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TESTIMONY
ON
SB 60, SD 1 - RELATING TO VICTIMS OF CRIMES

January 17, 2014

The Honorable Karl Rhoads
Chair
The Honorable Sharon E. Har
Vice Chair
and Members
House Committee on Judiciary

Chair Rhoads, Vice Chair Har, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, OPPOSES SB 60, SD 1, Relating to Victims of Crimes.

This bill requires police or prosecutors to notify crime victims or surviving immediate family of their right to participate in the restorative justice process.

While the department supports the spirit of the bill because it addresses the needs of crime victims and surviving family members, the department is troubled by the additional responsibility this bill places on it. While the department already contacts crime victims when a decision is made not to prosecute a case, the bill creates not only the responsibility of notification about restorative justice programs, but also the responsibility of keeping track of these programs as they become available. Further, the lines 5 through 7 of page 4 create the possibility that such programs may become a responsibility of the department, which is beyond the department's responsibilities as set forth in the Maui County Charter, and more importantly, without necessary funding.

We ask that SB 60, SD 1 be HELD.

Thank you very much for the opportunity to provide testimony on this bill.

Justin F. Kollar
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TESTIMONY IN OPPOSITION TO
S.B. NO. 60, S.D. 1
A BILL FOR AN ACT RELATING TO VICTIMS OF CRIMES

Justin F. Kollar, Prosecuting Attorney
County of Kaua'i

House Committee on Judiciary

Friday, January 17, 2014
2:00 p.m., Room 325

Honorable Chair Rhoads, Vice-Chair Har, and Members of the House
Committee on Judiciary:

The Office of the Prosecuting Attorney, County of Kaua'i submits the following
testimony in OPPOSITION to S.B. 60, S.D. 1, Relating to Victims of Crimes.

The purpose of S.B. 60, S.D. 1, is to include the responsibility of notifying
crime victims or surviving immediate family of their rights to participate in the
restorative justice process and what programs are available to them.

While the bill addresses the needs of crime victims and family members, there
is one main concern I would like to address. First and foremost, lines 5
through 7 of page 4 may add the responsibility of the programs to the
department in addition to the task of tracking these programs. According to the
responsibilities and duties of the OPA as set forth in the Kaua'i County
Charter, it does not encompass the management and/or development of
programs.

For this reason, we ask that S.B. 60, S.D. 1 be HELD.

Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Justin F. Kollar".

Justin F. Kollar
Prosecuting Attorney
County of Kaua'i

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COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair

Rep. Sharon Har, Vice Chair

Friday, January 17, 2014

2:00 p.m.

Room 325

SUPPORT - SB 60 SD1 - RESTORATIVE JUSTICE FOR VICTIMS

Aloha Chair Rhoads, Vice Chair Har and Members of the Committee!

Hau`oli Makahiki Hou! 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.

SB 60 SD1 requires victims of crimes and surviving immediate family members to be notified of their right to participate in the restorative justice process.

Community Alliance on Prisons is in support of this measure.

Restorative practices have been proven to reduce crime and victimization, promote understanding, and build community.

The Research

Research clearly shows that restorative justice interventions are more effective at reducing repeat crime and reducing recidivism than our current mainstream justice systems (Sherman & Strang 2007) ¹

Conclusions from the evidence

1. Crime victims who receive restorative justice do better, on average, than victims who do not, across a wide range of outcomes, including post-traumatic stress.

¹ Restorative justice: the evidence, The Smith Institute, 2007.

http://www.smithinstitute.org.uk/pdfs/RJ_full_report.pdf

2. In many tests, offenders who receive restorative justice commit fewer repeat crimes than offenders who do not.
3. In no large-sample test has restorative justice increased repeat offending compared with criminal justice.
4. Restorative justice reduces repeat offending more consistently with violent crimes than with less serious crimes.
5. Diversion from prosecution to restorative justice substantially increases the odds of an offender being brought to justice.
6. Diversion from prosecution to restorative justice is almost impossible in the UK because of an evidentiary requirement that far exceeds the bar found in other common law nations.
7. The best evidence on success in implementing restorative justice from tests to date is associated with specially trained police officers providing restorative justice from a base in a police RJ unit.
8. RJ does not conflict with the rule of law, nor does it depart from the basic paradigm of the common law of crime.
9. Restorative justice can do as well as, or better than, short prison sentences, as measured by repeat offending.
10. Restorative justice reduces stated victim desire for violent revenge against offenders.

Restorative justice reduces crime by 27%²

The experience of “restorative justice,” in which offenders confront their crime victims, reduces the frequency of reconviction by an average of 27%, the independent evaluators of the scheme have found.

The report includes seven experiments designed and directed by the Wolfson Professor of Criminology at Cambridge, Lawrence Sherman, and his co-director Dr. Heather Strang, who directs the Centre for Restorative Justice at the Australian National University. The experiments began in 2001 and were conducted in collaboration with the Justice Research Consortium, under the chairmanship of Sir Charles Pollard, former Chief Constable of Thames Valley Police and former Chairman of the Youth Justice Board for England and Wales.

The findings appear in a University of Sheffield³ report evaluating seven Cambridge University-led experiments in restorative justice. They will be presented to the Cambridge Conference on Evidence-Based Policing today, July 1, by Professor Joanna Shapland, from the University of Sheffield School of Law, who led the evaluation team.

This report takes our evaluation up to the end of the restorative justice event and any follow up by schemes of outcomes. The three schemes covered very different stages of criminal justice - diversion, pre-sentence, during community sentences, pre-release.

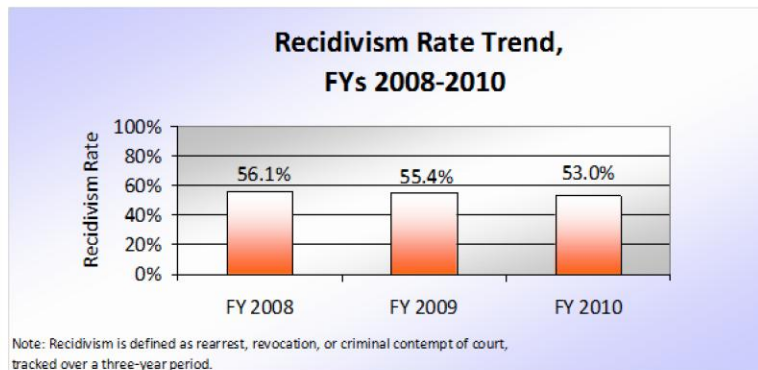
² **Restorative justice reduces crime by 27%**, University of Cambridge, July 2008.
<http://www.admin.cam.ac.uk/news/dp/2008070103>

³ **Restorative Justice in Practice, The Second Report from the Evaluation of Three Schemes**, Joanna Shapland, Anne Atkinson, Helen Atkinson, Becca ChapmanEmily Colledge, James Dignan, Marie Howes, Jennifer Johnstone, Gwen Robinson, Angela Sorsby, July 2006.
http://www.shef.ac.uk/polopoly_fs/1.783/file/RestorativeJustice2ndReport.pdf

A fourth report⁴ from the same researchers found that:

Summed over all three restorative justice schemes, those offenders who participated in restorative justice committed statistically significantly **fewer** offences (in terms of reconvictions) in the subsequent two years than offenders in the control group.

Prison without rehabilitation only creates more crime. Hawai'i's prison recidivism rates averages 54.8%⁵ across probation, parole and public safety. of all the people being released from and prison returning within three years of their release.



Aotearoa (New Zealand), which provides more rehabilitation in its prisons than Hawai'i, has almost a 15% lower rate with 37% of their incarcerated people back into prison within two years, but that is bad news for the Kiwis who would like to see even less recidivism.⁶

A recent powerful story in AlterNet⁷ reported:

A storm of comments swirled around a story about teen murder in the New York Times last weekend. The parents of a young woman named Ann forgave her boyfriend, Conor, for murdering her. Andy and Kate Grosmaire had loved Conor before he killed Ann, their youngest daughter. But they said they did not so much forgive him for his sake as for their own, to free

⁴ **Does restorative justice affect reconviction? The fourth report from the evaluation of three schemes**, , Joanna Shapland, Anne Atkinson, Helen Atkinson, Becca ChapmanEmily Colledge, James Dignan, Marie Howes, Jennifer Johnstone, Gwen Robinson, Angela Sorsby, June 2008.

http://webarchive.nationalarchives.gov.uk/+http://www.justice.gov.uk/restorative-justice-report_06-08.pdf

⁵ **Scorecard Report: Indicators and Trends 2008-2010**, Timothy Wong, ICOS Research Analyst, Hawai'i Department of the Attorney General, April 18, 2012. <http://hawaii.gov/icis/documents/Scorecard%20Report%20-%20Selected%20Indicators%20and%20Trends,%20FYs%202008-2010.pdf>

⁶ **Prison Fellowship fund shortfall will cost us all**, Thursday, 3 July 2008, Press Release: United Future NZ Party. <http://www.scoop.co.nz/stories/PA0807/S00086.htm>

⁷ **Radical Compassion: Restorative Justice Program Meets Needs of Both Victims and Perpetrators** *A new program allows victims' forgiveness to play a role in prosecution.*, AlterNet, By David Belden, January 20, 2013 <http://www.alternet.org/radical-compassion-restorative-justice-program-meets-needs-both-victims-and-perpetrators?akid=9946.17368.9WqRm0&rd=1&src=newsletter779986&t=13&paging=off>

themselves from being imprisoned in hate and anger, and to follow the teachings of Christ (they are committed Catholics).

What shocked many readers, though, was that they sought a "restorative justice" process, in which Conor, the two sets of parents and other involved individuals met in a circle with the prosecutor and bared their souls to one another – and thereby succeeded in persuading the prosecutor to give Conor a lower sentence than he would otherwise have received.

Individuals who participated in a Hawai'i state court program, *Pono Kaulike: A Hawaii Court Provides Restorative Justice Practices for Healing Relationships*, found that the people who participated in Pono Kaulike have a significantly lower rate of recidivism--18% compared--to the control group, which had a 51% rate of repeating crime.⁸

Community Alliance on Prisons has partnered with Hawai'i Friends of Justice and Civic Education in restorative reentry circles and has seen the transformation occur when relationships are moved toward healing. We, therefore, strongly support restorative practices and urge the committee to pass this bill so that victims of crime have the opportunity to heal.

Mahalo for this opportunity to testify.

⁸ *Pono Kaulike: A Hawaii Court Provides Restorative Justice Practices for Healing Relationships*, Walker & Hayashi, Federal Probation Journal, Vol. 71, No. 3, 18-24, 2007.

http://www.uscourts.gov/fedprob/December_2007/hawaiianCriminalCourt.html

COMMITTEE ON JUDICIARY

Honorable Representative Karl Rhoads, Chairperson
Honorable Representative Sharon Har, Vice Chairperson
Friday, January 17, 2014
2:00 p.m.
Room 325

STRONG SUPPORT SB60 - RELATING TO VICTIMS

Please vote yes to pass, as amended below, this measure giving crime victims the right to be informed of their rights to participate in restorative justice processes. This provision sends a clear message to our community that the legislature cares about healing for people harmed by crimes, and demands that the victims' rights be considered as significant as consequences for offenders.

The bill should be amended to make it *applicable to all victims, regardless of any criminal charges*. The bill protects any offenders who do not want to participate, but as most restorative projects have shown in Hawai'i and world wide many offenders do want to participate. The bill should be amended as follows:

To be informed by the police or the prosecuting attorney of their rights to participate in restorative justice processes, in the event that the criminal case that harmed them does not result in criminal charges being brought against a person or entity, to allow the victim and any loved ones who accompany them to discuss and address how they were affected by the wrongful act that harmed them, and what might possibly be done to try and help repair the harm or make things right. Victim participation includes the victim meeting directly with the defendant or perpetrator, if the defendant or perpetrator is identified and is willing to meet, or the victim or the victim's representative meeting with a representative of the defendant or perpetrator.

I am a restorative lawyer and public health educator. My experience as someone who has worked in the justice system for over 30 years informs my support for the measure along with my personal experience being the victim of a serious assault and attempted murder by a stranger in 1976. The event propelled me into college and becoming a lawyer, but it was not until I had worked in restorative justice, when I was able to fully heal from the traumatic experience. Please help other victims have the opportunity to experience this healing by passing the measure showing your support for them.

Please see my website www.lorennwalker.com for a description of my background and experience in criminal justice interventions for agencies including courts, police, and prisons.

Thank you for your time and efforts in public service.