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Testimony HB 2514  
Relating to Public Safety

Governor Neil Abercrombie

HOUSE COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS

Rep. Henry Aquino, Chair

Rep. Ty Cullen, Vice Chair

February 2, 2012

9:00 am, Room 309

Chair Aquino, Vice Chair Cullen, and committee members, thank you for hearing HB 2514 Relating to Public Safety. I respectfully request your support of this important measure.

I would also like to thank the Legislature for partnering with the administration and the Judiciary in a historic collaboration called the Justice Reinvestment Initiative. As you know, this is one of the priorities of my administration. We want to stop the practice of sending our prisoners out of state because it sends public dollars out of Hawaii instead of creating jobs and community service opportunities here at home.

In the last 8 months, the Justice Reinvestment Working Group has met with the Council on State Governments Justice Center consultants to analyze our criminal justice system and make policy recommendations to realize cost savings and reinvest those savings back into our system to reduce recidivism, decrease the prison population, and strengthen public safety.

I would like to introduce Marshall Clement, Project Director, of the Justice Reinvestment Initiative, and Director Jodie Maesaka-Hirata, of the Department of Public Safety, who will provide more details about the proposed legislation.

Thank you again for consideration of this measure.



**TESTIMONY ON HOUSE BILL 2514  
RELATING TO PUBLIC SAFETY**

**Marshall Clement, Division Director  
Council of State Governments Justice Center**

Thursday, February 2, 2012; 9:00 a.m.  
State Capitol, Conference Room 309

Chair Aquino, Vice Chair Cullen, and committee members, thank you for hearing HB 2514 Relating to Public Safety and for the opportunity to discuss the research we at the Council of State Governments Justice Center have conducted over the last year.

In June, Governor Abercrombie, Chief Justice Recktenwald, Senate President Tsutsui, House Speaker Say and Department of Public Safety Director Maesaka-Hirata joined to launch a Justice Reinvestment Initiative (JRI). JRI is a data-driven approach to identify inefficiencies, develop cost-effective policy options, and plan for a reinvestment of savings that reduces recidivism and increases public safety.

To assist them in this inter-branch, research-based effort, they requested assistance from the Pew Center on the States and the U.S. Department of Justice Bureau of Justice Assistance. The CSG Justice Center was selected to provide intensive technical assistance to Hawaii to conduct a comprehensive analysis of the state's criminal justice system and to help state leaders develop policy options that could increase public safety while saving taxpayer dollars. All of this was done using federal and private funds, meaning this cost the state nothing except the time of staff to participate.

Over the past seven months, an inter-branch JRI working group chaired by the Director of Public Safety, Judge Alm, and the Senate President has guided and informed this effort. Throughout the process, we collected and analyzed data from arrests to court dispositions to probation, prison, and parole. We would like to recognize officials and staff at the Attorney General's office, the Judiciary and probation, Hawaii Paroling Authority, and of course the Department of Public Safety for their efforts to make data available and assist in the analysis throughout this process. The Department of Public Safety (PSD) deserves particular recognition for the data collection and access that Director Maesaka-Hirata and her staff provided to this process. Along with these quantitative analyses, we convened focus groups and interviews with numerous practitioners and stakeholders from around the state, including prosecutors, victim advocates, judges, parole board members, probation officers, law enforcement officials, and others.

## Overview

Overall, we found that despite a decline in crime over the past five years, the overall jail and prison population has not significantly changed. The analysis found that key areas of the criminal justice system are not operating as cost-effectively as they could to reduce crime and increase public safety.

1. Analyses found that Hawaii's pre-trial process is one of the longest in the nation. The pre-trial assessment process takes much longer in Hawaii (several months on average, whereas it takes just days or a few weeks in other jurisdictions) and budget cuts have caused these already long processes to be delayed even further. The result has been millions of dollars spent needlessly on a growing pre-trial population.
2. Prisoners are required to complete programs that don't benefit public safety. Assessments are not currently being used appropriately to put the right people in the right programs, based on the research. As a result, offenders who are most likely to be successful upon release have been spending longer behind bars and those offenders most likely to benefit from programs have been unable to get the programs they need to make the public safe.
3. Hawaii often releases those people most likely to reoffend back to communities without any supervision or monitoring. Prisoners likely to commit more crime are exploiting loopholes in the system that allows them to return to the community with nobody holding them accountable.
4. Restitution for victims is not being adequately collected. Current statutes only require people to pay ten cents to victims for every dollar they earn behind bars, even if they have hundreds and thousands of dollars deposited into their individual account.

## Justice Reinvestment Policy Framework

In consultation with the inter-branch working group, the CSG Justice Center developed a package of policy options to address these inefficiencies, hold offenders more accountable, and reinvest savings in more effective public safety strategies.

The policy options from the framework included in House Bill 2514 would do the following:

- Increase efficiency in the pre-trial process. The bill requires PSD to conduct a pre-trial assessment within three working days. This will require resources to conduct these assessments proactively and quickly, but is much cheaper than the current process which the data suggests is longer than 39 of the largest counties in the nation.

- Increase efficiency in the parole decision-making process. The parole board in Hawaii has more responsibility and power over the length of time sentenced felony offenders serve than any other board in the country. Yet, they have fewer board members than most other states. With only three parole board members and two required at each hearing, there is little flexibility to ensure timely and complete hearings are held. This bill adds a fourth part-time member to the board to reduce the likelihood of unnecessary delays or incomplete hearings.
- Reduce reoffending by focusing prison-based programs on those who will benefit the most from treatment. This bill requires that a validated risk assessment be conducted on every sentenced offender to determine who is most likely to succeed and not reoffend after release and who is most likely to commit another crime. This bill requires that offenders most likely to be successful should be paroled after serving the sentence set by the parole board. Additional incapacitation beyond the minimum sentence date should be reserved for keeping those offenders more likely to reoffend behind bars until they complete treatment and have a suitable parole plan.
- Increase accountability and reduce recidivism by using swift, certain, and graduated sanctions for parolees. This bill calls for differentiating the severity of the response to violations. By limiting reincarceration for the first condition violation at six months, resources can be reinvested in additional parole officers and community-based programs to strengthen supervision while still imposing stiff sanctions on those that violate repeatedly, abscond, or are charged with a new felony.
- Ensure accountability by requiring a minimum period of supervision after prison for those offenders who have not been previously paroled and would otherwise be released without any transition. This bill requires that a small percentage of an offender's maximum sentence be served on parole supervision to monitor their behavior, create a safety plan for victims, and alert law enforcement. Such an approach is commonplace in most states that adopted truth in sentencing during the last two decades. In those states, most require an even greater percentage of each offender's sentence to be served under supervision at the end.
- Improve and increase victim restitution collected from offenders while they are incarcerated. This bill would increase the percentage collected from 10 percent to 25 percent, and would collect from not just wages (which typically amount to \$20 per month) but any deposits made to the individual offender's account. This will increase restitution collected for victims dramatically. In addition, the bill allows for reinvestment in a stronger system of accountability within the Crime Victim Compensation Commission to document restitution collection rates and progress.

### **Impact**

Based on the analysis we conducted, we anticipate that this bill would contribute to increasing public safety in three ways. First, by addressing the inefficiencies that tie up resources in ways that do not reduce crime and reinvesting in ways that do. Second, by focusing resources spent on supervision, incarceration, and treatment on those individuals who are most likely to benefit from those investments in terms of reducing their

likelihood of committing another crime. Third, by increasing accountability in Hawaii's criminal justice system by mandating a period of supervision and increasing the amount of victim restitution collected.

Unless policymakers take action, the inefficiencies identified will cost Hawaii \$150 million over the next six years alone. Adopting the policies would avert all of those costs by gradually reducing the pre-trial jail population and the sentenced population as fewer people are delayed for release due to lack of information, first time parole violators come back to prison for shorter, swifter sanctions, and people are released in ways that most likely benefit public safety. Nearly all offenders who come into PSD's jail and prison facilities each and every year will be released at some point. This bill aims to improve how they are released, to require supervision, to avoid delaying someone's release simply because of inefficient processes and a lack of timely assessment or decision-making.

At the same time, the bill requires an estimated \$7 million to be spent annually on investments in each of the following critical areas of the criminal justice system:

- Victim Services, Notification & Restitution Collection
- Prison, Reentry and Community Based Treatment Programs
- Probation and Parole Supervision
- Research and Planning

Thank you, Chair Aquino, Vice Chair Cullen, and members of the committee, for the opportunity to share our research and findings with you as you work to find ways of increasing public safety while containing costs.

NEIL ABERCROMBIE  
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STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

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February 2, 2012

TESTIMONY ON HOUSE BILL 2514  
RELATING TO PUBLIC SAFETY

By

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

House Committee on Public Safety and Military Affairs  
Representative Henry J.C. Aquino, Chair  
Representative Ty Cullen, Vice Chair

Thursday, February 2, 2012; 9:00 a.m.  
State Capitol, Conference Room 309

Chair Aquino, Vice Chair Cullen, and Members of the Committees:

The Department of Public Safety (PSD) is in strong support of House Bill 2514, Relating to Public Safety, the result of work by the Justice Reinvestment Working Group. Included in *A New Day in Hawaii* is Governor Neil Abercrombie's initiative to return inmates housed in contracted correctional facilities to Hawaii. The Governor states "The ultimate way to reduce crime is to increase the number of strong, nurturing families and improve economic and social conditions for all." By returning prisoners to Hawaii not only are the opportunities for rehabilitation and family reunification improved, dollars spent out-of-state will be reinvested in creating jobs and community service opportunities here at home.

To this end, the Governor joined with Chief Justice Mark Recktenwald, Senate President Shan Tsutsui, House Speaker Calvin Say and Public Safety Director Jodie Maesaka-Hirata in applying for assistance from the US

Department of Justice, Bureau of Justice Assistance (BJA), and the Pew Center on the States to participate in the national Justice Reinvestment Initiative (JRI).

BJA describes this initiative as follows:

Justice reinvestment is a data-driven approach to reduce corrections and related criminal justice spending and reinvest savings in strategies designed to increase public safety. The purpose of justice reinvestment is to manage and allocate criminal justice populations more cost-effectively, generating savings that can be reinvested in evidence-based strategies that increase public safety while holding offenders accountable.

The application was accepted and the State was afforded the assistance of the Justice Center of the Council of State Governments in developing Hawaii's strategy. The strategic approach is in three phases:

- 1) Analyze data and develop policy options;
- 2) Adopt new policies; and,
- 3) Measure Performance.

The Justice Center analyzed hundreds of thousands of records, from arrest and court conviction data, to probation, jail, prison and parole data; and solicited input from a wide range of stakeholders, from victim advocates, judges, prosecutors, probation, and parole.

Based on the comprehensive data presented, the Working Group considered options to manage the growth of the State jail and prison population, improve the effectiveness of community corrections and law enforcement, and identify community-based strategies to improve public safety. Two measures are introduced as part of the Governor's package to enact the recommendations of the Justice Reinvestment Working Group: House Bill 2514, Relating to Public Safety, addresses the pre-trial process, parole and restitution; and, House Bill 2515, Relating to Crime, addresses the sentencing for felony drug offenders, terms of probation, and felony theft.

### **Pre-Trial Process**

The pre-trial population nearly doubled over a one year period, from 624 pre-trial detainees incarcerated on June 30, 2010 to 1233 detainees incarcerated on June 30, 2011. These numbers include pre-trial misdemeanants, pre-trial felons, and probation violators awaiting a revocation hearing. The increase in the number of defendants incarcerated pre-trial is attributed to longer lengths of stay in jail rather than an increase in the number of defendants admitted post-initial appearance. Approximately 75% of pre-trial defendants are ultimately released from jail prior to trial.

If a defendant is not released at initial appearance, either because they could not make bail or were not offered release on own recognizance or supervised release, the defendant will be admitted to a Community Correctional Center until they are able to post bail or bail is reconsidered. If a motion is filed for reconsideration, the Intake Service Center will conduct a bail report that provides the judge with options for release. Currently, the time between initial appearance and a reconsideration hearing averages five weeks for pre-trial felons and one week for pre-trial misdemeanants.

Section 3 of this measure seeks to significantly reduce the time between admission to a Community Correctional Center and reconsideration hearings by mandating the completion of an objective assessment of a defendant's risk of flight or risk of committing new crimes while on release status within three working days of admission. The Intake Service Center will conduct the assessment and include the results as part of a bail report. By expediting the assessment and bail report, motions to reconsider may be heard in a timelier manner. The probation violator population is also better served by reducing the time between arrest and a subsequent revocation hearing.

We are very pleased the Intake Services Centers, the county prosecutors, the Office of the Public Defender and the Judiciary have already responded to the findings of the Working Group and is addressing delays that may contribute



to longer lengths of stay. For example, the state-wide probation violator population has been reduced by 117, or 27%, since June 30, 2011.

### **Parole**

Hawaii has an indeterminate sentencing code, whereby maximum terms of imprisonment are set forth in statute and minimum terms are set by the Hawaii Paroling Authority (HPA). If there is mandatory minimum mandated HPA cannot set its minimum term below the mandatory minimum. Factors considered when determining the HPA minimum include aggravating and mitigating circumstances of the crime, and the criminal history of the defendant. Factors considered when determining release include behavior while incarcerated and progress made in completing programs recommended by correctional case managers.

The number of prisoners denied parole and kept in custody beyond their minimum term has increase 77% since Fiscal Year 2006, based on the end-of-year populations; on June 30, 2006, 493 inmates were incarcerated beyond their minimum expiration date while on June 30, 2011, 872 had expired minimums. In 65% of these cases, the decision to not release is attributed to program delay while incarcerated. Yet, many of those inmates are assessed as low risk for reoffending and could be released without presenting a risk to public safety to receive program services in the community.

Sections 5 and 6 of this measure increase the number of HPA members to ensure hearings can occur in a timely manner and members have adequate time to review cases prior to a hearing. Act 92, Session Laws of Hawaii 1976, reconstituted the former uncompensated Board of Paroles and Pardons as a professional board entitled the Hawaii Paroling Authority with a full-time paid chair and two part-time paid members. Since that time, there has been no increase in the number of members while the work load has increased by eight fold. Adding another part-time member will allow flexibility in scheduling hearings and reviewing cases. Chapter 23-700, Hawaii Administrative Rules, would be amended upon passage of this bill to define how to incorporate a fourth member.

When determining whether to release an inmate upon expiration of the minimum term, HPA's first consideration is public safety. The best way to measure risk is through the application of an objective risk assessment that predicts the probability of reoffending. Research in the field of substance abuse treatment, the program most commonly recommended for inmates to complete, has shown that prisoners who present a low risk of reoffending are more successful when placed in community-based treatment, freeing up beds and program space for more serious offenders. Through the application of an objective risk assessment, the members of the Hawaii Paroling Authority will be able to determine whether a low-risk inmate is appropriate for release to a community-based treatment program.

#### **Victim Restitution and Protection**

The Department has a legal and moral responsibility to protect the public now and in the future. Offenders must be held accountable for not only the crimes committed that resulted in conviction and incarceration, but also their future actions.

Under current law, inmates ordered to pay restitution have 10% of their wages earned while incarcerated deducted from their trust accounts, which victims receive annually. This is usually a pittance, as inmates earn just 25¢ an hour. Section 10 increases that share to 25% of all moneys earned plus new deposits and credits to inmate accounts, and by ensuring that victims will receive more restitution on a regular basis, restorative justice for victims will be enhanced.

Section 12 addresses parole practices but from the vantage point of protecting past and future victims. In 2011, 247 inmates were retained in prison until the expiration of their maximum term. As a result, these inmates had **NO** post-incarceration supervision and no community controls exerted on them. Of those who maxed out in 2011, 41% were assessed as high risk of reoffending. Offenders assessed as high risk have a significantly higher rate of rearrest in the first three years of release than those released to parole supervision. The CSG

Justice Center conducted independent analysis of PSD, HPA and Department of the Attorney General data to determine recidivism rates for those released from prison. Sixty-one percent of inmates who maxed out in FY 2008 were rearrested within three years, compared with 35% of those released to parole during the same period.

Mandating that a portion of the sentence must be served in the community with parole supervision increases public safety in a number of ways: 1) offenders are eligible for transitional services to adjust to life beyond the prison walls; 2) offenders can be placed in treatment services to address substance abuse and mental health issues; 3) offenders can be returned to incarceration if they violate the terms of their release; and 4) law enforcement will have a lead on where these offenders live and work.

We discovered a drafting error in the bill that must be corrected. Page 12, line 22, must be amended to read "**706-606.5 (1) (c)**, if the authority..." Section 706-606.5(1)(c), HRS, allows under certain circumstances for the mandatory minimum to equal the maximum sentence which would preclude the proposed supervised release period prior to expiration of the maximum. While we believe this would rarely be the case, it is important that we address the possibility of any inmate being released from prison without supervision.

#### **REINVESTING FUNDS**

The Justice Reinvestment Initiative is premised on managing the growth of correctional populations through: 1) valid risk assessments to determine which offenders are better served in community-based programs as opposed to incarceration; evidenced-based approaches, programs and services that do not jeopardize public safety yet reduce admissions to corrections and reduce the length of stay in a correctional facility; 3) expand victim services in all counties; and, 4) reinvest savings generated from reduced corrections spending into communities.

Should all the recommendations included in this measure and House Bill 2515 be enacted, PSD will see an average reduction in bed demand equal to 410

Representative Henry J.C. Aquino, Chair  
Representative Ty Cullen, Vice Chair  
February 2, 2012  
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beds/day in the first year, resulting in a savings of up to \$7 Million in Fiscal Year 2013. These funds will be reinvested to support community-based programs and services, increased probation and parole staff, and victim services. Attached is a list of how these funds will be expended.

The Department is currently working with the Department of Budget and Finance to develop recommendations as to how to appropriate the savings for the purposes identified in the attachment. By Friday, we shall provide this committee with a more detailed breakdown on how the funds will be expended.

#### **SUMMARY**

The Department of Public Safety urges this committee to support the proposals included in this measure as a means to optimize the effectiveness of the Hawaii criminal justice system by realigning our guiding principles and reinvesting in programs and services to promote public safety and reduce recidivism. We owe this to our community. We owe this to victims of crime.

Thank you for the opportunity to testify on this important measure.

**DEPARTMENT OF PUBLIC SAFETY  
 JUSTICE REINVESTMENT INITIATIVE  
 HOUSE BILL 2514 AND HOUSE BILL 2515**

<b>PSD</b>	
Intake Service Center Pre-Trial Assessment	\$300,000
Risk Assessment and Prison Based Programming	\$500,000
Community Based Programs	\$1,700,000
Research and Planning	\$400,000
Re-Entry Office	\$300,000
	<b>\$3,200,000</b>
<b>HPA</b>	
Parole Determination – New Board Members	\$300,000
Parole Supervision – New Officers and Program	\$700,000
	<b>\$1,000,000</b>
<b>JUDICIARY</b>	
Probation Staff, Programs, and Training	\$800,000
	<b>\$800,000</b>
<b>VICTIM SERVICES</b>	
Safety Planning and Notification by PSD	\$800,000
Restitution Accountability by CVCC	\$600,000
Victim Witness Services by Prosecutor's Office	\$600,000
	<b>\$2,000,000</b>
<b>TOTAL</b>	<b>\$7,000,000</b>

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**TESTIMONY ON HOUSE BILL 2514  
RELATING TO PUBLIC SAFETY**

by

Pamela Ferguson-Brey, Executive Director  
Crime Victim Compensation Commission

House Committee on Public Safety and Military Affairs  
Representative Henry J.C. Aquino, Chair  
Representative Ty Cullen, Vice Chair

Thursday, February, 2, 2012; 9:00 AM  
State Capitol, Conference Room 309

Good morning Chair Aquino, Vice Chair Cullen, and Members of the House Committee on Public Safety and Military Affairs. Thank you for providing the Crime Victim Compensation Commission (the "Commission") with the opportunity to provide testimony in support of House Bill 2514. House Bill 2514 provides that pretrial risk assessments be conducted within three days of an offenders admission to a correctional center; increases the number of parole board members; requires that a validated risk assessment instrument be used by the parole board in determining the offender's risk for reoffense and suitability for community supervision for purposes of making parole decision; provides for the release on parole of certain low risk offenders who have completed their minimum sentence; limits the period of confinement for certain parole violators to six months; provides for a 25% garnishment of all inmate funds to pay restitution; and provides that offenders receive a period of supervision prior to the expiration of their minimum term.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Many victims of violent crime could not afford to pay their medical bills, receive needed mental

health or rehabilitative services, or bury a loved one if compensation were not available from the Commission.

House Bill 2514 and House Bill 2515, and a number of reinvestment funding recommendations, including \$2,000,000 for victim services, are a set of policy options developed by the Justice Reinvestment Working Group (JRI) with intensive technical assistance from the Council of State Governments Justice Center, in partnership with the Pew Center on the States. The purpose of the JRI Working Group is to improve and reform criminal justice and corrections practices in Hawai`i through the development of a comprehensive data-driven plan that would allow for the return of mainland prisoners to Hawai`i, and to redirect the cost savings to programs that hold offenders accountable, reduce recidivism, and ensure victim and public safety. JRI policy options and funding recommendations seek to assure that interventions, treatment programs, and intensive supervision are focused on individuals at the greatest risk to commit more crimes after release.

The JRI legislative package includes significant funding for a victim services component. Under this proposal, JRI Hawai`i will make Hawai`i the only state where funds are reinvested in victim services. JRI recommendations include funding for 13 new victim assistance staff in the several county prosecutors' offices, funding to continue the Statewide Automated Victim Notification Program (the "SAVIN Program"), funding to establish a Victim Services Unit in PSD, and funding for a restitution accountability program in the Commission.

The JRI reinvestment in victim services will improve restitution collections and ensure that victims receive advance notification through an automated system informing them of an offender's parole hearing and release dates. This advance notification will enable victims to exercise their right to be heard at the parole hearing. A victim services unit will also be created in PSD to staff the victim notification program, which will assist in addressing restitution shortfalls in PSD, coordinate with community victim service providers and victims to develop safety plans, and protect victims from intimidation by incarcerated offenders. Victim advocates will also be enabled to monitor and collect data on decisions made by the courts, probation, corrections, and parole.

JRI Hawai`i is the only JRI initiative that includes reinvestment funds for victim services. The JRI victim service component will ensure that victim needs, community safety, and offender accountability are in the forefront of JRI implementation, and will work hand-in-hand with other JRI initiatives to increase public safety.

The Commission serves as a member of the JRI Working Group. Part of the Commission's role as a member of the JRI Working Group has been to engage crime victims, survivors, and victim service providers and advocates in identifying key issues and concerns specific to the JRI initiative. A victim/survivor/advocate roundtable briefing and discussion was conducted in September 2011 by Anne Seymour, a consultant with the Pew Center and the Council of State Governments, and Robert Coombs from the Justice Reinvestment Team. A summary of the key priorities identified by the roundtable were presented at the September 2011 JRI Working Group meeting. The established key priorities are: 1) restitution collections shortfalls; 2) the sustainability of the SAVIN Program, which provides victim notification of changes in offender custody status and parole hearing notice; 3) the need to prioritize supervision and treatment based on offender risk and danger level; and 4) the need for information sharing with the victim services community.

### **Restitution Collection Shortfalls**

Restitution collection shortfalls have been a significant issue for crime victims in Hawai'i. Failure of the criminal justice system to collect and pay restitution leaves many crime victims without the ability to recover from the financial impacts they suffered as the result of the crime. All agencies involved in the enforcement of restitution collection must consistently provide the coordinated leadership and uniform commitment necessary to transform the Hawai'i criminal justice system so that the system successfully works for victims.

The Commission has conducted a pilot project to collect restitution from inmates and parolees (the "Restitution Project") since 2003. Since the Restitution Project was initiated, the Commission has opened over 3,200 restitution and compensation fee cases and collected over \$1,500,000. A collateral benefit of the Restitution Project was the identification by the Commission of a number of concerns impacting the procedures for the assessment and collection of restitution. When the Commission first began the Restitution Project, correctional facilities and parole officers were unable to accurately track an inmate's restitution payments making it difficult to enforce restitution orders. The county prosecutors and victim witness advocate programs did not have standardized restitution procedures, restitution was not being requested in all eligible cases and, when restitution was ordered, victim-identifying information was not always preserved, preventing the successful assessment and collection of restitution.



While many of these issues were successfully addressed, through a recent survey of restitution collection from inmates by PSD the Commission has now identified two additional areas of concern:

1. Restitution payments from inmate workline wage deductions are not being forwarded to the Commission by the correctional facilities for payment to victims on a timely basis;
2. Court ordered restitution is not being deducted from inmate wages in all cases, as required by statute, because restitution accounts are not being opened by the correctional facilities for all inmates who have been ordered by the Court to pay restitution.

The Commission surveyed 224 inmate restitution cases to determine whether the correctional facilities were enforcing restitution orders as required by Hawai`i Revised Statutes (HRS).<sup>1</sup> HRS §353-22.6 provides that the PSD Director enforce restitution orders through a ten percent (10%) deduction from workline wages. Of the 224 restitution cases, 179 inmates with restitution orders worked, but there were no deductions from those inmates' workline wages for restitution and, in 65 of those cases, more than one correctional facility failed to identify that the inmate had been ordered to pay restitution. More than seven thousand dollars (\$7,000.00) in workline wage deductions were not collected because the correctional facilities failed to identify that the inmate owed restitution.

While there has been progress in addressing some of the issues that obstruct the ability of Hawai`i crime victims to recover their crime-related losses from Court ordered restitution, significant institutional barriers remain. Some of the barriers were highlighted in a recent series of articles published in the *Honolulu Star-Advertiser*. These barriers include, for offenders on probation, or otherwise supervised by the Judiciary, an inability to track how many offenders owe restitution, what they owe, and how much they have paid, and the Court's failure to enforce its own restitution orders. In response to these articles the Judiciary formed a Restitution Working Group to address these issues.

In a response to the editor, Rodney A. Maile, Administrative Director of the Courts, wrote, "...offenders' failure to fully pay court-ordered restitution is a difficult, complex and long-standing problem, but one that absolutely has to be addressed because of the hurtful impact it has on victims

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<sup>1</sup> The survey was not a random survey. Cases surveyed included, but are not limited to: 1) cases where Commission received a judgment ordering an offender to pay restitution, but no payment was ever received; 2) cases where restitution was previously paid, but there was a lack of payment activity for more than a year; and 3) recently opened cases with payments from the mainland branch or the paroling authority (cases where the paroling authority began collecting restitution, and restitution was not collected by the correctional facilities). Some offenders in the survey were already off status.

and because non-compliance with court orders undermines public trust and confidence in the justice system.”

The JRI initiative addresses some of these longstanding issues by providing funding for a restitution accountability program that tracks and reports restitution payments from PSD, parole, and the Judiciary<sup>2</sup> (in cases where restitution is ordered to repay the Commission). A second phase of JRI should include an initiative to address the issues identified by this part of the Restitution Project.

In addition, JRI initiative funding for victim advocates in the county prosecutors’ offices ensures that victims are aware of their right to receive restitution and that restitution becomes a top priority. Additionally, increasing the amount of restitution payable by inmates from 10% of inmate wages, to 25% of all funds deposited into an inmate’s account will ensure that offenders make prompt and meaningful restitution payments to crime victims.

#### **Continuing the Statewide Automated Victim Notification System**

PSD currently houses the SAVIN Program that provides automated notification to crime victims by phone or victim notification of changes in offender custody status. Federal funding for SAVIN will expire in 2012. The JRI budget proposal increases community and victim safety by providing funding to continue the SAVIN Program’s important function of providing information to crime victims and others about inmate custody status changes, such as the release date of offenders, if the offender has escaped, and the date of upcoming parole hearings. This information gives victims peace of mind and enables them to do safety planning. Advance notification to victims about upcoming parole hearings enables victims to exercise their right, under HRS, Section 801D, to speak at the hearing, and ensures that the paroling authority’s decisions are informed by the concerns of crime victims.

#### **Prioritize supervision and treatment by offender risk and danger level**

The JRI funding proposal includes funding for additional county based victim advocates to ensure that victim and witness safety assessments are integrated into all offender custody decisions by providing timely victim and community safety information to prosecutors, Intake Services, Parole,

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<sup>2</sup> Restitution ordered pursuant to Section 706-646(2), Hawai’i Revised Statutes, which provides, in part, that “the court shall order restitution to be paid to the crime victim compensation commission in the event that the victim has been given an award for compensation under chapter 351.”

and other related personnel in PSD. These additional staff are essential in order to ensure that the pretrial risk assessments are informed by victim input and community safety concerns.

Concerns surrounding supervision decisions and offender risk are addressed by requiring the parole board to use a validated risk assessment instrument to determine the offender's risk for reoffense and suitability for community supervision when making a parole decisions.

Further, the new PSD Victim Service Unit will coordinate with victim services providers to ensure that victims receive timely notification of offender custody status, educate offenders about the impact of crime on victims, provide safety planning for victims where the offender is going to be released, and ensure that victims are protected from harassment by incarcerated offenders. Hawai'i is currently the only state without a corrections based victim service program.

**Share information with the victim service community**

JRI funding for victim services will ensure that information about the implementation of the JRI program is shared with the victim community and, to the extent that there are issues that impact victim and community safety, that these issue are handled as a top priority.

Thank you for providing the Commission with the opportunity to testify in support of House Bill 2514, and in support of House Bill 2515, with the proposed amendment, together with the reinvestment funding recommendations.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
HAWAII PAROLING AUTHORITY  
1177 ALAKEA STREET, GROUND FLOOR  
Honolulu, Hawaii 96813

TESTIMONY ON HOUSE BILL 2514  
RELATING TO PUBLIC SAFETY

BY

HAWAII PAROLING AUTHORITY  
Bert Y. Matsuoka, Chairman

House Committee on Public Safety and Military Affairs  
Representative Henry J. C. Aquino, Chair  
Representative Ty Cullen, Vice Chair

Thursday, February 2, 2012; 9:00a.m.  
State Capitol, Conference Room 309

Chair Aquino, Vice Chair Cullen and Members of the Committee:

The Hawaii Paroling Authority (HPA) appreciates the legislature's interest in the various areas covered by HB 2514 and provides testimony for those areas of this measure that affects the HPA. As written, the HPA supports the intent of HB 2514, but respectfully requests that amendments be made to Section 5 and 6 to add another part-time board member for a total of two additional part-time board members.

A five (5) member parole board comprised of one full-time chair and four (4) part-time board members provides a much greater degree of flexibility while simultaneously addressing the needs of the Authority with respect to ever increasing hearing schedules and required administrative decision-making sessions. With a five-member parole board, a simple majority of three of the five members would be required to conduct hearings. Further, the addition of two part-time board members would be less costly to the state and more fiscally prudent.

BERT Y. MATSUOKA  
CHAIR

JOYCE K. MATSUMORI-HOSHINO  
MEMBER

MICHAEL A. TOWN  
MEMBER

TOMMY JOHNSON  
ADMINISTRATOR

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

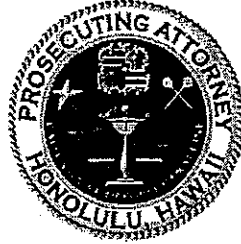
The HPA does have concerns regarding implementation of Sections 7, 8, and 12 of this measure as there is no mention of additional parole supervision, administrative staff, or funding for additional community-based programs and services that would be required if this measure were enacted as it relates to the HPA.

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

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

ALI PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
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KEITH M. KANESHIRO  
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ARMINA A. CHING  
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE HENRY J.C. AQUINO, CHAIR  
THE HONORABLE TY CULLEN, VICE CHAIR  
HOUSE COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS**

**Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawai'i**

Thursday February 2, 2012

RE: H.B. 2514; RELATING TO PUBLIC SAFETY.

Good morning, Chair Aquino, and members of the House Committee on Public Safety, and Military Affairs, the Department of the Prosecuting Attorney submits the following testimony regarding H.B. 2514, which proposes various amendments to the Hawaii Revised Statutes designed to implement the proposed objectives of Hawaii's Justice Reinvestment Initiative.

While some of the proposed measures in this bill appear to have some merit, taken as a whole there appears to be a single minded effort to release more individuals from custody (pre-trial and post conviction) without clearly defining how this will be done consistent with the needs of both public safety and victim safety. We will cover each section separately as we wish to convey both our careful and sincere review of their merits while acknowledging that the nature of our perspective arises out of the solemn duties owed to the public as well as individual victims by our Department.

Section 3 of the bill contains a provision which creates a three day time limit for "pretrial risk assessments" without explaining exactly how that is going to happen and what the consequences are should this deadline not be met. What is particularly disconcerting about this proposal is that it creates an expectation that the speedy processing specified in the proposed statute will occur and a potential legal claim against the State if it does not. With no appropriation or explanation as to how we get from the three months wait for pretrial felons released on supervised release to the three days proposed in the bill its difficult to understand how this proposal will work. The other amendment sought in part I, Section 3 of the bill is a provision specifying what type of assessment tools are to be used in the risk assessment process. What is unclear is how this provision differs from the procedure currently being used. Our Department has been under the distinct impression that legitimate risk assessment tools are already being used. If this is true is

there really a need to mandate this? Also it is well known that not every tool is validated for every type of inmate or detainee. Some tools, for example, have a recognized deficiency in measuring the risk assessment for domestic violence offenders, even if deemed generally effective. It's also not reassuring to think that the only way to get the Department of Public Safety to use a proper assessment tool is to mandate it. If this is the case, maybe we should be using the risk assessment on the Department and not the detainees. While we don't believe this is the case, it does illustrate that some of the proposals may lack a proper grounding in common sense. The JRI report unfortunately does not give us much guidance here as it only notes that there is a long waiting period for pretrial detainees but never provides an analysis as to why, which therefore makes us skeptical of the proposed solution.

Sections 5 through 8 of H.B. 2514 deal with the Hawaii Paroling Authority (HPA). Although not stated anywhere it appears that there is a belief that some of the problems currently perceived within the Parole system is that there are not enough members on the Parole Board since Sections 5 and 6 deal with increasing the Parole Board members from three to four. While we have no objection to this, there is no explanation as to why this is necessary or why it is part of the proposals in the bill.

While the previous Sections propose increasing the size of the Parole Board, the next two Sections (7 & 8) focus on reducing its discretion and authority. Although it is clear how mandating Parole (Section 7) and limiting the length of re-incarceration (Section 8) will reduce the prison population, there is no explanation as to the rationale or wisdom in doing so. The real target here seems to be the Parole Board and reducing its discretion without any analysis as to what the potential impact (aside from reducing the prison population) that these proposals would have. Mandatory sentencing laws are often cited as an inappropriate usurpation of the inherent discretion of the courts are therefore undesirable as it restricts the ability of judges to provide sentences appropriate for each individual criminal. However this proposal would seem to take the same approach with the Parole Board, although presumably with the opposite effect, again meaning that the primary objective is to simply reduce prison population. While the savings generated from these measures are extolled, there is little mention of the risks of limiting the ability of the Parole Board to fashion parole decisions and lengths of re-imprisonment for violations to the needs of individual prisoners.

Part III promotes the laudable objective of increasing restitution payments to victims by increasing and more broadly applying the percentage of inmate accounts and wages that goes to restitution. While this is a welcome improvement, this change will have a debatable impact on improving restitution collection since these deductions will not apply to the increasing number of prisoners released into the community on parole or probation where the collection and payment of restitution to victims is notoriously poor. The benefits from this type of proposal to victims will only be realized if this type of mandate is applied to parolees and probationers who represent the majority of restitution owed.

Section 11 again is designed to limit the discretion of the Paroling Authority by mandating the release of all inmates prior to the expiration of their maximum sentence. While we can all agree that a period of supervision upon the release of inmates back into the community is desirable, a mandate could result in the premature exposure of the community to dangerous felons. There also seems little point in forcing inmates out into the community when they refuse to be supervised regardless of what the reason may be. Forcing the Paroling Authority to release inmates who they believe are an active threat to the community hardly provides us with reassurance that these proposals are designed to increase public safety. The Paroling Authority

currently has the discretion to make these challenging decision; we believe that everyone's best interest is served if they retain this discretion.

In conclusion, the bill before you makes some bold proposals, and while we are not opposed to change (if it truly benefits victims and the community), these ideas need some more work. At present the connection between many of these proposed statutory amendments and the stated objectives of JRI are somewhat tenuous. Reduction of prison population alone (regardless of the projected savings) cannot serve as the primary objective. The benefits to community safety of any proposed changes need to be clear and unambiguous, not speculative, as appears to be the case for many of these proposals in their current form. We stand ready to support measures that represent true reform, the measures in H.B. 2514 fall far too short of this objective and we must respectfully request that you not move this bill forward in its current form. Thank you for this opportunity to testify.



Council Chair  
Danny A. Mateo

Vice-Chair  
Joseph Pontanilla

Council Members  
Gladys C. Baisa  
Robert Carroll  
Ellie Cochran  
Donald G. Couch, Jr.  
G. Riki Hokama  
Michael P. Victorino  
Mike White



Director of Council Services  
Ken Fukuoka

**COUNTY COUNCIL**  
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[www.mauicounty.gov/council](http://www.mauicounty.gov/council)

February 1, 2012

TO: Honorable Henry J.C. Aquino, Chair  
House Committee on Public Safety & Military Affairs

FROM: Gladys C. Baisa *GCB*  
Council Member

DATE: HEARING OF FEBRUARY 2, 2012

SUBJECT: **TESTIMONY IN SUPPORT OF HB 2514, RELATING TO PUBLIC SAFETY**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is to amend statutes to require a pre-trial risk assessment to be conducted within three working days; expand the parole board and require the use of validated risk assessments to guide parole decisions; limit length of incarceration for first-time parole violators; increase victim restitution payments by inmates; require a period of parole supervision prior to the maximum sentence date.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. It will require objective assessment be conducted within the first three days of commitment to a community correctional center which will decrease the major backlog in the system and resulting in 65% of parole denials for those who couldn't get into programs.
2. Intake Service Center (ISC) shall conduct risk assessments within three working days of admission and ISC shall assist in the conduct of presentence assessments.
3. Increases the parole board to four members and that three parole board members shall serve on part-time basis.
4. Improves PSD's collection of restitution.
5. Supervised parole release prior to expiration of maximum term.

For the foregoing reasons, I support this measure.

GCB:amm



Committee: Committee on Public Safety & Military Affairs  
Hearing Date/Time: Thursday, February 2, 2012, 9:00 a.m.  
Place: Conference Room 309  
Re: Testimony of the ACLU of Hawaii in Support of and with Comments to H.B. 2514, Relating to Public Safety

Dear Chair Aquino, Vice Chair Cullen, and Members of the Committee on Public Safety & Military Affairs:

The ACLU of Hawaii generally supports HB 2514 and the other proposals submitted as part of the Justice Reinvestment Initiative (JRI). However, we respectfully suggest the following improvements to the bill:

1. Section 3 and 7: Federal detainees

We respectfully suggest that the Committee specifically exclude detainees placed by the federal government because such an exclusion would save the state a significant amount of money.

Currently, the Department of Homeland Security, Immigration and Customs Enforcement ("ICE") can place a 48-hour hold on an individual, meaning that the State can legally detain the individual for 48 hours past the individual's designated release time. This detainer gives ICE an opportunity to take the person into federal custody for the purposes of placing the person in removal (*i.e.*, deportation) proceedings. That 48 hour clock, however, typically does not begin to run until the incarcerated individual is legally "free" from the State's custody – that is, after the person has posted bail, finished his sentence, or been released on parole. What often happens – and what this legislation seeks to make permanent – is that the State simply does not bother to release the individual on the basis that the individual will simply be taken into custody by ICE. The 48-hour clock never starts running – meaning that the State is paying to incarcerate an individual merely because ICE might want to place the person in immigration proceedings. ICE, for its part, won't bother to expend the resources necessary to incarcerate an individual if Hawaii will do it for them for free, so individuals end up serving much longer in jail or prison than necessary.

Instead, the better course is to release the person from State custody (if appropriate to do so under the circumstances) and let ICE decide for itself whether to expend the resources to take the person into custody. Consequently, a parole decision should not be based on the existence of

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Chair Aquino and Members of PBM  
February 2, 2012  
Page 2 of 2

a federal detainer. If ICE wants to deport the individual, that decision is up to ICE; Hawaii should not pay to incarcerate an individual based solely on the immigration offense -- that is the federal government's responsibility.

2. Section 8: Reduce maximum prison time for parole violations to 90 days to conform with other states.

Currently, HB2514 reduces the maximum prison/jail time for a technical parole violation to six months, which is a step in the right direction. However, other states that have gone through the JRI process have settled on 90 days as the maximum time, with no adverse public safety effects and significant cost savings. Although this measure is a positive one, we strongly recommend that the Committee put the time in line with other states and cap the prison/jail time at 90 days rather than six months.

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.

Thank you for this opportunity to testify.

Sincerely,

Daniel M. Gluck  
Senior Staff Attorney  
ACLU of Hawaii

American Civil Liberties Union of Hawaii  
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# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS

Rep. Henry Aquino, Chair

Rep. Ty Cullen, Vice Chair

Thursday, February 2, 2012

9:00 a.m.

Room 309

## STRONG SUPPORT FOR HB 2514 - RELATING TO PUBLIC SAFETY

Aloha Chair Aquino, Vice Chair Cullen 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, limit 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.

Community Alliance on Prisons is in strong support of this measure. The justice reinvestment initiative provides the first independent look at our criminal justice system by professional analysts with a broad range of experience. What they have accomplished in six short months is truly amazing. They not only pulled together data across Hawai'i's criminal justice system, they built efficiencies into our data collection system that can be built upon to help you, our policymakers, make more informed decisions based on user-friendly data sets. The Justice Center's experience in many other jurisdictions helped to inform their recommendations as they tracked how some of these recommendations are working in other places. Their recommendations are led by the desire to enhance public safety. The savings are a wonderful by-product of creating a more comprehensive and data-driven approach to dealing with crime and how we respond to it more efficiently.

It is no secret that competent assessments are crucial to programming an individual for successful reintegration back to his/her community. Hawai'i has been wasting precious resources by mandating some services/programs to individuals who don't really need that level of service that has been mandated. This has created a backlog in our system that has resulted in 65% of individuals being denied parole because they have not had access to the programs that are mandated.

For instance, we know that the majority of our incarcerated population has substance abuse issues and needs, but the data show that only 14% of these individuals need in-prison treatment. Research shows that community-based treatment is more effective and less costly than in-prison treatment; therefore, many low-level lawbreakers would be better served in community-based treatment, which would keep *our* money flowing in *our* economy.

Increasing the number of parole board members would enable them to do hold more hearings and along with a better assessment and information, they could move people through the system more effectively. We suggest that increased the parole board by 2 part-time members would be better to bring the total number to 5 members – a full-time chair and 4 part-time members. Correctional best practices deem that we should be working to provide the services needed so that individuals can be released at their minimum sentence to successfully reenter the community.

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 lack of funds for needed items will create a management problem at facilities and a thriving underground economy.

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.

This approach requires a philosophical shift in how people are supervised -- a shift from looking for missteps 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 seems to work 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.

Community Alliance on Prisons urges the committees to support this data-driven, thoroughly researched, and thoughtful approach to reforming our criminal justice system by passing HB 2514.

Mahalo for this opportunity for us to share our perspective and testify on this important measure.



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

*Dedicated to safe, responsible, humane and effective drug policies since 1993*

February 2, 2012

To: Rep. Henry Aquino, Chair  
Rep. Ty Cullen, Vice Chair and  
Members of the Committee on Public Safety and Military Affairs

From: Jeanne Y. Ohta

RE: HB 2514 Relating to Public Safety  
Hearing: Thursday, February 2, 2012, 9:00 a.m., Room 309

Position: Strong Support

The Drug Policy Forum of Hawai'i writes in strong support of HB 2514 Relating to Public Safety which proposes recommendations made out of the Justice Reinvestment Initiative.

DPFH supports the efforts to make the criminal justice system more efficient and more effective. These changes are necessary because of the ever increasing prison budget. States that have embraced the suggestions of the Initiative have made significant savings, without sacrificing public safety. Strategic and smart changes can reduce costs, allowing for the reallocation of resources to where they will do the most good.

We urge the committee to pass this measure. Thank you for the opportunity to provide testimony.



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The Twenty-Sixth Legislature, State of Hawaii  
House of Representatives  
Committee on Public Safety & Military Affairs

Testimony by  
Hawaii Government Employees Association  
February 2, 2012

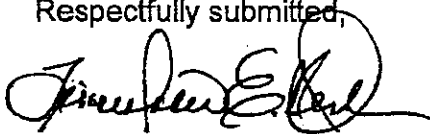
H.B. 2514 – Relating to  
Public Safety

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 2514, which makes important statutory changes based upon a series of recommendations from the Justice Reinvestment Initiative's study of Hawaii's correctional and criminal justice systems. The changes suggested could save an estimated \$108 - \$150 million over six years without compromising public safety and reducing the number of inmates at mainland prison facilities.

The cost of housing inmates out-of-state was \$45 million for FY 2011. Easing the need to house about 1,700 of Hawaii's prisoners on the mainland will result in more of that money remaining in Hawaii and stimulating the local economy.

More specifically, H.B. 2514 amends various statutory provisions by: 1) requiring a pre-trial risk assessment to be conducted within three working days to reduce the number of inmates awaiting trial; 2) expanding the parole board from three to four members; 3) requiring the use of validated risk assessments to guide parole decisions; 4) limiting the length of incarceration for first-time parole violators to six months; 5) increasing victim restitution payments by inmates; and 6) requiring a period of parole supervision prior to the maximum sentence date. Requiring supervision for all felons after they leave prison is based on the research-backed theory that such support or monitoring reduces the likelihood of recidivism.

Thank you for the opportunity to testify in support of H.B. 2514.

Respectfully submitted,  
  
Leiomalama E. Desha  
Deputy Executive Director



HAWAII SUBSTANCE ABUSE COALITION

**HB 2514 RELATING TO PUBLIC SAFETY:** Based on analysis and policy options developed as part of the justice reinvestment initiative. Amends statutes to require a pre-trial risk assessment to be conducted within three working; expand the parole board and require the use of validated risk assessments to guide parole decisions; limit length of incarceration for first-time parole violators; increase victim restitution payments by inmates; require a period of parole supervision prior to the maximum sentence date.

HOUSE COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS Rep. Henry J.C. Aquino, Chair; Rep. Ty Cullen, Vice Chair  
Thursday, February 2, 2012, 9:00 a.m.  
Conference Room 224

## **HSAC Supports HB 2514:**

*Good Morning Chair Aquino, Vice Chair Cullen; 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.*

### **SUMMARY**

Extensive research has demonstrated that our prison populations have grown substantially over the last 25 years due primarily to mandatory sentencing that removes discretionary decision making from probation/parole who could previously release “reformed” offenders as well as numerous inefficiencies between agencies. Also, research has shown that prisons have expanded to long sentences for non-violent drug offenders.

Using competent assessment protocols for each individual are more relevant for determining safety risk and respective sentencing rather than a “1 rule for all” approach. Employing best practices for use of minimum sentences when applicable makes sense and saves money.

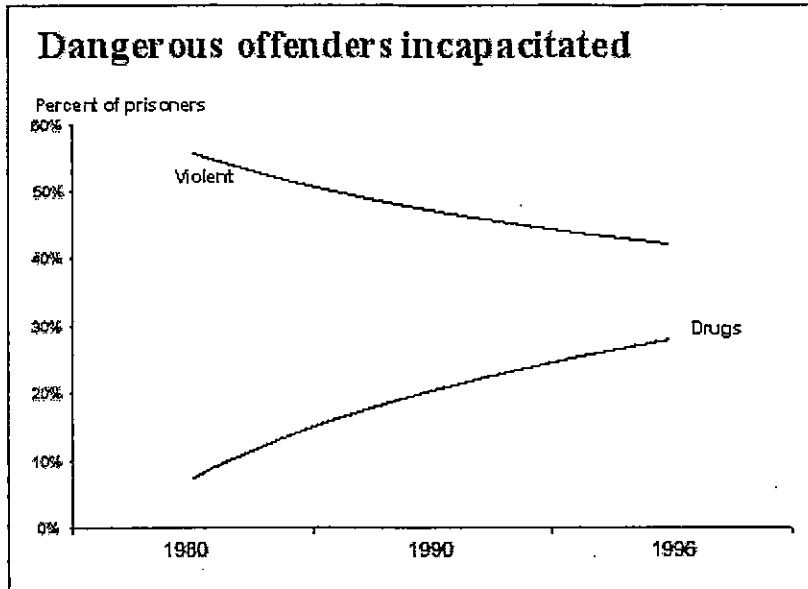
### **Prisons are Full Due to Non-Violent Drug Offenders**

While mandatory sentencing has helped keep violent offenders off the streets, most of the exorbitant population growth and upward spiraling costs are due to non-violent drug addicts receiving longer mandatory sentencing.

*These offenders are typically not a violent safety threat to community and have a drug problem that if properly treated by professionals while under the supervision of probation/parole personnel, the vast majority of offenders are no longer committing drug related crimes.*



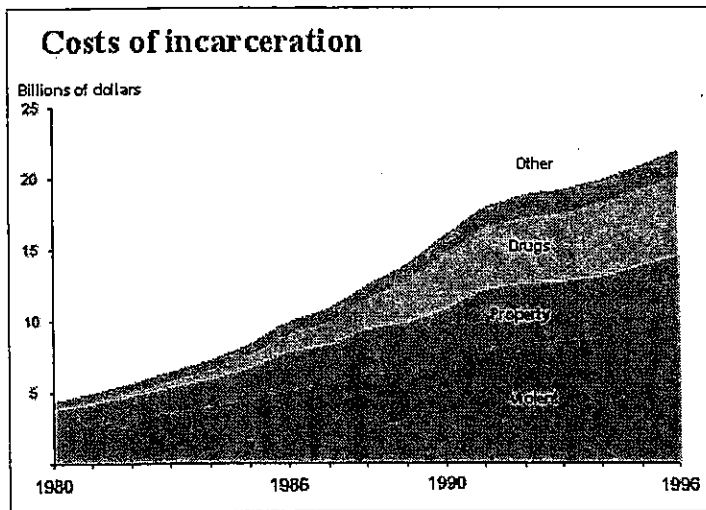
## The Effects of Tougher Sentences on Drug and Property Crime



### Most incarcerated drug offenders are not violent offenders:

- 85% of drug offenders have no history of prior incarceration for violent crimes;
- 33% of drug offenders are incarcerated for possession, use, or miscellaneous drug crimes;
- 40% of federal drug offenders have no current or prior violence on their records.

In fact, when we look at all persons in prison, we find that more than half (53 percent) committed a crime that involved neither harm nor threat of harm to a victim. As the next chart shows, more than half the cost of incarceration, which has increased dramatically since 1980, is a result of keeping non-violent offenders in prison.



## **What has been the overall result of putting so many offenders in prison?**

- ✦ The 200 percent increase in incarceration of violent offenders has been accompanied by an estimated 9 percent reduction in violent offenses.
- ✦ The substantial increase in the number of imprisoned drug offenders, however, has had little or no effect on drug dealing or use. Increasing the length of sentences for drug offenders is costing an additional \$1.5 billion a year nationwide, with no reduction in drug crimes.
- ✦ Mandatory sentencing has also led to greater racial disparity in treatment by the justice system.

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

### **Sources:**

1. William J. Sabol: Crime Control and Common Sense Assumptions Underlying the Expansion of the Prison Population, Urban Institute: May 1999. <http://www.urban.org/url.cfm?ID=410405>

## PBMtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 01, 2012 5:31 AM  
**To:** PBMtestimony  
**Cc:** maukalani78@hotmail.com  
**Subject:** Testimony for HB2514 on 2/2/2012 9:00:00 AM

Testimony for PBM 2/2/2012 9:00:00 AM HB2514

Conference room: 309  
Testifier position: Support  
Testifier will be present: No  
Submitted by: elaine funakoshi  
Organization: Individual  
E-mail: [maukalani78@hotmail.com](mailto:maukalani78@hotmail.com)  
Submitted on: 2/1/2012

**Comments:**

Dear Chair Aquino, Vice Chair Cullen and Members of the Committee:

STRONGLY SUPPORT HB 2514. Change is difficult, but we must find other options than the old thought of every criminal is evil. They are all individual human beings and some of them have made one bad decision in their lives. It's time we help those who can be helped and, at the same time, stop wasting our money by simple solutions.

Yes, assessments are very important; however, we need to mandate who is to do the assessment. As I understand it, the unit managers do the assessment, but, when the inmate's unit manager is unavailable, some other unit manager who had no oversight of the inmate writes the assessment just so he can have one on file.

Thank you for the opportunity to offer my testimony for your consideration.

Aloha,  
elaine funakoshi

## **PBMtestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 30, 2012 10:20 PM  
**To:** PBMtestimony  
**Cc:** jm2day@yahoo.com  
**Subject:** Testimony for HB2514 on 2/2/2012 9:00:00 AM

Testimony for PBM 2/2/2012 9:00:00 AM HB2514

Conference room: 309  
Testifier position: Support  
Testifier will be present: No  
Submitted by: JOLENE MOLINARO  
Organization: Individual  
E-mail: [jm2day@yahoo.com](mailto:jm2day@yahoo.com)  
Submitted on: 1/30/2012

**Comments:**

I am in support of HB 2514 this is long over due and very important