building with today's data and today's philosophy. Are we more interested in building structures out of bricks and mortar than building people with assistance of effective programming that promotes pro-social behavior and good citizenship?

Community Alliance on Prisons asserts that every person, incarcerated under Hawai'i law is part of our community. The majority have a treatable public health disorder that is not being treated in prison. More than 95% of incarcerated individuals will return to the community. Today's inmate is tomorrow's neighbor.

We would like to remind the committee that the Carter Goble 10-Year Master Plan Update report from 2003 was done during America's mass incarceration boom yet was used as the basis for PSD's decisionmaking during the last administration. We urge PSD to base its decisions on real data. Today's data.

Mahalo for the opportunity to share our thoughts.

Chair Espero and Members of the Committee on  
Public Safety, Government Operations and Military Affairs  
March 31, 2011  
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turned over to law enforcement authorities. The Kentucky State Police said another sexual assault case would go to a grand jury soon.<sup>[1]</sup>

Similarly, as of November 2009, the Eloy Police Department was investigating allegations that a CCA employee sexually assaulted an inmate at CCA-Saguaro.<sup>2</sup> For these and many other reasons, private prisons must be carefully scrutinized to determine whether they are a wise use of our limited funds.

The ACLU of Hawaii's experience with private prisons has been consistently negative, in that we continue to receive hundreds of requests for assistance from Hawaii inmates in CCA facilities.

We have received numerous reports suggesting that CCA is not meeting its most basic of constitutional obligations in housing inmates. We have also received several reports suggesting that CCA may be keeping inmates longer than necessary; because Hawaii pays CCA per inmate per day of incarceration, the longer inmates are held, the more money CCA receives. For example, we have received several complaints of inmates being granted parole by the Hawaii Paroling Authority, then being held for four months or more by CCA (based on vague and unsubstantiated reasons for ignoring the Paroling Authority's orders). We have also received numerous reports that CCA-Saguaro inmates have been written up for spurious rule infractions shortly before their parole eligibility dates – thus making them ineligible for parole pursuant to Hawaii Paroling Authority's rules – even though these inmates have never before received a write-up. One month of additional incarceration at CCA can easily cost the State and the taxpayers nearly \$2,000 – money that is sorely needed for other programs like drug rehabilitation, mental health care, and education – and the Legislature need not (and should not) allow these reports to be ignored.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 45 years.

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<sup>1</sup> Ian Urbina, *Hawaii to Remove Inmates Over Abuse Charges*, N.Y. TIMES, August 25, 2009 (available at <http://www.nytimes.com/2009/08/26/us/26kentucky.html>).

<sup>2</sup> November 13, 2009 letter from Tommy Johnson, Deputy Director for Corrections, Department of Public Safety, to Daniel Gluck, on file with the ACLU of Hawaii and available upon request.

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Chair Espero and Members of the Committee on  
Public Safety, Government Operations and Military Affairs  
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Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney  
ACLU of Hawaii

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