



HB1279 HD1
RELATING TO PUBLIC SAFETY
House Committee on Finance

February 20, 2013

3:30 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1279 HD1, which incentivizes partnership and investment in programs for pa‘ahao (prisoners).

In 2010, OHA produced a comprehensive report detailing the disparate treatment of Native Hawaiians in the criminal justice system. Since then, OHA has administered the Native Hawaiian Justice Task Force (NHJTF), which was tasked by the Legislature to address this multi-faceted issue. A copy of the NHJTF 2012 legislative report and related materials are available at:

www.oha.org/nativehawaiianjusticetaskforce

This bill furthers recommendation G.3. of the NHJTF report:

In order to reduce its reliance on incarceration, the state of Hawai‘i should assist in the development of sufficient and appropriate community-based alternatives to incarceration for substance abuse, mental health treatment, and housing at all points within the criminal justice system.

There is a need for better re-entry and reintegration program for pa‘ahao and this bill will help reach that goal. Therefore, OHA urges the committee to **PASS** HB1279 HD1. Mahalo for the opportunity to testify on this important measure.

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phones/E-Mail: (808) [533-3454](tel:533-3454), (808) [927-1214](tel:927-1214) / kat.caphi@gmail.com



COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair

Rep. Scott Nishimoto, Vice Chair

Rep. Aaron Ling Johanson, Vice Chair

Wednesday, February 20, 2013

3:30 p.m.

Room 308

STRONG SUPPORT FOR HB 1279 HD1- APPROPRIATION FOR REINTEGRATION

Aloha Chair Luke, Vice Chairs Nishimoto & Johanson and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered on behalf of the 5,800 Hawai`i individuals living behind bars, always mindful that approximately 1,500 Hawai`i individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HB 1279 appropriates funds for state programs related to the re-integration of offenders into the general population.

Community Alliance on Prisons strongly supports this measure. We are members of the Reentry Commission and co-chair the Commission along with the Director of Public Safety.

As Ted Sakai said at the Hope in Hawai`i conference in August 2011:

- Do not forget that reentry is a process. It is not a program. At its best, the correctional system guides the offender through a series of experiences which we believe will help them develop the behaviors that will help them stay out of trouble after they return to the community at large. We structure these experiences through programs. Each program is part of the process. The process only works if we have the right programs in the right place.
- Reentry is not rocket science. Actually, it's harder, and the stakes are higher. Building and successfully launching a rocket requires thousands of intricate, complicated parts and steps, and tens of millions of dollars. But rocket science involves known and predictable factors. You put together a team of highly skilled, trained and motivated people. They work with the best raw material money can buy, make sure each part is made of the proper materials, built to exact specifications, and installed precisely. You wait until weather conditions are right, and push the button. If something goes wrong, you can do careful analysis and pinpoint the problem. You discover that the O-ring was defective, and you change that and try again, this time successfully.

On the other hand, when you work with reentry, you are working with unknown inputs, unknowable environmental forces, and unpredictable responses. Failure will occur even when everyone does their job. And the cost? Way more than millions of dollars – lost and wasted lives.

- In rocket science, failure is a surprise; loss of life is an aberration. With reentry, we should expect failure, but still keep on trying. You have to be patient, and you have to be realistic, and you have to keep on trying.
- You cannot do reentry effectively unless you truly appreciate the prison environment. People go to prison because they made bad choices. And prison does not teach them how to make good choices. People who go to prison do not have good habits or social skills. Prison is not a place where you can acquire these. When you work with offenders in reentry, you are working with people who need practice in making good choices, who need to learn good habits, and who need to acquire good social skills. Many can't overcome their pasts – the first, second or third times. But they all need and deserve our support, because many can and do make it, and because they are citizens of our community.
- You can't do it alone. I don't care how large and powerful your agency is, or how well-funded, or how elegant your program design. You can't do it alone. You need partners. The Department of Public Safety needs the Departments of Labor, Education, Health, Human Services, etc. etc. The State agencies need the county agencies, and the government agencies need the community agencies. To do it without complete buy in from all, including the community sector is foolish and shortsighted. And everyone needs to be included, not just the ones you think support your position.
- You don't have all the answers. No one does. Don't hesitate to look outside. See what others are doing, in Kansas, Oregon, Michigan. Watch how the California drama unfolds – when a community is under so much stress, there is bound to be innovation. There are many sources of information. Don't be afraid to seek them. You must keep your eyes and your minds and hearts open. And sometimes, learning is not about the information you gather; rather, it is about the questions you ask. As Roshi Shunryu Suzuki so famously noted, "When the student is ready, the teacher appears."

Resources for Developing Effective Reentry and Supervision Strategies¹

During the past decade, a number of leading criminal justice organizations, stakeholders and community leaders have developed comprehensive reentry and supervision strategies. There are a number of resources in the field aimed at helping policy makers and practitioners implement effective, evidence-based correctional policies and programs, including:

- Council of State Governments: *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community* and the many materials from the CSG Justice Center's National Reentry Resource Center.²
- Urban Institute: *Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes*³

¹ *The State of Recidivism – The Revolving Door of America's Prisons*, April 2011.

² Council of State Governments, Reentry Policy Council, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community* (New York, NY: January 2005), <http://reentrypolicy.org/>; <http://www.nationalreentryresourcecenter.org/>.

- National Governors Association Center for Best Practices: *Improving Prisoner Reentry through Strategic Policy Innovations*⁴
- U.S. Department of Justice National Institute of Corrections and Crime & Justice Institute: *Implementing Evidence-Based Policy and Practice in Community Corrections*⁵
- Pew Center on the States, Public Safety Performance Project: *Policy Framework to Strengthen Community Corrections*⁶

Certificates of Rehabilitation⁷

THE POTENTIAL OF NEW YORK'S CERTIFICATE PROGRAM

Certificates of Rehabilitation are politically attractive forms of relief for people facing collateral consequences. The main alternatives, pardons and expungement, have gained little traction over the past fifty years. Both pardons and expungement result in a greater degree of finality than certificates, virtually erasing a person's convictions and the collateral consequences that stem from them.¹⁴⁶ Those very benefits also make them a far greater political liability for politicians to endorse.

This paper concluded:

This year, some 600,000 inmates will be released from prison back into society. We know from long experience that if they can't find work, or a home, or help, they are much more likely to commit crime and return to prison ... America is the land of second chance, and when the gates of the prison open, the path ahead should lead to a better life.

- President Bush, State of the Union Address, January 2004.

[T]here are people who have made mistakes ... I think that one of the great things about America is that we give people second chances ... [Y]ou reduce the recidivism rate, they pay taxes, it ends up being smart for taxpayers to do.

- President Barack Obama at a town hall meeting, January 22, 2010.

³ Amy L. Solomon, Jenny W.L. Osborne, Laura Winterfield, et al., *Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes* (Washington, DC: The Urban Institute, 2008), http://www.urban.org/uploadedpdf/411791_public_safety_first.pdf.

⁴ National Governors Association, *Improving Prisoner Reentry Through Strategic Policy Innovations*, (Washington, DC: National Governors Association, September 2005) <http://www.nga.org/Files/pdf/0509PRISONERREENTRY.PDF>

⁵ Meghan Guevara and Enver Solomon, *Implementing Evidence-Based Policy and Practice in Community Corrections*, Second Edition, Washington, DC: National Institute of Corrections, October 2009) <http://nicic.gov/Library/024107>.

⁶ Pew Center on the States, *Policy Framework to Strengthen Community Corrections*. <http://www.pewstates.org/research/reports/policy-framework-to-strengthen-community-corrections-85899374213>

⁷ *Administering Justice: Removing Statutory Barriers to Reentry*, Joy Radice, July 2011. <http://ssrn.com/abstract=1864917>

Over the past decade, the country has shifted its thinking about tough-on-crime politics. We are at a unique moment in evaluating what happens on the backend of the criminal justice system when people are released. This prioritization of reentry initiatives makes sense on both sides of the political aisle from a normative and economic perspective.

Bar associations, politicians, advocates, and scholars have shined a spotlight on state-issued certificates because they can remove the myriad and unending civil punishments that attach to even the most minor criminal conviction. This attention recognizes that the state, which has set up these legal barriers to reentry, has a reciprocal obligation to be part of their removal. In our technologically advanced society, where criminal records can be retrieved easily on the internet, removing all memory of a criminal record is futile. As New York's experience with Certificates of Rehabilitation shows, a certificate does not wipe away the reality of the past. It merely stands for the proposition that a person with a conviction still has a future. A Certificate of Rehabilitation can be administered to ensure that the impact of collateral consequences is proportionate to the crime and to offer protection against persistent discrimination. Certificates can help us reshape the purpose of our criminal justice system toward a more forgiving reintegration ideal.

EEOC revises rules on job seekers with criminal records⁸

To pass muster, job denials based on criminal convictions must be shown to be "job-related and consistent with business necessity," according to EEOC guidelines. This means the employer must show that it considered three factors: the nature and gravity of the offense, the amount of time since the conviction and the relevance of the offense to the type of the job that's being sought.

Ex-offenders and the Labor Market⁹

"The rise in the ex-offender population overwhelmingly reflects changes in the U.S. criminal Justice system, not changes in underlying criminal activity," says Schmitt. "We incarcerate an astonishing share of non-violent offenders, particularly for drug-related offenses. We have far better ways to handle these kinds of offenses, but so far common sense has not prevailed."

Bruce Western and Katherine Beckett (1999) have rightly called the criminal justice system a U.S. labor-market institution. Our estimates suggest that ex-offenders lower overall employment rates as much as 0.8 to 0.9 percentage points; male employment rates, as much as 1.5 to 1.7 percentage points; and those of less-educated men as much as 6.1 to 6.9 percentage points. These employment losses hit ex-offenders hardest, but also impose a substantial cost on the U.S. economy in the form of lost output of goods and services. In GDP terms, we estimate that in 2008 these employment losses cost the country \$57 to \$65 billion per year.

Public Opinion is Changing

In March 2012 Pew released Public Opinion on Sentencing and Corrections Policy in America¹⁰.

⁸ EEOC revises rules on job seekers with criminal records by TONY PUGH, MCCLATCHY NEWSPAPERS, 04.25.12. <http://www.miamiherald.com/2012/04/25/2767832/eeoc-revises-rules-on-job-seekers.html>

⁹ Ex-offenders and the Labor Market, Center for Economic and Policy Research, John Schmitt and Kris Warner, November 2010. www.cepr.net/documents/publications/ex-offenders-2010-11.pdf

- American voters believe **too many people are in prison** and the **nation spends too much** on imprisonment.
- Voters **overwhelmingly support a variety of policy changes that shift non-violent offenders from prison to more effective, less expensive alternatives.**
- **Support for sentencing and corrections reforms** (including reduced prison terms) is strong across political parties, regions, age, gender, and racial/ethnic groups.

Poll Respondent Demographics:

- 39 percent identified as conservative
- 30 percent identified as liberal
- 32 percent identified as a Republican or leaning Republican
- 24 percent identified as Independent
- 37 percent identified as Democrat or leaning Democratic
- 17 percent identified as a violent crime victim household
- 43 percent identified as a non-violent crime victim household
- 12 percent identified as a law enforcement household

The majority of Hawai'i's incarcerated population is nonviolent offenders (63% male, 84% female) and, as the following charts show, 66% of females and 54% of males are classified as Minimum or Community, the least restrictive custody levels.

Hawai'i has got to abandon the mentality that incarcerated persons don't deserve programming. That mindset puts everyone at risk. Approximately 98% of all incarcerated persons will return to our communities. How do we want them to come home – angry and bitter or as persons who are ready to be part of our communities?

Persons with criminal records still face many barriers to employment and licensure. Hawai'i must address these barriers so that people who have worked to change their lives and behavior can move forward.

As Dr. Martin Luther King, Jr. so eloquently said:

"It really boils down to this: that all life is interrelated. We are all caught in an inescapable network of mutuality, tied into a single garment of destiny. Whatever affects one destiny, affects all indirectly."

Mahalo for this opportunity to testify.

¹⁰ http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/PEW_NationalSurveyResearchPaper_FINAL.pdf



HB1279 HD1 Integration of Offenders: Appropriation: Public Safety.

Appropriates funds for state programs related to the reintegration of offenders into the general population.

- ✚ HOUSE COMMITTEE ON FINANCE: Representative Luke, Chair;
Representative Nishimoto, Vice Chair; Representative Johanson, Vice Chair
- ✚ Wednesday, Feb. 20, 2013; 3:30 p.m.
- ✚ Conference Room 308

Hawaii Substance Abuse Coalition Supports SB1279

GOOD MORNING CHAIR LUKE, VICE CHAIR NISHIMOTO, VICE CHAIR JOHANSON AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of more than twenty non-profit treatment and prevention agencies.

Why should drug abuse treatment be provided to offenders?

The case for treating drug abusing offenders is compelling. Effective treatment decreases future drug use and drug-related criminal behavior; it can improve the individual. Drug abuse treatment improves outcomes for drug abusing offenders and has beneficial effects for public health and safety.

Why do people involved in the criminal justice system continue abusing drugs?

The repeated use of addictive drugs eventually changes how the brain functions. The change from voluntary drug use to compulsive drug use is the result of significant brain changes, causing the addicted person to use drugs in spite of the adverse health, social, and even legal consequences (Baler and Volkow 2006; Volkow et al. 2010; and Chandler et al. 2009). Addiction is complex, involving basic neurobiological, psychological, social, and environmental factors. Craving for drugs may be triggered by contact with the people, places, and things associated with prior drug use, as well as by stress. The compulsive drug use can return because of these cravings if not effectively managed.

Forced abstinence (when it occurs) is not treatment, and it does not cure addiction. Abstinent individuals must still learn how to avoid relapse, including those who may have been abstinent for a long period of time while incarcerated.

Forced abstinence is not treatment, and it does not cure addiction.



Addictive drugs can cause long-lasting changes in the brain.

Potential risk factors for released offenders include pressures from peers and family members to return to drug use and a criminal lifestyle. Tensions of daily life—violent associates, few opportunities for legitimate employment, lack of safe housing, and even the need to comply with correctional supervision conditions—can also create stressful situations that can precipitate a relapse to drug use.

How should we deal with offender reentry risk factors?

Reentry for drug abusing offenders must address those problems in other areas besides addiction. Examples include family difficulties, limited social skills, educational and employment problems, mental health disorders, infectious diseases, and other medical issues. Effective reentry should take these problems into account, because they can increase the risk of drug relapse and criminal recidivism if left unaddressed.

Stress is often a contributing factor to relapse, and offenders who are re-entering society face many challenges and stressors, including reuniting with family members, securing housing, and complying with criminal justice supervision requirements. Even the many daily decisions that most people face can be stressful for those recently released from a highly controlled prison environment.

Returning to environments associated with drug use may trigger cravings and cause a relapse.

Other threats to recovery include a loss of support from family or friends, which incarcerated people may experience. Drug abusers returning to the community may also encounter people from their lives who are still involved in drugs or crime and be enticed to resume a criminal and drug using lifestyle. Returning to environments or activities associated with prior drug use may trigger strong cravings and cause a relapse. A coordinated approach by treatment and criminal justice staff provides the best way to detect and intervene with these and other threats to recovery.

In any case, treatment is needed to provide the skills necessary to avoid or cope with situations that could lead to relapse. Research also reveals that with effective drug abuse treatment, individuals can overcome persistent drug effects and lead healthy, productive lives.

We appreciate the opportunity to provide testimony and are available for questions.

finance1-Christie

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 18, 2013 3:55 PM
To: FINTestimony
Cc: maukalani78@hotmail.com
Subject: Submitted testimony for HB1279 on Feb 20, 2013 15:30PM

HB1279

Submitted on: 2/18/2013

Testimony for FIN on Feb 20, 2013 15:30PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Elaine Funakoshi	Individual	Support	No

Comments: Dear Chair Luke, Vice Chair Nishimoto, and Committee Members: I strongly support HB 1279 HD1. There is a stream of prisoners being released into society with no programs to reintegrate them. Without programs before their release to help them upon release, it is difficult for them to succeed. No matter how elated they are upon their release, the fact remains that the outside world has changed, and they are not ready to accept them with open arms. Fear sets in, then hopelessness. They have not acquired the skills to succeed. With more than 95 percent of the prisoners being released into our community, we must seriously consider the ramification of their failing upon the population of our prisons and the expense of maintaining them. In the long run, wouldn't it be cheaper funding the programs? Thank you for the opportunity to submit my testimony, and your consideration to pass HB 1279 HD 1. Aloha, Elaine Funakoshi

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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