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TESTIMONY  
ON  
HB 1832 - RELATING TO JUVENILE JUSTICE INFORMATION

February 4, 2016

The Honorable Dee Morikawa  
Chair  
The Honorable Bertrand Kobayashi  
Vice Chair  
and Members  
House Committee on Human Services

Chair Morikawa, Vice Chair Kobayashi and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** HB 1832, Relating to Juvenile Justice Information. HB 1832 will allow the dissemination of information from the Juvenile Justice Information System (JJIS) to law enforcement agencies for purposes of administration of law enforcement and law enforcement agency employment.

The law currently requires prosecutors to check a person's criminal history, including juvenile records, to make proper charging decisions and sentencing motions. Also, police departments are required to check a person's juvenile records when the person applies for a firearms permit. Furthermore, both police and prosecutors conduct pre-employment background checks for their new job applicants as the normal course of business. These background checks are what the law or personnel policies require.

However, it was deemed that these agencies are precluded from using JJIS to conduct such research into a person's background. While these law enforcement agencies can conduct a search of their own records, they are unable to check a person's juvenile record for the rest of the state. For example, the police on Maui would not know that a person has a juvenile record on Kauai that would disqualify him or her from owning a firearm. Put simply, while JJIS was

created to store information, and the law requires that the information be checked under certain circumstances, but the information stored is deemed off limits creating a serious Catch-22.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** the passage of this bill. We ask that the committee **PASS HB 1832**.

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

# HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 904 Honolulu, Hawaii 96813

Phone: (808) 489-9549

Web site: <http://www.hysn.org> E-mail: [info@hysn.org](mailto:info@hysn.org)

Rick Collins, President

Judith F. Clark, Executive  
Director

Big Brothers Big Sisters of  
Hawaii

Bobby Benson Center

Central Oahu Youth Services  
Association

Child and Family Service

Coalition for a Drug Free Hawaii

Domestic Violence Action Center

EPIC, Inc.

Family Programs Hawaii

Family Support Hawaii

Hale Kipa, Inc.

Hale 'Opio Kauai, Inc.

Hawaii Student Television

Hui Malama Learning Center

Kokua Kalihi Valley

Life Foundation

Marimed Foundation

Maui Youth and Family Services

P.A.R.E.N.T.S., Inc.

Parents and Children Together  
(PACT)

Planned Parenthood of the  
Great Northwest and  
Hawaiian Islands

Salvation Army Family

Intervention Services

Sex Abuse Treatment Center

Susannah Wesley Community  
Center

The Catalyst Group

Uhane Pohaku Na Moku

O Hawai'i

Waikiki Health

January 29, 2016

To: Representative Dee Morikawa, Chair  
And members of the Committee on Human Services

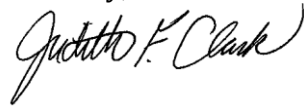
## **TESTIMONY IN OPPOSITION TO HB 1832 RELATING TO JUVENILE JUSTICE INFORMATION**

Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving organizations, opposes HB 1832 Relating to Youth.

Youth in the juvenile justice system do not appear in criminal court; they are served through Family Court. The State of Hawaii made the decision to seal juvenile records so that youthful indiscretions do not follow someone for the rest of his/her life. This was the correct choice and we should continue to follow these guidelines.

Thank you for this opportunity to testify.

Sincerely,



Judith F. Clark, MPH  
Executive Director

Safety is a constant concern:

- Trauma and rape rates among unaccompanied youth are 2-3 higher than those of the general youth population.
- A U.S. Dept. of Health and Human Services study found that 46% of homeless youth left home because of physical abuse. 17% left because of sexual abuse.
- 5,000 street youth die every year because of assault, illness, or suicide.
- More likely to be the victim of a crime rather than the perpetrator.

Most unaccompanied youth practice unsafe sexual practices:

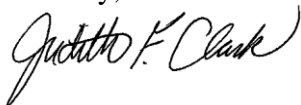
- 33% of teens will be lured into prostitution within 48 hours of leaving home.
- Average age of entry into prostitution is 14.
- 95% of homeless youth have engaged in sexual intercourse.
- Over 33% report exchanging in sex for food, shelter, or drugs.
- About 50% of street youth have had a pregnancy experience.

Street outreach is the first step in helping these youth leave the streets for safer and more appropriate living situations. Reuniting youth with their families, if it is safe for them, is the first choice, with placement in foster care or other out-of-home care if the family is not able to care for the youth. Workers build trusting relationships and convince youth to accept help to leave the streets, while helping them meet their immediate survival needs.

If we want Hawaii's youth to grow up safe, healthy and ready to succeed, we must reach out to our homeless adolescents and end youth homelessness.

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads "Judith F. Clark". The signature is written in a cursive style with a large initial "J" and "C".

Judith F. Clark, MPH  
Executive Director

# COMMUNITY ALLIANCE ON PRISONS

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

Phone/email: (808) 927-1214 / [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON HUMAN SERVICES

Rep. Dee Morikawa Chair

Rep. Bertrand Kobayashi, Vice Chair

Thursday, February 4, 2016

8:30 a.m.

Room 329

## **STRONG OPPOSITION TO HB 1832 – SHARING JUVENILE JUSTICE INFORMATION**

Aloha Chair Morikawa, Vice Chair Kobayashi 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 in Hawai'i for almost two decades. This testimony is respectfully offered on behalf of the 6,000 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety. We are always mindful that approximately 1,400 of Hawai'i's imprisoned people 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 229 allows the dissemination of information from the juvenile justice information system to law enforcement agencies for purposes of the administration of law enforcement and law enforcement agency employment.

Community Alliance on Prisons OPPOSES this legislation.

## **JUSTICE INFORMATION SHARING AND THE ROLE OF THE GOVERNANCE STRUCTURE<sup>1</sup>**

Broadly defined, JIS is a process that enables the components of states' justice systems – including state and local law enforcement, courts, prosecutors, and corrections agencies – to share justice information easily and effectively. Information is shared both vertically (among different levels of government, such as state, local, tribal, and federal entities) and horizontally (across agencies and branches of government).<sup>1</sup> The types of information shared includes individuals' criminal history, parole and probation status, and court case data.

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<sup>1</sup> NGA Center for Best Practices, Issue Brief, July 2009.

<http://www.nga.org/files/live/sites/NGA/files/pdf/0907JUSTICEINFOSHARING.PDF>

## WHY JUVENILE RECORDS ARE SEALED

Juvenile justice information is sealed for a reason: The state made a decision that juvenile cases are to be heard in Family Court and that those records are sealed so that youthful indiscretions do not foreclose an individual's future.

## THE SCIENCE OF BRAIN DEVELOPMENT

Scientists are now utilizing advances in magnetic resonance imaging (MRI) to create and study three-dimensional images of the brain without the use of radiation (as in an x-ray). This breakthrough allows scientists to safely scan children over many years, tracking the development of their brains.<sup>2</sup>

Researchers at Harvard Medical School, the National Institute of Mental Health, UCLA, and others, are collaborating to "map" the development of the brain from childhood to adulthood and examine its implications.

Jay Giedd, a researcher at the National Institute of Mental Health, explains that during adolescence the *"part of the brain that is helping organization, planning and strategizing is not done being built yet.... It's sort of unfair to expect [adolescents] to have adult levels of organizational skills or decision making before their brain is finished being built."*<sup>3</sup>

Ruben Gur, MD, PhD, Director, University of Pennsylvania Medical Center said: *"The evidence now is strong that the brain does not cease to mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable.... Indeed, age 21 or 22 would be closer to the 'biological' age of maturity."*

Deborah Yurgelun-Todd, PhD of the Brain Imaging Laboratory of McClean Hospital at Harvard University Medical School said, *"Just because they're physically mature, they may not appreciate the consequences or weigh information the same way as adults do. So, [although] somebody looks physically mature, their brain may in fact not be mature."*

Adolescence is a transitional period during which a child is becoming, but is not yet, an adult. An adolescent is at a crossroads of changes where emotions, hormones, judgment, identity and the physical body are so in flux that parents and even experts struggle to fully understand.

As a society, we recognize the limitations of adolescents and, therefore, restrict their privileges to vote, serve on a jury, consume alcohol, marry, enter into contracts, and even watch movies with mature content. Each year, the United States spends billions of dollars to promote drug use prevention and sex education to protect youth at this vulnerable stage of life.

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<sup>2</sup> For an excellent overview, see Elkhonon Goldberg, *The Executive Brain: Frontal Lobes and the Civilized Mind*, Oxford University Press (2001).

<sup>3</sup> PBS Frontline, Inside the Teen Brain. See Interview with Jay Giedd, online at [www.pbs.org/wgbh/pages/frontline/shows/teenbrain/](http://www.pbs.org/wgbh/pages/frontline/shows/teenbrain/).

Justice Elena Kagan, writing for the majority in *Miller v. Alabama*, 567 U.S. (2012), said the decision was consistent with the past findings of the court that children lack maturity and have an underdeveloped sense of responsibility; that they are more vulnerable to outside pressure and that their character is less formed and more open to rehabilitation. *“Our decisions rested not only on common sense – on what ‘any parent knows’ – but on science and social science as well,”* Kagan wrote, adding *“the mandatory penalty schemes at issue here prevent the sentencer from taking account of these central considerations.”*

### **THIS BILL IS NOT NEEDED**

Hawai`i has its own system for juvenile information sharing called HIJIS (Hawai`i Juvenile Information Sharing) to which we have been told that law enforcement already has access.

This bill did not pass either Senate or House last session.

This bill contravenes everything Hawai`i is now doing to rethink, retool, and reinvest in our youth and our juvenile justice system. We need to stop greasing the pipeline that runs from the juvenile to the adult system.

Community Alliance on Prisons respectfully asks this committee to stand for our youth by holding this measure.

Mahalo for this opportunity to share our research and thoughts on this measure.

*If we don't stand up for children, then we don't stand for much.*

*Marian Wright Edelman*

Edward Thompson, III

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From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 01, 2016 8:55 AM  
To: HUS testimony  
Cc: breaking-the-silence@hotmail.com  
Subject: \*Submitted testimony for HB1832 on Feb 4, 2016 08:30AM\*

**HB1832**

Submitted on: 2/1/2016

Testimony for HUS on Feb 4, 2016 08:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	Individual	Support	No

Comments:

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Edward Thompson, III

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From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 01, 2016 9:25 AM  
To: HUS testimony  
Cc: hokuokekai50@msn.com  
Subject: \*Submitted testimony for HB1832 on Feb 4, 2016 08:30AM\*

**HB1832**

Submitted on: 2/1/2016

Testimony for HUS on Feb 4, 2016 08:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Lacques	Individual	Oppose	No

Comments:

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**kobayashi2-Jessi**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 02, 2016 5:40 AM  
**To:** HUS testimony  
**Cc:** theede@hawaii.rr.com  
**Subject:** \*Submitted testimony for HB1832 on Feb 4, 2016 08:30AM\*

**HB1832**

Submitted on: 2/2/2016

Testimony for HUS on Feb 4, 2016 08:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teri Heede	Individual	Oppose	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.

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# Lorenn Walker, JD, MPH

## COMMITTEE ON HUMAN SERVICES

Rep. Dee Morikawa, Chairperson & Rep. Bertrand Kobayashi, Vice Chair

Thursday, February 4, 2016 8:30 a.m. Room 329

### STRONG OPPOSITION TO HB 1832 – SHARING JUVENILE JUSTICE INFORMATION

Dear Honorable Committee Chairs and Members,

Please vote against this bill. It is in the best interest of our community to not further criminalize juveniles by penalizing them more than we currently do for their immature decisions.

Youth mature at an extremely high rate from the ages of 14 to 25. Research confirms: “The vast majority of juvenile offenders, even those who commit serious crimes, grow out of antisocial activity as they transition to adulthood. Most juvenile offending is, in fact, limited to adolescence” (OJJDP Bulletin, March 2015, *Psychosocial Maturity and Desistance From Crime in a Sample of Serious Juvenile Offenders*, p. 1 <http://www.ojjdp.gov/pubs/248391.pdf>).

The science is clear that this law is a bad idea, and science supports the policy makers who developed Hawai‘i’s juvenile justice sharing policies, which do not follow the approach this bill takes.

Hawai‘i already suffers from massive incarceration and the destruction of lives as a result. Our scarce government resources need to be used to help youth mature instead of finding ways to arrest and punish more of them.

If we want a safe community we need to put our efforts into educating and giving opportunities for social development to youth and stop criminalizing them for the bad decisions they make, which many of us did, but we were giving second, third, and many more chances to reform.

When I was 16 years old I made some bad decisions and spent time in jail. Had my juvenile record not been sealed, it could have prevented me from becoming a Montessori preschool teacher when I was 19, and possibly used to prevent me from becoming a lawyer about ten years later.

My background includes working as a Hawai‘i deputy attorney general for a decade, and since 1994 applying a public health approach to justice issues. I am a Senior Fulbright Specialist and sponsored by the US State Department to teach justice and peacemaking abroad; author of over 50 publications; and I am on the editorial review boards of four criminal justice journals. I am frequently contacted to speak and train in juvenile and adult justice matters.

Thank you for your public service. Please call or email me with any questions about my strong opposition to this bill (808 218-3712 [lorenn@hawaii.rr.com](mailto:lorenn@hawaii.rr.com))

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p: (808) 218-3712 e: [lorenn@hawaii.rr.com](mailto:lorenn@hawaii.rr.com)  
[www.lorennwalker.com](http://www.lorennwalker.com)



**LATE**

*The Judiciary, State of Hawai‘i*

**Testimony to the House Committee on Human Services**

Representative Dee Morikawa, Chair  
Representative Bertrand Kobayashi, Vice Chair

Thursday, February 4, 2016 8:30 a.m.  
State Capitol, Conference Room 329

by  
R. Mark Browning  
Deputy Chief Judge, Senior Family Judge  
Family Court of the First Circuit

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**Bill No. and Title:** House Bill No. 1832, Relating to Juvenile Justice Information

**Purpose:** Allows the dissemination of confidential juvenile justice information to law enforcement agencies for the administration of law enforcement and law enforcement agency employment.

**Judiciary's Position:**

The Judiciary respectfully submits this testimony in opposition to House Bill No. 1832 for the following reasons.

The sharing of information regarding juvenile offenders has been coordinated through the Hawaii’s Juvenile Justice Information System (JJIS), which is part of the Department of the Attorney General, State of Hawai‘i. JJIS in turn is under the active guidance of the Juvenile Justice Information Committee (JJIC), listed on page 3.

The JJIS is a statewide information system that combines juvenile offender information from the police, prosecutors, Family Court, and the Hawai‘i Youth Correctional Facility for use by the participating agencies. The JJIS is also the repository for statewide information on runaway and missing children.



House Bill No. 1832, Relating to Juvenile Justice Information  
House Committee on Human Services  
Thursday, February 4, 2016 8:30 a.m.  
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The changes proposed by this bill were not submitted to the JJIC for consideration in terms of the current processes and procedures developed by the JJIC in implementing the existing applicable laws. The changes are also contrary to the original intent of the statute. The Judiciary would respectfully request that the JJIC be given the opportunity to evaluate the statutory changes proposed by this bill.

Thank you for the opportunity to testify on this bill.



House Bill No. 1832, Relating to Juvenile Justice Information  
House Committee on Human Services  
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## JUVENILE JUSTICE INFORMATION COMMITTEE

R. Mark Browning, Senior Judge, Family Court, 1<sup>st</sup> Circuit, Chair

Douglas S. Chin, Attorney General, State of Hawai‘i

Randi Cooper, Administrator, Juvenile Client Services Branch, 3<sup>rd</sup> Circuit

Tivoli Faaumu, Chief of Police, County of Maui

David Hipp, Executive Director, Office of Youth Services

Keith M. Kaneshiro, Prosecuting Attorney, City & County of Honolulu

Louis M. Kealoha, Chief of Police, City & County of Honolulu

John D. Kim, Prosecuting Attorney, County of Maui

Justin Kollar, Prosecuting Attorney, County of Kaua‘i

Harry S. Kubojiri, Chief of Police, County of Hawai‘i

Christine Miwa-Mendoza, Social Service Manager, 1<sup>st</sup> Circuit

Paul Murakami, Judge, Family Court, 1<sup>st</sup> Circuit

Darryl D. Perry, Chief of Police, County of Kaua‘i

Mitchell Roth, Prosecuting Attorney, County of Hawai‘i

Marsha Yamada, Administrator, Juvenile Client & Family Services, 2nd Circuit

Kari Yamashiro, Director, Family Court, 5th Circuit

**LATE**



**HB1832**  
**RELATING TO JUVENILE JUSTICE INFORMATION**  
House Committee on Human Services

February 4, 2014

8:30 a.m.

Room 329

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee **OPPOSES** HB1832, which would allow the dissemination of information from the juvenile justice information system to law enforcement agencies for purposes of law enforcement administration and employment. **This bill would allow mistakes made in their youth to follow young offenders into adulthood, attaching criminal stigma permanently to their lives, and disrupting important reformation opportunities that would otherwise help to prevent cycles of recidivism from forming.**

In 2010, OHA produced a comprehensive report detailing the overrepresentation and disparate treatment of Native Hawaiians in the criminal justice system.<sup>1</sup> This report found that Native Hawaiian youth are disproportionately represented in the juvenile justice system and are also most frequently arrested in all offense categories.<sup>2</sup> Since 2012, OHA has administered the Native Hawaiian Justice Task Force (NHJTF), which was tasked by the Legislature to address this multi-faceted issue.<sup>3</sup> In its report, the Task Force acknowledged that “an individual’s contact with the criminal justice system, regardless of race, often begins at youth.”<sup>4</sup>

Juvenile records are sealed to protect young offenders from the long-term stigma of a criminal record and to prevent cycles of recidivism from quickly forming. Research has well established that children under the age of 18 are still developing their physical, mental, and emotional capacity to deal with psychological challenges, external pressures, and circumstances outside of their control; in other words, juveniles are not as capable of socially responsible executive decision-making as adults.<sup>5</sup> Accordingly, it has been long considered inappropriate to stigmatize individuals for their entire lives, based upon transgressions they may have committed during their formative years. Allowing juvenile

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<sup>1</sup> THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM (2010), *available at* [http://www.oha.org/sites/default/files/ir\\_final\\_web\\_rev.pdf](http://www.oha.org/sites/default/files/ir_final_web_rev.pdf).

<sup>2</sup> *Id.* at 68.

<sup>3</sup> THE OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT (2012), *available at* [http://19of32x2yl33s8o4xza0gf14.wpengine.netdna-cdn.com/wp-content/uploads/2012NHJTF\\_REPORT\\_FINAL\\_0.pdf](http://19of32x2yl33s8o4xza0gf14.wpengine.netdna-cdn.com/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf).

<sup>4</sup> *Id.* at 21.

<sup>5</sup> AMNESTY INTERNATIONAL & HUMAN RIGHTS WATCH, THE REST OF THEIR LIVES: LIFE WITHOUT PAROLE FOR CHILD OFFENDERS IN THE UNITED STATES 45-49 (2005), *available at* [http://www.amnestyusa.org/sites/default/files/pdfs/threstoftheirlives\\_report.pdf](http://www.amnestyusa.org/sites/default/files/pdfs/threstoftheirlives_report.pdf).

justice records to follow young offenders into adulthood would contravene the long-held principle that juvenile offenders should be given a clean slate, to reform their behaviors despite youthful indiscretions. Without such reformation opportunities, juvenile offenders may lose an important psychological and social incentive to avoid recidivist criminal behavior as they transition into adulthood.

Therefore, OHA urges the committee to **HOLD** HB1832. Mahalo for the opportunity to testify on this measure.