

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**CRIME VICTIM COMPENSATION  
COMMISSION**

1136 Union Plaza, Suite 600  
Honolulu, Hawai'i 96813  
Telephone: 808 587-1143  
FAX 808 587-1146

MARI McCAIG  
Chair

L. DEW KANESHIRO  
Commissioner

THOMAS T. WATTS  
Commissioner

PAMELA FERGUSON-BREY  
Executive Director

# LATE TESTIMONY

TESTIMONY ON SENATE BILL 2776, SD2, HD1  
RELATING TO PUBLIC SAFETY

by

Pamela Ferguson-Brey, Executive Director  
Crime Victim Compensation Commission

House Committee on Judiciary  
Representative Gilbert S.C. Keith-Agaran, Chair  
Representative Karl Rhoads, Vice Chair

Wednesday, March 21, 2012: 2:15 AM  
State Capitol, Conference Room 325

Good afternoon Chair Keith-Agaran, Vice Chair Rhoads, Members of the House Committee on Judiciary. Thank you for providing the Crime Victim Compensation Commission (the "Commission") with the opportunity to provide testimony in strong support of Senate Bill 2776, SD2, HD1. Senate Bill 2776, SD2, HD1 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; 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; and provides for the reinvestment of savings in more effective victim and public safety strategies.

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.

The Justice Reinvestment Initiative (JRI) legislative proposals, together with 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 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 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

---

<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.

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, 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 PSD and the parole board to use a validated risk assessment instrument to determine the offender's risk for reoffense and suitability for community supervision.

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 issues are handled as a top priority.

Thank you for providing the Commission with the opportunity to testify in strong support of Senate Bill 2776, SD2, HD1.

---

<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."



888 Mililani Street, Suite 601  
Honolulu, Hawaii 96813-2991

Telephone: 808.543.0000  
Facsimile: 808.528.4059

www.hgea.org

The Twenty-Sixth Legislature, State of Hawaii  
House of Representatives  
Committee on Judiciary

Testimony by  
Hawaii Government Employees Association  
March 21, 2012

**LATE TESTIMONY**

S.B. 2776; S.D. 2, H.D. 1 - RELATING TO  
PUBLIC SAFETY

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 2776, S.D. 2, H.D. 1, 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 suggested changes 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 prisoners on the mainland will result in more of that money remaining in Hawaii and stimulating the local economy. We believe that the savings generated by this bill can be used to increase funding for pre-trial services, probation and parole supervision, inmate assessments and diagnostic services, community-based treatment programs, additional parole officers, additional Hawaii Paroling Authority members, and parolee supervision.

More specifically, S.B. 2776, S.D. 2, H.D. 1 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 five 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;

House of Representatives, Committee on Judiciary  
Testimony by Hawaii Government Employees Association  
re: S.B. 2776, S.D. 2, H.D. 1  
March 21, 2012  
Page 2

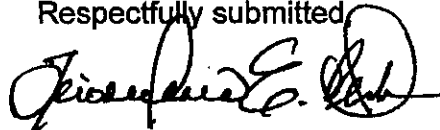
6) Requiring a period of parole supervision prior to the maximum sentence date to reduce the likelihood of recidivism;

7) Requiring that savings achieved by reducing the incarcerated populations must be reinvested within the criminal justice system in staffing programs to achieve the goals and objectives of the Justice Reinvestment Initiative based upon specified guidelines; and

8) Making an unspecified appropriation to hire a wide range of personnel at the state and county levels to carry out the goals and objectives of the Justice Reinvestment Initiative.

Thank you for the opportunity to testify in support of S.B. 2776, S.D. 2, H.D. 1.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Leiomalama E. Desha". The signature is stylized and includes a large, circular flourish at the end.

Leiomalama E. Desha  
Deputy Executive Director