

NEIL ABERCROMBIE  
GOVERNOR



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

March 29, 2012

COMMENTS ON HOUSE BILL 2514, SENATE DRAFT 1  
RELATING TO PUBLIC SAFETY

By

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

Senate Committee on Ways and Means  
Senator David Y. Ige, Chair  
Senator Michelle N. Kidani, Vice Chair

March 29, 2012; 9:00 a.m.  
State Capitol, Conference Room 211

**WRITTEN**  
**COMMENTS**  
**ONLY**

Chair Ige, Vice Chair Kidani, and Members of the Committees:

The Department of Public Safety (PSD) requests House Bill 2514, Senate Draft 1, be passed out of this Committee so that it may proceed to Conference. This measure has been amended several times and we would like the opportunity to continue the discussion and reach consensus with stakeholders on a measure that would achieve the goals of the Justice Reinvestment Initiative (JRI).

The goals of the Justice Reinvestment Initiative are based on a data driven approach to determine what factors contribute to recidivism, how best to address those factors in our community, and how to develop and implement evidence-based best practices to help individuals break their cycle of reoffending. Our recommendations are formulated through careful analysis of a wealth of Hawaii criminal justice data in order to protect the public through sound policy and practice.

Senator David Y. Ige, Chair  
Senator Michelle N. Kidani, Vice Chair  
March 29, 2012  
Page 2

Attached is the proposed budget to support the initiative through reinvesting funds from the Department of Public Safety's Non-State Facilities Branch (PSD 808) to various other programs at the State and County levels. In the Governor's Message dated March 1, 2012, to Speaker Calvin Say and President Shan Tsutsui concerning the State Budget, Item 12 identifies the request to re-appropriate PSD 808 funds to the programs included in the attached budget proposal.

Thank you for the opportunity to testify on this important measure and considering the proposed amendments to House Bill 2514, Senate Draft 1.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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**THE HONORABLE DAVID Y. IGE, CHAIR  
SENATE COMMITTEE ON WAYS AND MEANS  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawai'i**

March 29, 2012

RE: H.B. 2514, H.D. 3, S.D. 1; RELATING TO PUBLIC SAFETY.

Chair Ige, Vice Chair Kidani and members of the Senate Committee on Ways and Means; the Department of the Prosecuting Attorney, City and County of Honolulu, submits the following testimony in support of H.B. 2514, H.D. 3, S.D. 1

The purpose of this bill is to increase the Hawai'i paroling authority from 3 to 5 members, and to appropriate adequate funds to cover the additional members. Given the heavy caseload of the Hawai'i paroling authority, and the serious nature of the task before them--which is integral to protecting public safety--the Department agrees that adding more members would ensure an efficient and effective process, while providing each member with a manageable caseload.

For the reasons noted above, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports H.B. 2514, H.D. 3., S.D. 1 Thank for you the opportunity to testify on this matter.



**HB2514 HD3 SD1**  
**RELATING TO CRIME**  
Senate Committee on Ways and Means

March 29, 2012

9:00 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** HB2514 HD3 SD1, which would implement the changes suggested by the Justice Reinvestment Initiative.

OHA's 2010 report, "The Disparate Treatment of Native Hawaiians in the Criminal Justice System," and the recently completed study by the Justice Reinvestment Initiative indicate that there is a clear need for smart justice solutions, such as those that are part of this bill. These changes bring the criminal justice system in line with the need for faster pre-trial assessments and increased capacity for the paroling authority.

OHA has three suggestions regarding the bill:

1. OHA recommends reverting back to the HD3 version of this bill. SD1 removed the substantive content of this bill and the work done by the Justice Reinvestment Initiative.

2. Part IV Section 10 takes twenty-five percent of all moneys deposited into an inmate's account. This can be detrimental for family members struggling to provide their loved ones with basic amenities for writing and personal hygiene. We suggest eliminating the deduction from deposits. This could also be accomplished by creating a separate account for deposits or allowing direct donation of basic amenities that are pre-approved or could be purchased at the facility at cost.

3. Testimony from advocates regarding bail services indicated a clear need for more telephones and greater phone access at facilities. A separate resolution or a review of this matter should be added to this bill.

OHA urges the committee to AMEND HB2514 HD3 SD1. Mahalo for the opportunity to testify on this important measure.



HAWAII SUBSTANCE ABUSE COALITION

**HB2514 HD3 SD1 RELATING TO PUBLIC SAFETY** pre-trial risk assessment in 3 days; expand parole board; assessments guide decisions; limit incarceration; increase restitution; parole supervision prior to sentence

- SENATE COMMITTEE ON WAYS AND MEANS: Senator David Ige, Chair; Senator Michelle Kidani, Vice Chair
- Thursday, March 29, 2012 9:00 a.m.
- Conference Room 211

## **HSAC Supports HB2514:**

*Good Morning Chair Ige; Vice Chair Kidani; And Distinguished Committee Members. My name is Alan Johnson, Chair of the Hawaii Substance Abuse Coalition, a hui of about 20 treatment and prevention agencies across the State.*

### **What Has Been the Results?**

- ✚ Overcrowding.
- ✚ Expensive.
- ✚ No reduction in violent crime.
- ✚ Huge increase of non-violent drug addicts
- ✚ Little effect on drug dealing or use.
- ✚ Mandatory sentences for (non-violent) costs \$1.5 Billion a year nationwide,
- ✚ Mandatory sentencing has led to greater racial disparity.

### **What Works According to Research**

- ✚ Mandatory for violent only
- ✚ No mandatory for non-violent drug addicts.
- ✚ Give parole more discretion to release “reformed” offenders
- ✚ Eliminate inefficiencies.
- ✚ Reduce long sentences for non-violent drug offenders and divert to treatment.
- ✚ Determine safety risk and relate risk to sentencing
- ✚ Integrate supervision with community-based programs.

### **What Will Be the New Results**

*Decrease in costs by diverting existing prison funds to community programs. In those states that made changes, the vast majority offenders who are properly treated by supervision and community professionals are no longer committing drug related crimes.*

We appreciate the opportunity to testify and are available for questions.

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON WAYS AND MEANS

Senator David Ige, Chair

Senator Michelle Kidani, Vice Chair

Thursday, March 29, 2012

9:00 a.m.

Room 211

## STRONG SUPPORT for the ORIGINAL HB 2514 - JUSTICE REINVESTMENT

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

My name is Kat Brady and I am the Coordinator Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered, always being mindful that 6,000 Hawai'i individuals are living behind bars, including 1,800 men who are serving their sentences abroad, thousands of miles from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HB 2514 is based on analysis and policy options developed as part of the justice reinvestment initiative. It amends statutes to require a pre-trial risk assessment be conducted within three working days, expands the parole board and requires the use of validated risk assessments to guide parole decisions, limits the length of incarceration for first-time parole violators, increases victim restitution payments by inmates, and requires a period of parole supervision prior to the maximum sentence date.

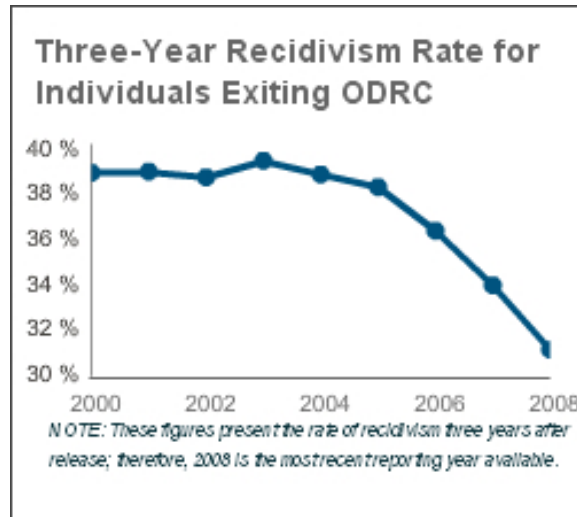
We know that this bill has been eviscerated by the last committee, yet we want this committee to know our support for the importance of the original bill that enhances public safety, makes our criminal justice system more efficient, and could ultimately save Hawai'i an estimated \$150 million over the next six years.

Community Alliance is in strong support of the original measure. We appreciate the focus on reentry as a strategy for reducing recidivism, victimization, and enhancing community safety. Establishing community reentry centers that focus on support will definitely help create successful transitions for individuals exiting incarceration and reintegrating with their communities.

Our testimony is followed by the entire article entitled *Reforming A System: An Inside Perspective on How Ohio Achieved a Record-Low Recidivism Rate* By Gary C. Mohr, Director of the Ohio Department of Rehabilitation and Correction <http://www.nationalreentryresourcecenter.org/announcements/3-12-12>. Here is the opening of the article...

*EDITOR'S NOTE- In late 2010, Ohio's prisons were 33 percent overcapacity and projected to grow by another 3,000 people over the next four years. State leaders from across the political spectrum came together to tackle this problem – and by June 2011, enacted a [policy framework](#) (incorporated into House Bill 86) that reduces spending on corrections and increases public safety.*

Now, less than two years later, **Ohio's recidivism rate is the lowest it's been since the state adopted its current measurement in 1991.** By implementing HB 86, the state hopes to avert the projected prison population growth and thereby avoid an estimated half-billion dollars in additional spending. The new statute will also ease prison crowding as the population gradually declines to levels last seen in 2008, generating \$46 million in marginal cost savings by 2015.



In this article, Director Gary Mohr, the head of the Ohio Department of Rehabilitation and Correction (ODRC), describes how his agency has helped drive down Ohio's recidivism rate by realigning its policies to focus on reentry and advance [the goals of HB 86](#).

As Director Mohr discusses, HB 86 emerged from a process of extensive data analysis and stakeholder engagement. Using a "[justice reinvestment](#)" approach, Ohio received over 18 months of intensive technical assistance from the Council of State Governments (CSG) Justice Center (which coordinates the National Reentry Resource Center), in partnership with the Pew Center on the States and the U.S. Department of Justice's Bureau of Justice Assistance (BJA).

Justice Reinvestment starts with accurate assessments and we are happy that the Department of Public Safety has taken this to heart and is training their staff. Shortening the time in which competent assessments are done is in line with correctional best practices across the nation as the goal is always to move individuals through the system and not stack up people in the front or back end, clogging the system and creating massive and expensive inefficiencies.

Community Alliance on Prisons supports restitution to make victim whole, although we have some concerns about the dramatic increase in restitution payments. The families that we work with are struggling to make ends meet and they are the ones who provide funds for their loved ones to purchase items like toiletries, food and needed clothing in the over-priced prison commissaries. Our concern is the impact of taking 25% of those funds from inmates who have little to spare. Perhaps a sliding scale can be implemented so that inmates with ample funds pay more than those with meager funds. Our concern is that the lack of funds for needed items will create a management problem at facilities and a thriving underground economy. We respectfully ask you to consider our concerns in this regard.

We support the release of individuals before their maximum term expiration with supervision, provided that it also includes support for successful reentry. The latest data from the Interagency Council on

Intermediate Sanctions (ICIS) show that the rate of recidivism for those serving their maximum term and then released with no supervision or support from the 2008 cohort studied is 69.3%, while the recidivism rate for those on probation for the same period was 48.4% and parole was 48.5%. This dramatically illustrates the need for supervision and support for those exiting incarceration. We found it alarming that the prosecutors were actually recommending changes that were unconstitutional in prior hearings.

Increasing the Hawai'i Paroling Authority (HPA) by adding two part-time members is wise, as long as it is clear that three members are authorized to hold the hearings, while the other two can be reviewing files. We understand that HPA holds approximately twenty-five (25) hearings a day, thus the addition of two part-time members will reduce the burden on the current three members and expedite hearings.

This approach, however, requires a philosophical shift in how people are supervised -- a shift from looking for mis-steps to "How can we help you successfully reenter your community and reach your goals?" We have spoken with parole and probation officials in other jurisdictions and have been told that a supportive environment is what works best for most individuals and systems elsewhere. The data show and many, many experts have asserted that incentives, not sanctions, are what work for those with substance abuse problems. Since the majority of Hawai'i's crime is rooted in substance abuse, this strategy seems a logical one for us to pursue.

Please base your decisions on the thoughtful, data-driven, evidence-based and proven JRI approach and not the private businesses that profit from the current system.

Mahalo for this opportunity to testify.

## Reforming A System: An Inside Perspective on How Ohio Achieved a Record-Low Recidivism Rate

By Gary C. Mohr, Director of the Ohio [Department of](#) Rehabilitation and Correction

**EDITOR'S NOTE-** *In late 2010, Ohio's prisons were 33 percent overcapacity and projected to grow by another 3,000 people over the next four years. State leaders from across the political spectrum came together to tackle this problem—and by June 2011, enacted a [policy framework](#) (incorporated into House Bill 86) that reduces spending on corrections and increases public safety.*

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Throughout this process, officials are exploring strategies for capitalizing on the efforts of the state's 27 [Second Chance Act](#) grantees — which include Director Mohr's agency. With continued resources and support, state leaders are now working with the CSG Justice Center, Pew, and BJA to effectively implement HB 86 (in what is known as "Justice Reinvestment Phase II").

"The drop in Ohio's recidivism rate is due to the bipartisan work of the state legislature, Governor Kasich, Ohio's reentry leaders and the success of programs made possible at the federal level by the Second Chance Act," said U.S. Senator Rob Portman, the author of the 2004 Second Chance Act (when he served in the U.S. House of Representatives).

"Ohio, like many states, is struggling with high unemployment and tight budgets," Sen. Portman continued. "That's why it's great to see this program help offenders become productive members of society, while reducing costs to taxpayers. I commend Director Mohr, Governor Kasich and other state leaders involved in Second Chance for their commitment to effective prisoner reentry programs that improve communities and save taxpayer dollars."

The Ohio Department of Rehabilitation and Correction (DRC) looks drastically different than it did one year ago. As 2010 came to a close, Ohio's prison system was bursting at the seams with nearly 51,000 inmates. Prison violence was staggering while at the same time the agency, as well as the entire state, was facing unprecedented budget cuts. Some would question why a retired warden would want to come back to public service to lead an agency riddled with issues of this magnitude. For me, the answer was simple. Governor John Kasich wanted to reform and stabilize Ohio's prison system and reduce the impact of criminal behavior on Ohioans. That challenge was too important for me to turn down.

Gary C. Mohr was appointed director of the ODRC by Governor John Kasich in January 2011. (Photo credit: ODRC)

I'm pleased to say that the reforms we've put in place in the last year have had a dramatic impact. Ohio's recidivism rate now stands at 31.2 percent. This is the lowest the rate has been since Ohio began tracking the figure using current methods in 1991. Ohio's recidivism rate is a three-year figure based on a cohort of offenders released in 2008. The recidivism rate for offenders released in the previous cohort (2007) was 34.03 percent. The recidivism rate for the 2003 release cohort was 39.52 percent—the highest rate recorded in Ohio (since the state adopted its current measurement). In addition, the one-year rate for offenders released in 2010 also reflects a record low—9.3 percent of released offenders recidivated within a year of their release, a reduction from 10.59 percent from the year prior (2009).

How was this possible? In short, by relying on the increased use of evidenced-based practices and modifying reception assessment process, processes for identifying treatment needs for offenders under supervision, and our prison's classification systems, Ohio is seeing fewer offenders return to prison and a greater return on our investments.

In 2010, 46 percent of offenders who entered Ohio's prison system served sentences of one year or less. These offenders spent most of their time in reception centers where they did not have access to rehabilitative programming, and many were released without supervision. Last year Ohio passed House Bill 86, the most significant sentencing reform package in the state's history. The new law aims to reduce crime by diverting first-time, non-violent offenders to intensive community programming and away from the corruptive influence of career criminals in Ohio's prison system. The law also aims to reduce overcrowding and incidents of prison violence and to better prepare inmates for a successful reentry back into the community.

While the impact of sentencing reform is beginning to translate into a smaller inmate population, DRC is currently transforming the entire prison operation to a unique three-tiered system aimed at reducing violence and increasing opportunities for positive change—thus decreasing the likelihood that offenders commit new crimes following their release from prison. Once fully implemented, every inmate will be placed in one of these three tiers.

- Control Units will house the most disruptive and violent offenders, and will be tightly monitored with strict security protocols.
- General Population Units will house offenders who have not violated significant institution rules, but also have not taken initiative to enroll in evidenced-based programs. Unit management teams trained to deliver evidence-based programming tailored specifically to that unit will oversee them.
- Reintegration Units will house offenders nearing release, and will provide meaningful community transition services such as job readiness opportunities and social service linkages. They will model community standards and expectations, including eight-hour work days.

An inmate can work his or way up or down these three tiers, based on individual behavior. Not only does this system give offenders a sense of hope; it also encourages pro-social behavior and participation in meaningful programming by offering incentives and privileges, such as a less restrictive environment, recreation and visitation opportunities, and increased commissary rights.

In addition to developing a three-tier prison system, DRC is reinventing how its units are managed within the prison walls. Unit management will increase the face-to-face contact offenders have with unit staff. The staff will assist them with their day-to-day issues before these issues become problematic. Coupling the three-tier system with enhancements of unit management will increase offenders' readiness for release and decrease the number of violent incidents taking place within Ohio's prisons.

Ohio's criminal justice reform efforts expanded even further when in November 2011 DRC hosted a [forum examining the impact of collateral consequences on people returning from prison or jail or sentenced to a term of community supervision](#). The first of four such meetings, the forum brought together criminal justice professionals, lawmakers and other key stakeholders. Over the course of several months, participants have identified five strategies to effectively reduce or eliminate barriers to returning citizens finding employment: 1) Clearly identify the magnitude of collateral sanctions that currently exist in Ohio law and policy; 2) Address collateral consequences relating to license suspensions, infractions, and indigent fees; 3) Develop an order of limited relief; 4) Focus on fair hiring practices; and 5) Modify child support orders and processes for offenders subject to license suspension due to non-payment of child support. A sub-group is also considering the impact of collateral consequences for juveniles involved with the criminal justice system.

Through input from various stakeholders, participant workgroups have developed and continue to refine recommendations to address collateral consequences. These recommendations will soon translate into policy and legislative language that will remove or significantly reduce the barriers offenders face in finding gainful employment. The connection between employment and the reduction of recidivism cannot be overstated, and these efforts will positively impact that correlation.

Ohio is quickly and steadily transforming and changing its criminal justice system—and we are already seeing dramatic returns on our investment. While these changes will impact many areas of the system, the most significant impact will be seen as DRC refines its mission surrounding these reforms – to reduce the number of offenders returning to prison and to decrease crime in Ohio. This truly is a win/win situation for all Ohioans.