
A BILL FOR AN ACT

RELATING TO HAWAIIAN AFFAIRS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Act 170, Session
2 Laws of Hawaii 2011, directed the office of Hawaiian affairs to
3 convene a Native Hawaiian justice task force and produce a
4 report regarding the disproportionate representation of Native
5 Hawaiians in the State's criminal justice system. The report
6 made the following findings:

- 7 (1) That the disparate impact of the criminal justice
8 system on Native Hawaiians is apparent at every stage
9 of the criminal justice system;
- 10 (2) That given a determination of guilt, Native Hawaiians
11 are not only more likely to get a prison sentence, but
12 they are more likely to receive a longer prison
13 sentence than other racial groups;
- 14 (3) That Native Hawaiians make up the highest percentage
15 of Hawaii inmates incarcerated in out-of-state
16 facilities. In 2005, forty-one per cent of the Hawaii



1 inmates in out-of-state facilities were Native
2 Hawaiians; and
3 (4) That incarceration in an out-of-state facility is
4 particularly traumatic for Native Hawaiians.
5 Culturally, Native Hawaiians have a strong connection
6 to family, the land, and the community. Being in an
7 out-of-state prison cuts them off from supportive
8 communities and families that give them a reason to
9 exit prison as soon as possible.

10 The task force also made recommendations that the Hawaii inmates
11 currently housed in private, out-of-state prisons should be
12 returned to the State as soon as practicable and that the State
13 should consider passing legislation prohibiting the future use
14 of private for-profit correctional facilities.

15 In this regard, the legislature finds that the management
16 and operation of a correctional facility involves functions that
17 are inherently governmental. The exercise of police powers over
18 individuals of this State should not be privatized and managed
19 by out-of-state correctional facilities.

20 The legislature further finds that methamphetamine related
21 offenses are the only drug offenses in the State that carry a



1 mandatory sentence. According to the findings of the Native
2 Hawaiian justice task force, Native Hawaiians are more likely
3 than any other racial or ethnic group in the State to be charged
4 with a methamphetamine related offense, which contributes to the
5 disproportionate representation of Native Hawaiians in the
6 prison system.

7 The purpose of this Act is to take action on the findings
8 and recommendations of the Native Hawaiian justice task force
9 by:

- 10 (1) Prohibiting the transfer of Hawaii inmates to any
11 correctional facility that is not owned and operated
12 by and within the State; and
13 (2) Repealing the specific requirements for mandatory
14 minimum sentencing for methamphetamine offenses.

15 SECTION 2. Chapter 353C, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§353C- Prohibition on transfer of inmates to out-of-
19 state or private correctional facilities. Beginning on July 1,
20 2015, an inmate in the custody of the department shall be
21 transferred only to a correctional facility that is within the



1 State and is owned and operated by the State or one of its
2 political subdivisions."

3 SECTION 3. Section 712-1240.7, Hawaii Revised Statutes, is
4 amended by amending subsection (3) to read as follows:

5 "(3) Notwithstanding sections 706-620(2), 706-640, 706-
6 641, 706-659, 706-669, and any other law to the contrary, a
7 person convicted of methamphetamine trafficking in the first
8 degree shall be sentenced to an indeterminate term of
9 imprisonment of twenty years [~~with a mandatory minimum term of~~
10 ~~imprisonment of not less than two years and not greater than~~
11 ~~eight years]~~ and a fine not to exceed \$20,000,000 [~~provided~~
12 ~~that:~~

13 ~~(a) If the person has one prior conviction for~~
14 ~~methamphetamine trafficking pursuant to this section~~
15 ~~or section 712-1240.8, the mandatory minimum term of~~
16 ~~imprisonment shall be not less than six years, eight~~
17 ~~months and not greater than thirteen years, four~~
18 ~~months,~~

19 ~~(b) If the person has two prior convictions for~~
20 ~~methamphetamine trafficking pursuant to this section~~
21 ~~or section 712-1240.8, the mandatory minimum term of~~



1 ~~imprisonment shall be not less than thirteen years,~~
2 ~~four months and not greater than twenty years; or~~
3 ~~(c) If the person has three or more prior convictions for~~
4 ~~methamphetamine trafficking pursuant to this section~~
5 ~~or section 712-1240.8, the mandatory minimum term of~~
6 ~~imprisonment shall be twenty years]."~~

7 SECTION 4. Section 712-1240.8, Hawaii Revised Statutes, is
8 amended by amending subsection (3) to read as follows:

9 "(3) Notwithstanding sections 706-620, 706-640, 706-641,
10 706-660, 706-669, and any other law to the contrary, a person
11 convicted of methamphetamine trafficking in the second degree
12 shall be sentenced to an indeterminate term of imprisonment of
13 ten years [~~with a mandatory minimum term of imprisonment of not~~
14 ~~less than one year and not greater than four years]~~ and a fine
15 not to exceed \$10,000,000 [~~; provided that:~~

16 ~~(a) If the person has one prior conviction for~~
17 ~~methamphetamine trafficking pursuant to this section~~
18 ~~or section 712-1240.7, the mandatory minimum term of~~
19 ~~imprisonment shall be not less than three years, four~~
20 ~~months and not greater than six years, eight months,~~



1 ~~(b) If the person has two prior convictions for~~
2 ~~methamphetamine trafficking pursuant to this section~~
3 ~~or section 712-1240.7, the mandatory minimum term of~~
4 ~~imprisonment shall be not less than six years, eight~~
5 ~~months and not greater than ten years; or~~

6 ~~(c) If the person has three or more prior convictions for~~
7 ~~methamphetamine trafficking pursuant to this section~~
8 ~~or section 712-1240.7, the mandatory minimum term of~~
9 ~~imprisonment shall be ten years]."~~

10 SECTION 5. Section 353-16.2, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§353-16.2 Transfer of inmates to out-of-state**
13 **institutions.** (a) The director may effect the transfer of a
14 committed felon to any correctional institution located in
15 another state regardless of whether the state is a member of the
16 Western Interstate Corrections Compact; provided that the
17 institution is in compliance with appropriate health, safety,
18 and sanitation codes of the state, provides a level of program
19 activity for the inmate that is suitable, and is operated by
20 that state, by any of its political subdivisions, or by a



1 private institution; and provided further that the transfer is
2 either:

3 (1) In the interest of the security, management of the
4 correctional institution where the inmate is presently
5 placed, or the reduction of prison overcrowding; or

6 (2) In the interest of the inmate.

7 (b) Terms and conditions of the transfer and any
8 reimbursement for expenses shall be agreed upon between the
9 department and the out-of-state correctional institution prior
10 to transfer.

11 (c) Notwithstanding the director's authority under
12 subsection (a), beginning on July 1, 2015, an inmate in the
13 custody of the department shall be transferred only to a
14 correctional facility that is within the State and is owned and
15 operated by the State or one of its political subdivisions."

16 SECTION 6. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect upon its approval.

2

INTRODUCED BY: *[Signature]*

[Signature]

Cindy Evans

Tom Brown

JAN 29 2015



H.B. NO. 1477

Report Title:

Department of Public Safety; Hawaiian Affairs; Private
Correctional Facilities; Methamphetamine Mandatory Minimum

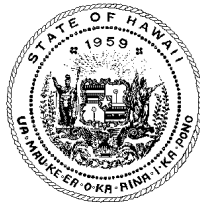
Description:

Prohibits the transfer of inmates in the custody of the department of public safety to any correctional facility that is not operated by and within the State. Removes mandatory minimum sentencing for methamphetamine drug offenses.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



DAVID Y. IGE
GOVERNOR



LATE

NOLAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Deputy Director
Corrections

Shawn H. Tsuha
Deputy Director
Law Enforcement

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

TESTIMONY ON HOUSE BILL 1477
A BILL RELATING TO PUBLIC SAFETY
Nolan P. Espinda, Director
Department of Public Safety

House Committee on Public Safety
Representative Gregg Takayama, Chair
Representative Kyle T. Yamashita, Vice Chair

House Committee on Ocean, Marine Resources, &
Hawaiian Affairs
Representative Kaniela Ing, Chair
Representative Nicole E. Lowen, Vice Chair

Thursday, February 12, 2015, 8:45AM
State Capitol, Conference Room 309

Chairs Takayama and Ing, Vice Chairs Yamashita and Lowen and Committee Members:

The Department of Public Safety opposes House Bill 1477, Relating to Public Safety. Sections 2 and 5 of this bill would severely hamper the Department's ability to manage our felon prison population. Due to the lack of prison space in Hawaii, the Department currently utilizes the services of a private prison vendor in Arizona, which houses approximately 1,400 inmates. As of January 26, 2015, operational bed capacity for all Hawaii facilities was listed at 3,527, however, there were 5,652 inmates under the custody of the Department with 4,042 inmates housed in Hawaii.

It has been the long term goal of the Department to return all inmates back to Hawaii. This goal cannot be accomplished without creating additional bed space in Hawaii. The current placement of inmates in Arizona gives the Department the ability to prevent prisons in Hawaii from becoming too severely overcrowded. Without this resource, long term overcrowding would have a negative impact on conditions of

confinement, which could result in significant issues of safety and security for both inmates and staff.

Until the bed capacity in Hawaii is increased, the Department should have the discretion to contract and utilize prison space on the mainland as deemed appropriate.

Thank you for this opportunity to testify.

yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 11, 2015 2:01 PM
To: pbstestimony
Cc: anne.e.lopez@hawaii.gov
Subject: Submitted testimony for HB1477 on Feb 12, 2015 08:45AM
Attachments: HB1477_ATG_02-12-15_PBS_OMH.pdf

HB1477

Submitted on: 2/11/2015

Testimony for PBS/OMH on Feb 12, 2015 08:45AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Lopez	Department of Attorney General	Comments Only	Yes

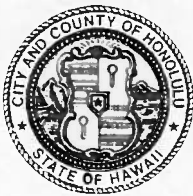
Comments: Deputy Attorney General, Lisa Itomura, will be present at the hearing on HB1477 to testify.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu-pd.org



KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. McCAULEY
DEPUTY CHIEFS

OUR REFERENCE JI-TA

February 12, 2015

The Honorable Gregg Takayama, Chair
and Members
Committee on Public Safety
The Honorable Kaniela Ing, Chair
and Members
Committee on Ocean, Marine Resources
and Hawaiian Affairs
State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Takayama and Ing and Members:

SUBJECT: House Bill No. 1477, Relating to Hawaiian Affairs

I am Jerry Inouye, Major of the Narcotics/Vice Division of the Honolulu Police Department, City and County of Honolulu. The Honolulu Police Department opposes House Bill No. 1477, Relating to Hawaiian Affairs.

The bill seeks, in part, to remove mandatory minimum sentencing for convictions involving methamphetamine trafficking. Methamphetamine is a serious problem in Hawaii. Next to marijuana, it is the most seized drug by weight. To remove mandatory minimum sentences for methamphetamine trafficking would be to downplay the seriousness of the problem. Keeping mandatory minimum sentencing as is will maintain the deterrent effect of the law.


The Honolulu Police Department urges you to oppose House Bill No. 1477, Relating to Hawaiian Affairs.

Thank you for the opportunity to testify.

Sincerely,


JERRY INOUYE, Major
Narcotics/Vice Division

APPROVED:


LOUIS M. KEALOHA
Chief of Police

yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 10, 2015 11:01 AM
To: pbstestimony
Cc: jkollar@kauai.gov
Subject: Submitted testimony for HB1477 on Feb 12, 2015 08:45AM
Attachments: HB1477 - Relating to Hawaiian Affairs.pdf

HB1477

Submitted on: 2/10/2015

Testimony for PBS/OMH on Feb 12, 2015 08:45AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Justin F. Kollar	County of Kauai Office of the Prosecuting Attorney	Comments Only	No

Comments: The County of Kaua'i, Office of the Prosecuting Attorney, submits these COMMENTS regardin HB1447 – Relating to Hawaiian Affairs. This Bill, among other provisions, removes the mandatory minimum sentencing requirements for defendants convicted of Methamphetamine Trafficking in the First and Second Degrees. These provisions appear to be completely unrelated to the legislative findings that precede the bill. Methamphetamine trafficking remains a significant public safety threat to Hawai'i's communities. While it is undisputed that the Native Hawaiian population is disproportionately impacted by the criminal justice system, it is unclear how easing the penalties for methamphetamine trafficking will resolve that disparity or contribute to the safety of the community. We express no opinion on the Bill's other provisions. Thank you very much for the opportunity to provide our comments on this Bill.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Justin F. Kollar
Prosecuting Attorney

Kevin K. Takata
First Deputy



Rebecca A. Vogt
Second Deputy

Diana Gausepohl-White
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

County of Kaua'i, State of Hawai'i

3990 Ka'ana Street, Suite 210, Lihu'e, Hawai'i 96766
808-241-1888 ~ FAX 808-241-1758
Victim/Witness Program 808-241-1898 or 800-668-5734

COMMENTS RELATING TO
HB1447 – RELATING TO HAWAIIAN AFFAIRS

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

Senate Committee on Public Safety, Intergovernmental and Military Affairs
February 12, 2015, 1:15 p.m., Conference Room 229

Chair Espero, Vice Chair Baker, and Members of the Committee:

The County of Kaua'i, Office of the Prosecuting Attorney, submits these COMMENTS regardin HB1447 – Relating to Hawaiian Affairs. This Bill, among other provisions, removes the mandatory minimum sentencing requirements for defendants convicted of Methamphetamine Trafficking in the First and Second Degrees. These provisions appear to be completely unrelated to the legislative findings that precede the bill. Methamphetamine trafficking remains a significant public safety threat to Hawai'i's communities. While it is undisputed that the Native Hawaiian population is disproportionately impacted by the criminal justice system, it is unclear how easing the penalties for methamphetamine trafficking will resolve that disparity or contribute to the safety of the community. We express no opinion on the Bill's other provisions.

Thank you very much for the opportunity to provide our comments on this Bill.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair

Rep. Kyle Yamashita, Vice Chair

COMMITTEE ON MARINE, OCEAN RESOURCES & HAWAIIAN AFFAIRS

Rep. Kaniela Ing, Chair

Rep. Nicole Lowen, Vice Chair

Thursday, February 12, 2015

8:45 a.m.

Room 309

SUPPORT for HB 1477

PROHIBITING PRISON TRANSFERS & REPEALING A & B MANDATORY MINIMUMS

Aloha Chairs Takayama and Ing and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who 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 1477 prohibits the transfer of inmates in the custody of the department of public safety to any correctional facility that is not operated by and within the State. Section 2 of the bill removes mandatory minimum sentencing for methamphetamine drug offenses.

Community Alliance on Prisons supports this measure.

We are painfully aware of the many, many problems that the 20 year "temporary solution" to banish our people to corporate prisons thousands of miles from their homes has wrought.

While Hawai'i talks about strengthening the family, policies of banishment do nothing to further this goal. Kanaka Maoli have been routinely mistreated by staff in Arizona who have no knowledge of or interest in our people, our values, and our customs. This has led to lawsuits and allegations and abuse by the **contractor**, Corrections Corporation of America (CCA).

- **CCA VALUES CULTURE?**

The American Indians who are incarcerated in Arizona have a sweat lodge. We can only surmise that because Doc Crantz (one of CCA's founders) is American Indian, permission for a sweat lodge may have been easily granted. Not so for Kanaka Maoli.

When Hawaiian Civic Club members visited Saguaro prison a few years ago, the Warden and staff there put on quite a show for them relating how our men are allowed to practice their culture, use their sacred ceremonial implements, and come together for kanikapila. Prison officials proudly showed the cabinet in which they keep the sacred implements of the Kanaka Maoli for "safekeeping". They value Hawaiian culture, says CCA. *Ah, if only that were true.*

Several years ago, Kamehameha Schools, Native Books, and other community organizations got together and shipped 300 brand new Hawaiian books to Saguaro to serve the disproportionate number of Kanaka Maoli there.

- *How did CCA demonstrate that they value Hawaiian culture?*

CCA BURNED ALL 300 BRAND NEW BOOKS IN FRONT OF OUR PEOPLE

What did the department of public safety do? **NOT A THING!**

Our Kanaka Maoli and the caring attorneys at Native Hawaiian Legal Corporation have had to sue CCA several times for their rights to practice their culture. These are the very same rights that the Warden of Saguaro highlighted as being respected and upheld when visited by several Hawaiian Civic Club members.

Kanaka Maoli are the largest population in Saguaro Prison. Several years ago, a department official told me that CCA comes to Hawai'i and chooses the incarcerated individuals they will accept. Of course, they only want healthy, mentally stable, and easy to handle individuals; the difficult populations are left in Hawai'i. And CCA liked to take Kanaka Maoli because "they are docile", the person told me.

- **WHY IS THE TAIL WAGGING THE DOG?**

The CCA salesmen/lobbyists have convinced Hawai'i officials and the visiting evangelical churches that Saguaro and CCA have many educational, vocational, and cultural programs for our people. This looks really good on paper, but in real life...not so much.

As the 2010 Audit of contract beds showed, the state is way too cozy with CCA and our communities are being devastated because of it.

Please note that we have emphasized that CCA is a **CONTRACTOR** and should be held to the same standards as other providers of contracts to the state. CCA's lobbyists and salespersons, however, have convinced the state that they are "partners". **CCA IS NOT A PARTNER WITH THE STATE; THEY ARE CONTRACTORS!** They have lulled Hawai'i officials into a state of complacency in accepting this wrong language and our families and communities are all paying dearly for this.

• **REDUCING THE INCARCERATED POPULATION**

Hawai'i already knows what works. There are many programs in place already that could be expanded to handle clients who are exiting incarceration. If we implement the principles of Justice Reinvestment that are working in other places, we will realize a reduction in the incarcerated population and an increase in community services. This is good for our local economy because it translates into local jobs for local people, less crime, and safer and healthier communities.

Some of the programs that we know are effective – if implemented correctly:

- Work Furlough IF the person is prepared to work out in the community
- Jail Diversion – IF there is support to assist people in living legally and independently
- Desistence¹
- Good Time/Earned Time Program
- Work Training & Educational Programs
- Pre-Release And Reentry Programs
- Restorative Reentry Planning Circles

Sentencing reform is an effective way to stem the inflow of individuals into the justice system. Criminalizing every behavior that some find offensive will certainly put our economy underwater. Sentencing needs to be proportionate to the crime.

In short, there are many proven strategies that we could earnestly employ to reduce the incarcerated population, but also to stop the inflow to incarceration. It takes courage to do things that you may think are unpopular; however, an October 2014 Reason-Rupe Public Opinion Survey found that 77 percent of Americans support eliminating mandatory minimum sentences for non-violent drug offenses. That number is up from 71 percent in December 2013, the last time Reason-Rupe polled on the question. You can find the full survey results here (http://famm.org/wp-content/uploads/2014/10/Topline_ReleaseFULL_oct_10_2014-1.pdf); mandatory minimums are question 17.

17. Would you favor or oppose eliminating mandatory minimum prison sentences for nonviolent offenders so that judges have the ability to make sentencing decisions on a case-by-case basis?

Favor	77%
Oppose	17%
Total	100%

Implementing shorter sentences and more programs to help individuals successfully rehabilitate their lives and then transition back to the community would be enormously helpful in reducing the population of incarcerated human beings. We MUST address who actually should be in prison and who would be better served in community programs.

¹ *A desistance paradigm for offender management*, *Criminology & Criminal Justice*, McNeill, Sage Publications, 2006.. http://www.sccjr.ac.uk/wp-content/uploads/2009/01/A_Desistance_Paradigm_for_Offender_Management.pdf

- **THE ASSOCIATION OF HAWAIIAN CIVIC CLUBS URGES THE STATE TO IMPLEMENT JUSTICE REINVESTMENT BEFORE EXPANDING BEDSPACE**

We respectfully call the committee's attention to the **Association of Hawaiian Civic Clubs Resolution No. 14-18 that passed the 2014 AHCC Convention on November 1, 2014** titled, "STRONGLY URGES THE STATE TO FULLY IMPLEMENT AND FUND THE JUSTICE REINVESTMENT INITIATIVE BEFORE IT BEGINS PLANNING FOR EXPANDING BED SPACE FOR HAWAII'S INCARCERATED PERSONS."

The resolution "calls upon the Department of Public Safety to do a complete and comprehensive analysis of the needs of Hawai'i's incarcerated population serving their sentences in Hawai'i and other jurisdictions", and further that "this analysis shall include, but not be limited to, the classification status of each incarcerated person, his/her minimum sentence, his/her tentative parole date (if applicable), and the current location of each person under custody". The resolution goes on to say that "this analysis shall include a breakdown by race with specific counts for incarcerated Native Hawaiians, both men and women".

- **THE HAWAII DEMOCRATIC PARTY PASSES HHS 2014-03 JUSTICE REINVESTMENT INITIATIVE FOR PRISONERS IN HAWAII**

The Democratic Party passed HHS 2014-03 Justice Reinvestment Initiative For Prisoners in Hawaii, which can be found in a pdf file on the Democratic Party's website: <http://hawaiidemocrats.org/index.php/about/resolutions/201-2014-health-and-human-services-resolutions>.

Using these proven strategies that have had success in Hawai'i, we can reduce the prison population, return incarcerated persons from Arizona, and reinvest the savings in an array of community programs that are run by our people, for our people, providing desperately needed services in our communities, jobs for our people, and our money circulating in our economy,

Sections 3 and 4 of the bill repeal mandatory minimum sentencing for Class A and B felonies for methamphetamine, thereby returning judicial discretion to the courts, where it belongs.

Community Alliance on Prisons has been advocating the restoration of judicial discretion for more than a decade. The cost to taxpayers is huge. We asked the department for statistics on the number of people serving terms where drugs were the lead offense and also the number of people serving mandatory minimum sentences for A & B drug felonies. We were told that as of August 30, 2014, there were 482 persons serving sentences where drugs were the lead offense and 50 of those people were serving mandatory minimum sentences (14 people serving A felony sentences; 36 people serving B felony sentences).

Using the rate of \$134/day, as reported by the Director of Public Safety in a recent committee hearing, we calculated the cost of incarceration for the 432 people (482 - 50). Since the average sentence people serve in Hawai'i is approximately 39 months, the cost to incarcerate these 432 people is approximately \$67,728,960. ($\$134/\text{day} \times 30 \text{ days} = \$4,020/\text{month} \times 39 \text{ months} = \$156,780 \times 432 \text{ persons} = \$67,728,960$).

If we used the analysis from the CBO and reduced the average sentence to 24 months, Hawai`i \ could save more than \$26 million, reduce the prison population, and reinvest those funds into community-based programs to assist those exiting incarceration.

In summary, Hawai`i needs a policy that reflects our values. Banishing our people to a foreign land for breaking the law is inhumane.

Community Alliance on Prisons respectfully requests that the committees consider framing a policy that commits to improving the quality of justice by restoring judicial discretion, prohibiting the transfer of human beings (except for those specific cases as designated by the department), and increasing the capacity of community-based programs to meet the needs of these exiting incarceration.

Mahalo for this opportunity to testify.

Name: Anna Ramos

Position/Title: Community Collaborator

Organization: BHIS, LLC

HOUSE OF REPRESENTATIVES
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair
Rep. Kyle T. Yamashita, Vice Chair
Rep. Henry J.C. Aquino
Rep. Sharon E. Har
Rep. Linda Ichiyama
Rep. Aaron Ling Johanson
Rep. Jarrett Keohokalole
Rep. Mark M. Nakashima
Rep. Joy A. San Buenaventura
Rep. Roy M. Takumi
Rep. Andria P.L. Tupola

COMMITTEE ON OCEAN, MARINE RESOURCES &
HAWAIIAN AFFAIRS

Rep. Kaniela Ing, Chair
Rep. Nicole E. Lowen, Vice Chair
Rep. Ty J.K. Cullen
Rep. Cindy Evans
Rep. Chris Lee
Rep. Scott Y. Nishimoto
Rep. Calvin K.Y. Say
Rep. Ryan I. Yamane
Rep. Feki Pouha
Rep. Cynthia Thielen

NOTICE OF HEARING

February 12, 2015

8:45 am

Conference Room 309

State Capitol, 415 S. Beretania St.

Aloha Honorable Chairmen and committee members:

I am writing to express my support for **HB 1477/SB 1326** as a concerned citizen working to increase public safety by improving reentry from prisons, jails, and juvenile facilities in the community.

I recognize this bill as a first in many steps that must be taken in order to address the disparity among Native Hawaiians in our justice system, the overcrowding in our public safety facilities, and the tax dollars spent on fueling the revolving door of our present corrections system.

I believe that by supporting **HB 1477/ SB 1326**, the state will realize a reduction in costs that will provide an increase in resources to community-based organizations that are in dire need of them to address inmate and former offender reentry, restoration processes, and recidivism reduction efforts in our communities.

I am a veteran Human Service professional with over 20 years in the field. Since 2013, I have been working in the community gathering leaders in various sectors of service to the incarcerated and their

families. In 2014, I gave myself to this cause full-time. In all, I have convened over a dozen and a half monthly face-to-face cross-sector collaborative impact meetings on the Leeward side to listen to the challenges, successes, and the concerns that these leaders in education, workforce readiness, housing, family support, community safety, restorative justice, recovery, mental health and spiritual wellness face as they tirelessly deal with the influx of offenders needing services. This, I believed, was my "kuleana." As a result, I have a network of close to 400 community leaders, who also have their individual networks as well. These include the advocates and writer of this bill, Restorative Justice, Justice Reinvestment, and Pu`uhonua proponents. Let me share that they are expert at what they do, but do it with little or diminishing resources. Resources that would be available over time with the support of this bill. Please know that I will continue to mobilize the community around this cause sorely effecting our people. In the meantime, that is, today, I do hope you will recognize that you have an opportunity to act with intent and take this very critical, sound, and strategic first step--a white flag of coming relief to these committed leaders in the ongoing battle to do what is right and just by all the members of our community--victims, offenders, and the public at large. They are your greatest asset! Please show them your support.

Please support **HB 1477/SB 1326**, Prohibiting the transfer of inmates to private prison facilities not operated by and within the state, and removing the minimum mandatory sentencing for methamphetamine drug offenses.

Respectfully submitted,



(Signature)

February 11, 2015
(Date submitted)

yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 11, 2015 11:50 AM
To: pbstestimony
Cc: lorenn@hawaii.edu
Subject: Submitted testimony for HB1477 on Feb 12, 2015 08:45AM
Attachments: HB1477 prohibit transfers & meth.pdf

HB1477

Submitted on: 2/11/2015

Testimony for PBS/OMH on Feb 12, 2015 08:45AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Lorenn Walker	Hawai'i Friends of Restorative Justice	Support	Yes

Comments:

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair
Rep. Kyle Yamashita, Vice Chair

COMMITTEE ON OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS

Rep. Kaniela Ing, Chair
Rep. Nicole Lowen, Vice Chair

Thursday, February 12, 2015
8:45 a.m.
Room 309

SUPPORT FOR HB 1477 RELATING TO HAWAIIAN AFFAIRS

This bill should be passed. Hawai'i should stop sending people to private prisons out of the state and we should repeal mandatory sentences for methamphetamine offenses.

Sending people to prisons out of state private prisons has been a proven disaster. Instead of being motivated to rehabilitate and make amends by visits with loved ones, people sent to out of state prisons more often form connections with other criminals. This should be no surprise to anyone working in corrections. We have known since the 1970s from Phil Zimbardo's acclaimed research at Stanford University that prisons increase violent and criminal behavior.¹ Prisons are "crime colleges."² Even the U.S. Department of Justice now warns that prison does not deter crime: "Prisons actually may have the opposite effect."³

The private prison industry in its efforts to earn as much profit for stockholders, creates serious conflicts of interest and increases risk and harm to the incarcerated and the public. Using private prisons is a shortsighted public policy decision for numerous reasons.⁴

Most incarcerated people have substance abuse problems.⁵ Instead of continuing to use prisons and criminalizing people with substance abuse problems, community based rehabilitation programs,⁶ restorative justice,⁷ and public health approaches⁸ should be used.

The state should reassess its current need to imprison 6000 people. We should be ashamed of imprisoning this many people when we only have a population of 1.3 million. If Hawai'i were a country we would be one of the world's top 30 incarcerators.⁹ Especially disturbing is that a disproportionate share of Native Hawaiians are imprisoned. This bill would help reduce Hawai'i's reliance on prisons to address social problems and improve our community.

Respectfully, Lorenn Walker, JD, MPH, volunteer executive director, Hawai'i Friends of Restorative Justice

¹ 2004, American Psychological Association, *Demonstrating the Power of Social Situations via a Simulated Prison Experiment*, <http://www.apa.org/research/action/prison.aspx>.

² 2011, Defina & Hannon, *Mass Incarceration: Long-Term Harm versus Short-Term Good*, Villa Nova University, https://www.bostonfed.org/commdev/c&b/2011/summer/DeFina_Hannon_mass_imprisonment.pdf

³ 2014, U.S. Dept of Justice, National Institute of Justice, *Five Things About Deterrence*, <https://ncjrs.gov/pdffiles1/nij/247350.pdf>

⁴ 2012, Hartney & Glesmann, *Prison Bed Profiteers: How Corporations are Reshaping Criminal Justice in the United States*, National Council on Crime & Delinquency, http://nccdglobal.org/sites/default/files/publication_pdf/prison-bed-profiteers.pdf

⁵ 1998, Peters, Greenbaum, Edens, Carter, Ortiz, *Prevalence of DSM-IV substance abuse and dependence disorders among prison inmates*. American Journal of Drug and Alcohol Abuse. 1998;24(4):573-587.

⁶ 2008, National Institute on Drug Abuse, *Relapse*, <http://www.drugabuse.gov/publications/addiction-science/relapse>

⁷ 2001, Braithwaite, *Restorative Justice and a New Criminal Law of Substance Abuse*, YOUTH & SOCIETY, 33:2, 227-248, http://www.corwin.com/upm-data/2997_12ys01.pdf#page=100

⁸ 2010, Walker & Greening, *Huikahi Restorative Circles: A Public Health Approach for Reentry Planning*, Federal Probation Journal, http://lorenwalker.com/articles/FederalProbation_%20June2010..pdf

⁹ 2015, Walker & Merce, *Hawai'i needs fewer prisoners, not more prisons*, Honolulu Star Advertiser, <http://www.staradvertiser.com/s?action=login&f=y&id=287753451>

HB1477 - Relating To Hawaiian Affairs

Testifier	Title	Organization	Position	Notes
Jalna Keala	Individual	Association of Hawaiian Civic Clubs	Support	Not Present/Same Testimony
Elena Farden	Individual	Association of Hawaiian Civic Clubs	Support	Not Present/Same Testimony



Association of Hawaiian Civic Clubs
P. O. Box 1135
Honolulu, Hawai'i 96807
e-mail: president@aohcc.org phone (808) 753-1895, www.aohcc.org

Feb. 6, 2015

To: Rep. Gregg Takayama, Chair and members of the House Committee on Public Safety and Rep. Kaniela Ing, Chair and members of the House Committee on Ocean, Marine Resources and Hawaiian Affairs.

From: Annelle C. Amaral, President of the Association of Hawaiian Civic Clubs

Re: Testimony in Support of HB 1477 Relating to Hawaiian Affairs

Aloha Chairman Takayama and Ing and members of the joint House Committees on Public Safety and Ocean, Marine Resources and Hawaiian Affairs. I am Annelle Amaral, President of the Association of Hawaiian Civic Clubs and am testifying today in support of HB 1477 Relating to Hawaiian Affairs.

The Hawaiian Civic Club of Honolulu was founded 95 years ago by Prince Kuhio and a group of prominent Hawaiians when he was a Delegate to the US Congress trying to pass the Hawaiian Homestead Act. There are now 67 affiliate clubs in Hawaii and 16 states of the continent chartered by an Association that was developed in 1959. There are five councils in the counties of the State and one on the continent. While clubs and councils meet quarterly or even more often, the Association meets quarterly with its board of directors and at an annual convention with delegates from all of the clubs to take up issues and positions that impact on Native Hawaiians.

The Association supports HB 1477 which prohibits the transfer of inmates in the custody of the Department of Public Safety to any correctional facility that is not operated by and within the State and removes mandatory minimum sentencing for methamphetamine drug offenses.

In our annual convention in 2014 in Waikoloa, Hawaii, the convention passed Resolution 14-19 which noted " the over-representation of Native Hawaiians in Hawaii's criminal justice system as acknowledged by the OHA 2010 report entitled "The Disparate Treatment of Native Hawaiians in the Criminal Justice System". The resolution noted also that "the people of Hawaii take on the

rightful kuleana of caring for those who are incarcerated and remembering that, regardless of their crimes, the kuleana /responsibility to malama them is a basic tenet of our culture".

We agree with HB 1477 that Native Hawaiians, after a determination of guilt are not only more likely to get a prison sentence, but that that sentence is likely to be longer than any other racial group and that Native Hawaiians make up the highest percentage of Hawaii inmates incarcerated out-of-state.

The State has a responsibility to house and care for its prisoners here at home. That families have a right to be able to visit and support their ohana in prison. And that place and ohana matter to the rehabilitation of our Native Hawaiian prisoners.

In addition, we agree that the removal of mandatory minimums for methamphetamine trafficking will go a long way to reduce the long sentences of our prisoners and ease the overburdened housing problems in the department of public safety.

We urge the passage of HB 1477 and thank you for allowing us to testify today. Mahalo.

LATE

Name: Vernon Viernes
Position/Title: Community Collaborator

HOUSE OF REPRESENTATIVES
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair
Rep. Kyle T. Yamashita, Vice Chair
Rep. Henry J.C. Aquino
Rep. Sharon E. Har
Rep. Linda Ichiyama
Rep. . Aaron Ling Johanson
Rep. Jarrett Keohokalole
Rep. Mark M. Nakashima
Rep. Joy A. San Buenaventura
Rep. Roy M. Takumi
Rep. Andria P.L. Tupola

COMMITTEE ON OCEAN, MARINE RESOURCES &
HAWAIIAN AFFAIRS

Rep. Kaniela Ing, Chair
Rep. Nicole E. Lowen, Vice Chair
Rep. Ty J.K. Cullen
Rep. Cindy Evans
Rep. Chris Lee
Rep. Scott Y. Nishimoto
Rep. Calvin K.Y. Say
Rep. Ryan I. Yamane
Rep. Feki Pouha
Rep. Cynthia Thielen

NOTICE OF HEARING

February 12, 2015

8:45 am

Conference Room 309

State Capitol, 415 S. Beretania St.

Aloha Honorable Chairmen and committee members:

I am writing to express my support for **HB 1477/SB 1326** as a concerned citizen working to increase public safety by improving reentry from prisons, jails, and juvenile facilities in the community.

I recognize this bill as a first in many steps that must be taken in order to address the disparity among Native Hawaiians in our justice system, the overcrowding in our public safety facilities, and the tax dollars spent on fueling the revolving door of our present corrections system.

I believe that by supporting **HB 1477/ SB 1326**, the state will realize a reduction in costs that will provide an increase in resources to community-based organizations that are in dire need of them to address inmate and former offender reentry, restoration processes, and recidivism reduction efforts in our communities.

I have been a social worker for 15 years with various programs and organizations; Kalihi YMCA Adolescent Treatment Programs, Hawaii Adult Drug Court, Care Hawaii Intensive Outpatient Program New Hope Prison Ministries, Camp Agape for children of Incarcerated Parents, the Ho'opono Mamo Juvenile Justice Diversion Initiative and also the Prisoner Re-Entry Initiative. I have seen directly the effects of incarceration, drug addiction and criminal activity has had on families, children, youth and

communities. There is a whole nation of Native Hawaiians in the Hawaii prison system with multiple generations being locked up, often at the same time.

There are some dedicated committed leaders who, without much support, funding and resources are attempting to setup community collaboration to reduce recidivism and increase probability for successful offender reentry . They sometimes feel as if they are alone in the battle and are holding on just to keep communities in dialogue and to give them hope. Please show them your support.

Please support **HB 1477/SB 1326**, Prohibiting the transfer of inmates to private prison facilities not operated by and within the state, and removing the minimum mandatory sentencing for methamphetamine drug offenses.

Respectfully submitted and aloha,



(Signature)

February 11, 2015

(Date submitted)

LATE



HB1477
RELATING TO HAWAIIAN AFFAIRS

House Committee on Public Safety
House Committee on Ocean, Marine Resources, and Hawaiian Affairs

February 12, 2015

8:45 a.m.

Room 309

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend to the Board of Trustees a position of **SUPPORT** for HB1477, which would prohibit the transfer of Hawai'i inmates to any out-of-state correctional facility, and eliminate mandatory minimum sentences for methamphetamine drug offenses. **This bill ends the unique harms of sending pa'ahao out of state, and will reduce the unnecessary costs of overcrowding in prisons borne by the state, its taxpayers, and our inmate population.**

Since 1977, the number of people incarcerated in Hawai'i has increased by more than 900 percent.¹ Native Hawaiians make up 24 percent of the general population of Hawai'i, but nearly 40 percent of the incarcerated population.² As a result of overcrowding and insufficient facilities, services, and programs, the state has resorted to sending almost 30 percent of its inmates to out-of-state prisons, more than 40 percent of whom are Native Hawaiian. To address the disparate impact of the criminal justice system on Native Hawaiians, since 2010, 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.

The NHJTF has found that although pa'ahao in non-state facilities reported receiving more access to programs and living in less crowded conditions, they are subject to "drastic dislocation from their home, culture, family, job prospects, and community support."³ This isolation from family and community places a unique burden on pa'ahao by separating them from familiar surroundings, their culture, and their social support systems.⁴ Moreover, pa'ahao incarcerated out-of-state may be disadvantaged by parole hearings conducted remotely, and may have a more difficult time developing adequate transition plans for employment, housing, and reintegration into the community beyond parole.⁵ To ensure pa'ahao are provided with greater motivation and meaningful opportunities for rehabilitation and reentry, and to consequently reduce the costs of recidivism on public safety and on

¹ OFFICE OF HAWAIIAN AFFAIRS REP., *The Disparate Treatment of Native Hawaiians in the Criminal Justice System* (2010) at 19.

² *Id.* at 36.

³ NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT (2012) at 21.

⁴ *Id.*

⁵ *Id.* at 22-23.

taxpayers, the NHJTF recommended that prisoners held out-of-state be returned home, and that the State should prohibit any future use of private, for-profit correctional facilities.⁶ Accordingly, this bill would implement a principle recommendation of the NHJTF, by ceasing the state's use of private, for-profit mainland facilities to incarcerate our pa'ahao.

By eliminating mandatory minimum sentences for methamphetamine offenses, this bill further facilitates the retention of our pa'ahao in-state, by reducing the number of prisoners who may be unnecessarily incarcerated, or incarcerated for unnecessary periods of time. For years, community advocates have called for the elimination of mandatory minimum sentencing for methamphetamine-related offenses, allowing judges, not prosecutors, the discretion to consider the needs of each offender and of the system as a whole. For example, instead of sending drug offenders to prison for longer terms, resources could be diverted to community-based treatment programs, which have proven to reduce the number of offenders going to prison or jail for drug offenses as well as the recidivism rate among previous drug offenders.⁷

Finally, OHA notes that the elimination of minimum sentences for methamphetamine offenses will reduce the disproportionate and unfair impact of such drug laws on our beneficiaries. Although Native Hawaiians may not use drugs at higher rates than other races, they do go to prison for drug offenses more often.⁸ This disparate treatment is especially evident among methamphetamine charges, which account for the majority of drug charges: Native Hawaiians are charged with the largest proportion of these offenses—38 percent, nearly 10 percent higher than the next most represented group—but report using this drug at only slightly higher rates than people of other races.⁹ In Hawai'i, methamphetamine is the only drug that carries mandatory minimum sentences, and since Native Hawaiians are more likely to be charged with a methamphetamine-related offense, they are the most likely to receive one of these mandatory minimum sentences.¹⁰ Eliminating such mandatory minimums will therefore relieve the disproportionate burden Native Hawaiians bear for activities that are committed equally by all races.

OHA recommends a slight amendment to the preamble of this bill with respect to findings 1, 2, and 3; these findings are more properly attributed to the Office of Hawaiian Affairs Report, *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*, and not the NHJTF.

Therefore, OHA urges the Committees to **PASS** HB1477. Mahalo for the opportunity to testify on this important measure.

⁶ *Id.* at 29.

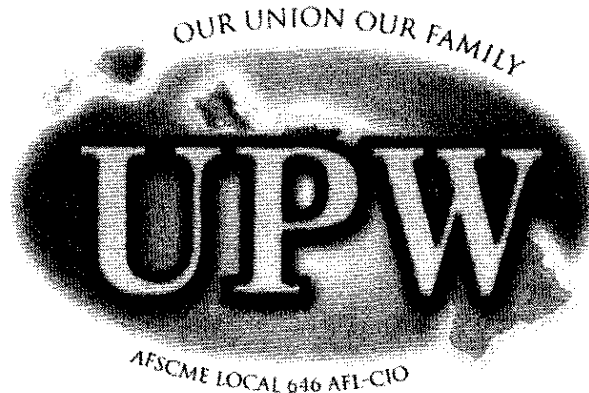
⁷ *Id.* at 48.

⁸ OFFICE OF HAWAIIAN AFFAIRS REP., *The Disparate Treatment of Native Hawaiians in the Criminal Justice System* (2010) at 12.

⁹ *Id.*

¹⁰ *Id.* at 14

LATE



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Eighth Legislature
Regular Session of 2015

COMMITTEE ON PUBLIC SAFETY

The Honorable Representative Gregg Takayama, Chair
The Honorable Representative Kyle T. Yamashita, Vice Chair

COMMITTEE ON OCEAN MARINE RESOURCES & HAWAIIAN AFFAIRS

The Honorable Representative Kaniela Ing, Chair
The Honorable Representative Nicole E. Lowen, Vice Chair

DATE OF HEARING: Thursday, February 12, 2015
TIME OF HEARING: 8:45 a.m.
PLACE OF HEARING: Conference Room 309
State Capitol
415 South Beretania Street

TESTIMONY ON HOUSE BILL 1477 RELATING TO HAWAIIAN AFFAIRS

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive bargaining representative for approximately 12,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

The UPW supports HB1477 that prohibits the transfer of inmates in the custody of the department of public safety to any correctional facility that is not operated by and within the State. It also removes mandatory minimum sentencing for methamphetamine drug offenses.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

LATE

February 11, 2015

To: Representative Gregg Takayama, Chair
Representative Kyle T. Yamashita, Vice Chair
Members of the House Committee on Public Safety

From: Khara Jabola-Carolus, Filipino Law Students Association

Re: Testimony in Strong Support of HB 1477, Relating to Hawaiian Affair

I write in strong support of HB 1477, which would increase public safety by improving reentry from prisons, jails, and juvenile facilities in the community.

Across all political lines, many agree that American states need an overhaul of the criminal justice system, to include sentencing reform, reducing the number of people imprisoned, spending less on prisons, providing more support for those on the receiving end of violence and injustice, and emphasizing community-based services and supports for prisoner re-entry, geriatric release, parole, probation, and alternative sentencing (at least for those convicted of nonviolent offenses), in addition to the maintenance of safer communities. The state's continued use of private prisons addresses none of the above-mentioned goals.

I recognize this bill as a first in many steps that must be taken in order to address the disparity among Native Hawaiians in our justice system, the overcrowding in our public safety facilities, and the tax dollars spent on fueling the revolving door of our present corrections system.

I believe that by supporting HB 1477, the state will realize a reduction in costs that will provide an increase in resources to community-based organizations that are in dire need of them to address inmate and former offender reentry, restoration processes, and recidivism reduction efforts in our communities.

These are the first steps to fixing this problematic institution within of our criminal justice system. As there are plans to build a new facility, we must end the transfer of prisoners under the custody of the Department of Public Safety to out of state facilities. Thank you for this opportunity to testify in support of HB 1477.

Sincerely,

Khara Jabola-Carolus

Sonny M. Ganaden, Esq. JD# HI 8948
(808)294-9949 sonnyganaden@gmail.com

Re: HB 1477
February 12, Conference Room 309
State Capitol, 415 S. Beretania St.

Aloha Honorable Chairmen and committee members:

I am writing to express my **STRONG SUPPORT** of **HB 1477**. Regarding my background, I am a lawyer and writer, educated at the University of California at Los Angeles and the Richardson School of Law, and was the lead writer for the 2012 Native Hawaiian Justice Task Force Report, procured through the state and the Office of Hawaiian Affairs. Please find below a review of relevant information regarding the necessity of HB1477, which is the first step in fixing multiple issues regarding the state's criminal justice system.

I. Information Presented to the State Regarding Non-State Facilities

A. 2009-2011, Justice Reinvestment Initiative

Justice Reinvestment offers policymakers technical assistance in efforts to reduce corrections budgets, reduce recidivism, and strengthen community supports for former prisoners and those on probation, parole, geriatric release, and other monitored release programs.¹ Two bills were passed in Hawaii, collectively referred to as Justice Reinvestment, in 2011.

Governor Neil Abercrombie articulated a desire to return inmates housed in non-state facilities during the passage of the Justice Reinvestment Initiative.

“The measures before us today — HB 2515 and Senate Bill 2776 — reflect that collaborative effort... With the enactment of these bills, I believe we are taking the next step forward in our commitment for control of our criminal justice system, to exercising resources in a sensible and clear-sighted, clear-headed manner in Hawai‘i, and strengthening the capacity for people to return to society who have been separated from it.... From my first day on the job as Governor, I said we will bring our inmates housed in mainland facilities back home and keep our taxpayer dollars in the state. With the enactment of these bills, we are taking the next step forward in our commitment to taking control of our criminal justice system, bringing back vital resources to Hawai‘i and strengthening communities for people to return to.”

A review of Justice Reinvestment by the Urban Institute in 2014 indicates that “After the first year of implementation, the state reduced its corrections population 4 percent, averted \$2.5 million in costs, and allocated \$3.4 million into its reinvestment strategies, which include expanding treatment programs, hiring additional corrections and victims’ services staff, and initiating plans to establish a research and planning office in the Department of Public Safety.”²

¹ In 2011, in order to reduce dependence on out-of-state prisons and improve the functions of the criminal justice system, the State of Hawai‘i sought assistance from the Bureau of Justice Assistance, a division of the U.S. Department of Justice, and the Pew Center on the States. The state leaders agreed to establish a bipartisan, inter-branch Justice Reinvestment Working Group comprising leading state and local officials which would receive intensive technical assistance from the Council of State Governments Justice Center, in partnership with the Pew Center on the States. The Justice Reinvestment Bill was signed into law by Governor Neil Abercrombie on June 27, 2012.

²See, http://www.urban.org/uploadedpdf/JRI_CaseStudy_Hawaii.pdf , at 2.

B. 2010, Management Audit of the Department of Public Safety's Contracting for Prison Beds and Services

The Office of the Auditor conducted a review of the Department's contract with the Corrections Corporation of America (CCA) and found the following:

"We found the Legislature is not given sufficient information regarding the costs associated with the care and custody of offenders in out-of-state and in-state facilities. Instead, management chooses to report artificial cost figures derived from a calculation based on a flawed methodology, designed entirely on what is easiest for the department to report."

"Because funding is virtually guaranteed, management is indifferent to the needs of policymakers and the public for accurate and reliable cost information. As a result, true costs are unknown. Unfortunately, without accurate and reliable cost data, the State cannot appropriately address the continuing problem of prison overcrowding."³

The Audit suggests that:

"To improve contracting for private prison beds in out-of-state facilities, the State chief procurement officer should: a. Suspend procurement authority delegated to the department for out-of-state prison contracts with private vendors until:

- 1) The department's practices are reviewed and policies and procedures are in place to ensure compliance with Chapter 103F, HRS;
- 2) The Mainland/FDC Branch administrator and key staff have completed procurement training workshops related to contract administration and procurement of health and human services under Chapter 103F, HRS.⁴

C. 2012, Native Hawaiian Justice Task Force Report

The 2010 Office of Hawaiian Affairs Report *The Disparate Treatment of Native Hawaiians in the Criminal Justice System* (2010 Report), recommended, among other things, the formation of a governing collaborative (2010 Report, at 76.). That specific recommendation led to the passage of SB986 HD3 CD1 RELATING TO THE CRIMINAL JUSTICE SYSTEM, signed into law as Act 170(11) on June 27, 2011. Act 170 statutorily created the Native Hawaiian Justice Task Force. The Task Force submitted to the 2013 legislature 48 Findings and 38 Recommendations. The Task Force Report dedicated a significant amount of discussion to non-state facilities.

D. Impact of the state's contracting with non-state facilities on Native Hawaiians

1. The State of Hawai'i should increase oversight of non-state facilities pursuant to best practices.
2. The Department of Public Safety should develop criteria regarding the transfer of inmates between facilities that promote the access and completion of programs prior to an inmate's minimum sentence date.
3. The Department of Public Safety should ensure that inmates are placed in facilities that are consistent with their classification as determined by the Hawai'i classification system.

³ See, *Management Audit of the Department of Public Safety's Contracting for Prison Beds and Services*, Marion M. Higa, State Auditor. 2010. at pg. 21

⁴ Id. at 41.

4. The Department of Public Safety should ensure that inmates scored classification is not overridden for the purposes of placing him or her in specific programs or facilities.
5. The Department of Public Safety should determine the number of prisoners placed in private facilities who have been reclassified after out-of-state transfer, the basis for reclassification, including infractions, and the amount of time added to his or her sentence as a result of such reclassification.
6. The Department of Public Safety should ensure that prisoners who are housed in non-state facilities, and who are eligible by classification for pre-release transitional programs such as work furlough, are returned to Hawai'i with sufficient time to complete programs prior to their tentative parole date.
7. The Department of Public Safety should ensure that all allegations of abuse of inmates are independently investigated and that appropriate corrective action is taken.
8. The Department of Public Safety should ensure that inmates are allowed to follow his or her religious and Native Hawaiian cultural practices, and retain sacred cultural items that do not pose a danger to the security of the institution.
- 9. Consistent with community testimony and the Governor's repeated statements, prisoners held out of state should be returned. The State should make the return of inmates a top priority, and inmates should be returned as soon as practicable, consistent with public safety.**
10. Once the inmates are returned from private, out of state facilities, the State should consider passing legislation prohibiting future use of private for-profit correctional facilities.

D. 2012, Pew Center Public Opinion on Sentencing and Corrections Policy in America

In 2012, the Pew Center for the States issued the results of a survey on sentencing and corrections policy in the United States that implied we may have reached a tipping point with regard to mass incarceration; that the public is ready for policies that reduce prison populations and spending; utilize imprisonment primarily for those convicted of violent offenses; and strengthen community-based corrections. The following year, Alan Murray, former deputy managing editor for the *Wall Street Journal*, assumed the position of president of Pew Research Center.⁵

II. Other States Divesting From Private Prisons

Each state has its own issues regarding budget, political culture, and history of contracting with private prisons. The following is a list and brief discussion of states divesting from private prisons.

Minnesota: In 2010, the state closed the CCA-run Prairie Correctional Facility, which was meant to be temporary, and moved inmates to state facilities and halfway houses. The CCA has looked to house California inmates, but has not been successful. It remains closed.

Idaho: In June, 2013, the state, through their department, announced its end of contracting with the CCA. It is looking for a new vendor for its primary facility, due to high incidences of violence and forthcoming lawsuits at the facility.

Texas: In May, 2014, the Texas Department of Criminal Justice announced that it will not enter into new contracts with the CCA for budgetary reasons. Part of a larger discussion being led by fiscal-conservative Republican legislators under the initiative "Right on Crime," originated by the Texas Public Policy Foundation, a state-based think tank. Similar proposals are underway in Georgia, Florida, and Oklahoma.

⁵See, Pew Charitable Trusts Research, at: <http://www.pewtrusts.org/en/research-and-analysis/analysis/2012/03/30/public-opinion-on-sentencing-and-corrections-policy-in-america>

California: The application of *Plata v. Brown*, 131 S. Ct. 1910 (2011), mandating population limits necessary to remedy violations of prisoners' eight amendment constitutional rights. In the wake of the Supreme Court decision there has been reluctant in reducing its inmate population. It is possible that a lawsuit could be mounted in Hawaii, despite the existing consent decree, to comply with the holding of *Plata*.

Proposition 47, passed by California voters on November 4, 2014, which reduces six classifications of nonviolent drug and theft-related crimes from felonies to misdemeanors, will significantly affect the inflow of prisoners. It also created the Safe Neighborhoods and Schools Fund, which plans to take the estimated \$750 million to \$1.25 billion saved from incarceration reform over the next five years and invest in K-12 schools and convict rehabilitation programs.

Kentucky: The Kentucky Justice and Public Safety Cabinet has systematically divested and discontinued its relationship with the CCA since 2008. At that point, Kentucky had inmates in three prisons run by CCA. The state in 2010 pulled out of Lee Adjustment Center in Beattyville, an 800-bed facility that houses inmates from Vermont, and in 2012 from Otter Creek Correctional Center, a 600-bed facility in Wheelwright in far eastern Kentucky that's currently vacant. In June, 2013, the State 826-bed facility in the central part of the state, ending all of its contracts.

Respectfully submitted,

Sonny Ganaden, Esq.

HB 1477

Gentlemen:

I am working with the Going Home Consortium on the big Island of Hawaii to facilitate re-entry of inmates into society successfully.

I agree with the provisions of this bill and would highly recommend that all native Hawaiians be incarcerated only here in Hawaii where they can receive the support of family and friends and not be disconnected from the land, which is a positive spiritual figure for them.

They used to place the umbilical cords of their children in niches in the rock to attach them safely to the land here. It figures highly in all their culture, so please consider changing the policy with respect to Hawaiians to keep them here for correction.

Thanks you for considering my testimony,

Leonard D. Logan
808-982-8462
808-640-8370 cell

yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 07, 2015 10:04 PM
To: pbstestimony
Cc: aurasaki@hawaiiantel.net
Subject: Submitted testimony for HB1477 on Feb 12, 2015 08:45AM

Follow Up Flag: Follow up
Flag Status: Flagged

HB1477

Submitted on: 2/7/2015

Testimony for PBS/OMH on Feb 12, 2015 08:45AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Oppose	No

Comments: I oppose this bill because it does not allow inmates to be housed at the Federal Detention Center in Honolulu. I support an amendment to include FDC Honolulu in the language. Thank you.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 09, 2015 4:53 AM
To: pbstestimony
Cc: wkenkoike@hotmail.com
Subject: Submitted testimony for HB1477 on Feb 12, 2015 08:45AM

HB1477

Submitted on: 2/9/2015

Testimony for PBS/OMH on Feb 12, 2015 08:45AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
W. Ken Koike	Individual	Support	No

Comments: I am in strong SUPPORT for HB1477! The conflict of interest of private prison corporations taking financial profits by encouraging more convictions due to controlled substance violations is just as hypocritical and shameful as the Central Intelligence Agency's admission to trafficking cocaine to finance the support of the CONTRA "freedom fighters." This double standard that the Justice Dept. will incarcerate a local person but not a gov't agent for reselling the same illicit drugs on the street that was purchased from a gov't agency under the guise of national security purposes is criminal in and of itself and should not be afforded the protection or immunity from prosecution. Since the Hawaii Legal System has incarcerated the citizen but pardoned the gov't agents that participated in drug trafficking until now, let's see how pardoning the citizen and incarcerating the gov't agents that actually bring in the illegal substances will turn out? I'll put my money on that working out a lot better to deter substance abuse than picking on the citizens only! Restitution must regain it's proper role for corrections to be effective. Basic life skills of self-sufficiency, of planting and harvesting, and giving back from what they have produced is not part of our corrections model any longer. It must be rebuilt into the system again.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 10, 2015 11:16 AM
To: pbstestimony
Cc: mkhan@hawaiiintel.net
Subject: Submitted testimony for HB1477 on Feb 12, 2015 08:45AM

HB1477

Submitted on: 2/10/2015

Testimony for PBS/OMH on Feb 12, 2015 08:45AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Individual	Support	No

Comments: Support. Glad to see action being taken on the Native Hawaiian Justice Task Force recommendation.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

yamashita1-Marianne

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 11, 2015 9:02 AM
To: pbstestimony
Cc: ezlchirpz@gmail.com
Subject: *Submitted testimony for HB1477 on Feb 12, 2015 08:45AM*

HB1477

Submitted on: 2/11/2015

Testimony for PBS/OMH on Feb 12, 2015 08:45AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Lezlie Kiaha	Individual	Support	No

Comments:

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

yamashita1-Marianne

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 11, 2015 5:57 PM
To: pbstestimony
Cc: thirr33@gmail.com
Subject: Submitted testimony for HB1477 on Feb 12, 2015 08:45AM

HB1477

Submitted on: 2/11/2015

Testimony for PBS/OMH on Feb 12, 2015 08:45AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Arvid Tadao Youngquist	Individual	Support	No

Comments: Chair & Honorable Members of the Committee I support the intent of HB 1477 co-sponsored by Representatives ING, BROWER, EVANS, & SAIKI. Although the bill relates to Hawaiian Affairs, I would like to set this measure as a first step to increase capacity of existing prison facilities through renovations and opening new facilities. Our residents should not be so separated from their support system, ohana and immediate family by distance and expenditures involved for visits, that by the time the sentencing is completed, children would have never had the pleasure of growing up with a presence of their parents, or elder siblings. Thanks for hearing this measure and recommend that it be supported by the hearing committee(s). Aloha no, Arvid Tadao Youngquist Oahu Resident & Voter (Wahiawa, Liliha, Salt Lake, Aiea, Kalihi Valley, Kalihi-Palama, Makiki, Kaimuki, University and Downtown)

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov