

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

H.B. NO. 2388, H.D. 1, RELATING TO CORRECTIONAL FACILITIES.

BEFORE THE:

HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION
AND ON WATER AND LAND

DATE: Tuesday, February 16, 2016 **TIME:** 10:00 a.m.
LOCATION: State Capitol, Room 325
TESTIFIER(S): Douglas S. Chin, Attorney General, or
Diane Taira, Deputy Attorney General

Chairs Lee and Yamane and Members of the Committees:

The Department of the Attorney General proposes amendments to this bill.

The purpose of this bill is to provide the Department of Public Safety with a wide range of options in pursuing development of new correctional facilities or increasing the capacity of existing facilities, and to provide funding for its current development needs with regard to Oahu Community Correctional Center and Maui Community Correctional Center.

The bill provides for an exemption from section 343-5, Hawaii Revised Statutes, for a single development. It also provides for a comment period of thirty days, instead of sixty. We recommend this bill be amended to delete these provisions and references to them, found on page 1, line 17, through page 2, line 3; page 4, line 4 through line 7; page 5, line 12 through line 14; and page 5, line 20. This reflects a policy determination by the Department of Public Safety that such an exemption and shortened comment period is not necessary at this time.

We also suggest that the word “may” replace the word “shall” on page 6, line 3, to allow more flexibility in the procurement method to be employed for the new facilities.

Further, we suggest that the clarifying wording, “or detainees,” be added to the end of paragraph (1) of subsection (b) on page 6, line 9, so that it reads:

- (1) The percentage of low, medium, and high security inmates and the number of prison or jail beds needed to incarcerate each of the foregoing classes of inmates or detainees;

This clarifies the type of population primarily served by jails.

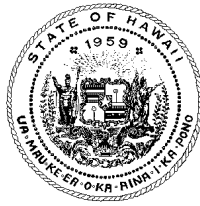
We also propose deleting the words “all possible” on page 10, line 10 for purposes of clarity.

Lastly, we propose the word “turnkey” be deleted from page 5, line 10 and the following amendments to page 10, line 17 through line 18, to allow more flexibility in the procurement method to be employed for the new facilities:

for the purpose of purchasing, constructing, developing, leasing, or otherwise providing for jail facilities for up to 1,250 beds ~~on a turn-key basis~~, to include jail housing units and

Thank you for the opportunity to submit testimony on this measure.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

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Corrections

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Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 2388, HD 1
RELATING TO CORRECTIONAL FACILITIES

By
Nolan P. Espinda, Director

House Committee on Energy and Environmental Protection
Representative Chris Lee, Chair
Representative Nicole E. Lowen, Vice Chair

House Committee on Water and Land
Representative Ryan I. Yamane, Chair
Representative Ty J.K. Cullen, Vice Chair

Tuesday, February 16, 2016; 10:00 a.m.
State Capitol, Room 325

Chair Lee and Yamane, Vice Chairs Lowen and Cullen, and Members of the Committees:

The Department of Public Safety (PSD) **supports** the enactment of House Bill (HB) 2388, HD 1 as addressing the dire need to relocate the Oahu jail (OCCC) out of the urban core community of Kalihi.

The facility's aged and deteriorating infrastructure and the grossly outmoded and inefficient layout of the current campus call for a complete architectural redesign and structural relocation.

For more than a century, the Kalihi community has endured the presence of the Oahu jail, as well as, hosted the old Hawaii State Prison (HSP) up until the late 1980s. It is true that when originally established, the institution sat alone amongst agricultural farms. The reality is that over the years, residences, industrial and commercial enterprises, and even, schools, moved in around OCCC, just next door to its armed and razor-wired perimeter. Being in such close proximity to the jail must be a constant safety concern to the residents, business owners and their employees, educators, and students in the neighborhood.

The development of Honolulu's new rail system, with plans to locate transit stops near the OCCC property, offers the potential of revitalizing Kalihi, if all or part of the main

jail complex can be redeveloped with the mind to enhancing and supporting the rail and Kalihi communities.

Since the initial hearing on HB 2388 before the House Committee on Public Safety, the Department of Public Safety has reconsidered Part II of the bill, which would exempt the State from HRS Section 345-5 (conducting an Environmental Impact Statement/ Environmental Assessment) for a jail site at the Halawa Correctional Facility. PSD now fully supports the amendment(s) suggested in testimony to this Joint Committee offered by the Department of the Attorney General on HB 2388, HD1.

Thank you for the opportunity to present this testimony.



**Testimony to the House Committee on Energy & Environmental Protection
and Committee on Water & Land
Tuesday, February 16, 2016 at 10:00 A.M.
Conference Room 325, State Capitol**

RE: HOUSE BILL 2388 HD1 RELATING TO CORRECTIONAL FACILITIES

Chairs Lee and Yamane, Vice Chairs Lowen and Cullen, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **strongly supports** HB 2388 HD1, which would create an exemption from Hawai'i Revised Statutes §343-5 for a jail facility to be built adjacent to Halawa Correctional Facility and authorize funding for purchasing a jail facility for up to 1,000 beds to be located on the existing state owned lands used to house the Halawa Correction Facility.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The normal trigger for a Chapter 343 HRS document is the use of state/county owned lands or funds. However in this case, the new jail facility is essentially another building within the existing grounds of the Halawa Correction Facility. It would be viewed as adding another building on the grounds of the Halawa Correction Facility.

With the overcrowding of the existing Oahu Community Correctional Center (OCCC), and the site being located near a proposed transit station, the opportunity to not only relocate the existing OCCC facilities to a new, modern facility but also capture the value of redeveloping the existing OCCC site with higher densities and mixed uses that would be consistent with Transit Oriented Development (TOD).

There have been several prior efforts to address the overcrowding and need to modernize the existing OCCC facilities. None of these prior efforts or discussions have resulted in any tangible plan. House Bill No. 2388 provides a unique opportunity to move the state in the right direction and provide a center piece for the redevelopment along the transit corridor in Kalihi.

We strongly support H.B. 2388 HD1 and appreciate the opportunity to express our views on this matter.

Thank you for the opportunity to testify.

BIA-HAWAII

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THE VOICE OF THE CONSTRUCTION INDUSTRY

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Testimony to the House Committee on Energy & Environmental Protection, and House Committee on Water & Land Tuesday, February 16, 2016 10:00 a.m. State Capitol, Conference Room 325

RE: HB 2388 HD1: Relating to Correctional Facilities.

Dear Chairs Lee & Yamame, Vice-Chairs Lowen & Cullen, and members of the Committees:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-HAWAII strongly supports H.B. 2388 HD1, which would create an exemption from Hawai'i Revised Statutes §343-5 for a jail facility to be built adjacent to Halawa Correctional Facility and authorize funding for purchasing a jail facility for up to 1,000 beds to be located on the existing state owned lands used to house the Halawa Correction Facility.

The normal trigger for a Chapter 343 HRS document is the use of state/county owned lands or funds. However in this case, the new jail facility is essentially another building within the existing grounds of the Halawa Correction Facility. It would be viewed as adding another building on the grounds of the Halawa Correction Facility.

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There have been several prior efforts to address the overcrowding and need to modernize the existing OCCC facilities. None of these prior efforts or discussions have resulted in any tangible plan. House Bill No. 2388 provides a unique opportunity to move the state in the right direction and provide a center piece for the redevelopment along the transit corridor in Kalihi.

We strongly support H.B. 2388 HD1, and appreciate the opportunity to express our views on this matter.

COMMUNITY ALLIANCE ON PRISONS

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

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



COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Representative Chris Lee, Chair

Representative Nicole Lowen, Vice Chair

COMMITTEE ON WATER & LAND

Representative Ryan Yamane, Chair

Representative Ty Cullen, Vice Chair

Tuesday, February 16, 2016

10:00 a.m.

Room 325

STRONG OPPOSITION TO HB 2388 HD1 - NEW JAIL: EXEMPTION FROM CHAPTER 343

Aloha Chairs Lee and Yamane 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 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.

HB 2388 HD1 exempts the State from environmental impact statement or assessment requirements for a jail facility on an existing parcel of the Halawa Correctional Facility. It clarifies governor's authority to contract for construction of correctional facilities and appropriates funds for a new Oahu Community Correctional Center and relocating Maui Community Correctional Center. It also requires a feasibility report on development of Oahu Community Correctional Center land.

Community Alliance on Prisons is **strongly opposed** to this bill that seeks to exempt this administration from the law that others must follow. **An environment review is a disclosure document.** It is a health and safety document requiring the developer to disclose potential impacts that a proposed development could have on the community, on traffic, on the environment, on cultural, natural and/or historical resources, etc.

§343-5 Applicability and requirements. (a) Except as otherwise provided, an environmental assessment shall be required for actions that:

- (1) Propose the use of state or county lands or the use of state or county funds, other than funds to be used for feasibility or planning studies for possible future programs or projects that the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property; provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies; provided further that an environmental assessment for proposed uses under section 205-2(d)(11) or 205-4.5(a)(13) shall only be required pursuant to section 205-5(b);¹

We have not spoken to one person who thinks that exempting a new jail from the EIS law is a good idea. In fact, people have remarked that it is clear that the administration just wants to shove incarcerated people somewhere out of sight without public input.

Community Alliance on Prisons asserts that fast tracking this proposal only serves to hide our community's challenges by warehousing people suffering from mental illness, houselessness, illiteracy, drug addiction in jails, prisons, and storage facilities. This does nothing to serve those needing help; rather it exacerbates the problems.

There are many factors that must be considered before any new facility is even considered. It is akin to developing software to fix a problem – this is the part that takes the most THOUGHT and PLANNING – and then you figure out the hardware to implement the software. We are doing this backwards. We are developing a building without first thinking about the people who live and work there.

HB 2388 HD1 added a new purpose clause that talks about the Kalihi community being burdened with the jail for 100 years. A well folk, 100 years ago, the OCCC site was the country! The county and state are responsible for the development that goes right up to the gates OCCC and MCCC as well.

The impetus for the relocation of OCCC is rail; yet having a jail near the courts and transportation is very important. The bill says that the Governor will conduct a feasibility study on the property if OCCC were relocated or built on a smaller footprint of same property. The community partnering is with the Kalihi community to determine how they would like the property to be developed.

The bill also specifies design, programs and funding options (all without the community) and allocates funds for plans, design and construction to relocate MCCC.

¹ Chapter 343-5, Hawai'i Revised Statutes.

http://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0343/HRS_0343-0005.htm

MCCC is in dire need of repair/renovation. Committee members, you must ask what happened to the \$14 million in taxpayer money that has already been spent on plans for MCCC? And how was the \$5 million the Governor released last session for OCCC spent? The community has been locked out of all these discussions.

WHY AN ENVIRONMENTAL REVIEW IS IMPORTANT:

In their testimony before the House Public Safety Committee on the original version of this bill, Life of the Land wrote:

George Ariyoshi accepted the Revised EIS for the Halawa Medium Security Facility on June 22, 1983. The document was prepared for DAGS by Wilson Okamoto & Associates. It was proposed that the new Halawa MSF be located adjacent to Halawa High Security Facility.

The REIS noted that: (1) **“Four remnant archeological sites** have been identified on the proposed project site”¹; (2) “Based on the preliminary grading plan for the site ... approximately 122,000 cubic yards of excavation and 107,000 cubic yards of embankment are needed”; (3) “Military housing is located at **Red Hill, adjacent to Halawa Valley**”; and (4) there were **two streams in the area, the North Tributary and the South Halawa Stream.**

An environmental review considers the social, cultural and historic impacts of any development.

Every person in OCCC is a member of our community, thus making visiting from family and friends even more difficult is a huge social impact.

Has the Halawa site ever been surveyed both for cultural sites and potential environmental problems? The leaking underground storage tanks in Red Hill are impacting the West Side of O`ahu. Red Hill, being adjacent to Halawa is a health and safety concern, especially if there are underground storage tanks in the hills at the back of the valley. Has contamination from nearby Red Hill (i.e. leaking underground fuel tanks) been detected at the site?

Has soil sampling been done there?

Has the impact of building been analyzed on the Halawa Correctional Facility and the health and safety of the men inside and the men and women who work there?

Isn't site selection part of the planning process that was intended to involve the community?

Community partnering is a public hearing (page 7, lines 3 and 4)? Sorry that is NOT THE INTENT OF THE LAW PASSED IN 1998.

§353-16.37 Community partnering. Regardless of the method for funding new prison facilities, the department of public safety shall develop and implement a community partnering process to be incorporated into the request for proposal; this partnering process shall include a community hearing for the purpose of soliciting community input. Further, a

community benefit and enhancement package shall be developed by the department and the affected community to mitigate the negative aspects of building a correctional facility in the community. The benefit and enhancement package may include but is not limited to:

- (1) Infrastructure improvements;*
- (2) Job training programs or improvements to schools and health care facilities;*
- (3) Social programs; and*
- (4) Other government functions. [L 1998, c 227, pt of §5; am L 1999, c 134, §4]*

Highlighted in **red** is the section cut out by this administration. **The heart of the law - involving the community early on in the process -- in the development of the request for proposals -- has been cut out by this administration.** What are they afraid of? What is it that they do not want to disclose? Is it because an environmental review triggers a “No Build” alternative where the state must justify the project with a thorough analysis (open to community review) of other alternatives?

The purpose of the DOJ’s Justice Reinvestment Initiative (JRI) is to reduce the incarcerated population. The state, however, seems content to count the large number of mentally ill and unsheltered individuals currently imprisoned at OCCC to justify their plan. Ironically, we have been told that the administration will look at implementing JRI after building the jail. This is backwards.

Actions like this do not engender trust in the community. They promote suspicion and fear that the government knows something that it does not want the people to know.

In his campaign, the Governor promised

- Inclusive and transparent style of governing
- Focus on smart economic growth and development while protecting the environment

Please hold this bill. This is an awful precedent; a really bad idea. We are deeply saddened that this administration would even consider offering this bill.

Mahalo for the opportunity to testify.



COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Representative Chris Lee, Chair Representative Nicole Lowen, Vice Chair

COMMITTEE ON WATER & LAND
Representative Ryan Yamane, Chair Representative Ty Cullen, Vice Chair

Tuesday, February 16, 2016 10:00 a.m. Room 325

STRONG OPPOSITION TO HB 2388 HD1 – NEW JAIL: EXEMPTION FROM CHAPTER 343

Dear Honorable Committee Members,

Mahalo for your public service. I am the executive director of Hawai'i Friends of Restorative Justice a 30+ year old non-profit dedicated to improving our justice system.

We have been working with Hawai'i prisons developing and researching reentry programs for over ten years. Most of our work is published and widely disseminated in the United States and abroad.

We strongly oppose this measure to build a new prison in Halawa or elsewhere without an environmental impact statement (EIS).

The state has already cost Hawai'i taxpayers exorbitant amounts by trying to avoid EIS requirements in the past, e.g. super ferry, etc., and it has spent at least \$16 million dollars for "planning" a new Maui prison. This bill is clearly unwise.

Please contact me at (808) 218-3712 or lorenn@hawaii.rr.com for further information about our opposition to this measure.

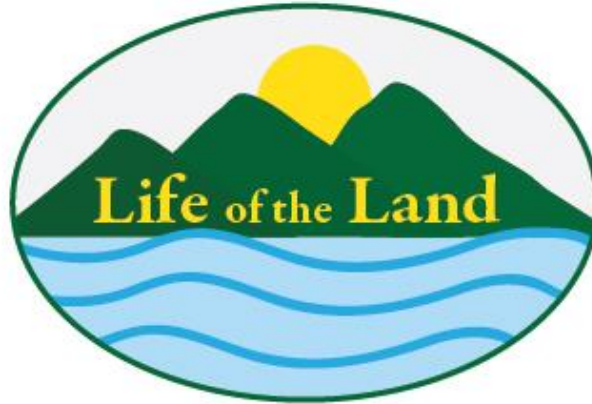
Mahalo again for your service to the community.

Aloha,

Loren Walker, JD, MPH

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P.O. Box 37158, Honolulu, Hawai`i 96837-0158
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COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Chris Lee, Chair

Rep. Nicole E. Lowen, Vice Chair

COMMITTEE ON WATER & LAND

Rep. Ryan I. Yamane, Chair

Rep. Ty J.K. Cullen, Vice Chair

DATE: Tuesday, February 16, 2016

TIME: 10:00 a.m.

PLACE: Conference Room 325

Re: HB 2388 HD1 HOLD

Aloha Chairs Lee, and Yamane, Vice Chairs Lowen and Cullen, and Members of the Committees

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 46 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB 2388 HD1 proposes a new section of law, Hawaii Revised Statutes (HRS) §353-16.35(a). The bill states in part, "the purchase or construction of Oahu community correctional center on an

existing parcel in Halawa Valley, adjacent to the Halawa correctional facility, is exempt from section 343-5."

The bill proposes bad policy whereby a project would be exempted from state environmental law based not on its potential impacts but rather because of special interest legislation.

The State Environmental Impact Law (HRS §343-1) states in part, "The **legislature** further finds that the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.

It is the purpose of this chapter to establish a system of environmental review which will ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations."

The proposed location of the new Oahu community correctional center (OCCC) is being planned for the footprint of the Halawa Medium and High Security Facilities.

George Ariyoshi accepted the Revised EIS for the Halawa Medium Security Facility on June 22, 1983. The document was prepared for DAGS by Wilson Okamoto & Associates. It was proposed that the new Halawa MSF be located adjacent to Halawa High Security Facility.

The REIS noted that: (1) "Four remnant archeological sites have been identified on the proposed project site"¹; (2) "Based on the preliminary grading plan for the site ... approximately 122,000 cubic yards of excavation and 107,000 cubic yards of embankment are needed"; (3) "Military housing is located at Red Hill, adjacent to Halawa Valley"; and (4) there were two streams in the area, the North Tributary and the South Halawa Stream.

¹ REIS p. 36

The Naval Base Pearl Harbor filed comments on December 16, 1982. "The proposed site for the correctional facility will be adjacent to the Navy's Red Hill Underground Fuel Storage Facility. Egress/egress to and from the present Halawa High Security Facility and the Red Hill Fuel Storage Facility is the Halawa Jail Access Road." DLNR filed comments on December 2, 1982, "Two small archeological sites are known to exist in the project area: a stone platform and some agricultural terraces" and on April 28, 1983, "the area contains archeological sites with research potential."

The phrase "existing parcel" is confusing since all parcels exist.

HRS Chapter 353 deals with Corrections. §353-1 defines "Department" to be the Department of Public Safety (DPS) and "Director" to be the Director of Public Safety. The bill proposes that a DPS parcel be exempt from HRS 343 the State Environmental Impact Statement law.

The Environmental Council was designated by the Legislature as overseeing the EIS process. The Environmental Council has established an Exemption List process. Several state agencies have filed exemption lists which were reviewed by the Environmental Council. Approved exemption lists are posted on the Environmental Council webpage.²

State entities with approved exemption lists included but are not limited to the Department of Accounting and General Services (DAGS), Agribusiness Development Corporation (ADC), Department of Agriculture, Department of Defense, Department of Education, Department of Hawaiian Home Lands, Department of Health, Department of Transportation, Hawaii Housing Finance and Development Corporation, Hawaii Public Housing Authority, Hawaii Tourism Authority, and the University of Hawaii.

2

http://oeqc.doh.hawaii.gov/Shared%20Documents/Forms/AllItems.aspx?RootFolder=%2fShared%20Documents%2fEnvironmental_Council%2fExemption_Lists_By_Department&View=%7bc0c5c897-3066-4821-864E-36FB3D77F5D5%7d

The Department of Corrections has never filed for an Exemption List.

The Department of Accounting and General Services (DAGS) Exemption List is illustrative.³ This list does not include large new structures. Exemption Class 1 Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features involving negligible or no expansion or change of use beyond that previously existing. Exemption Class 2 Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height and dimensions as the structure replaced. Exemption Class 3 Construction and location of single, new, small facilities or structures.

An EIS is needed when a proposal uses “state or county lands or the use of state or county funds” (HRS §343-5(a)(1) and is not exempt (HRS §343-6(a)(2)).⁴

The bill also weakens community involvement by shifting the community input phase from early during the RFP step to later soliciting input after key decisions have been made.

Mahalo

Henry Curtis

Executive Director

3

http://oeqc.doh.hawaii.gov/Shared%20Documents/Environmental_Council/Exemption_Lists_By_Department/State_Agencies/Dept-of-Accounting-and-General-Services-04-11.pdf

⁴ “After consultation with the affected agencies, the council shall adopt, amend, or repeal ...rules that ...establish procedures whereby specific types of actions, because they will probably have minimal or no significant effects on the environment, are declared exempt from the preparation of an environmental assessment.”

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 14, 2016 9:46 AM
To: EEPtestimony
Cc: blawaiianlvr@icloud.com
Subject: Submitted testimony for HB2388 on Feb 16, 2016 10:00AM

HB2388

Submitted on: 2/14/2016

Testimony for EEP/WAL on Feb 16, 2016 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Oppose	Yes

Comments: We wholly OPPOSE this bill for the following reasons: 1.) Governor Ige repeatedly stated that we must learn from the mistakes of our past. Well, past mistakes included the building of structures without following environmental impact studies. This led to major lawsuits & federal oversights; 2.) Governor Ige repeatedly stated that we must have honesty & TRANSPARENCY in government. This bill denies the public the right to know how the surrounding environment will be impacted & it puts Governor Ige into a situation where it appears that he had lied to his supporters & all of Hawai'i. This is a voting year!; 3.) There are major aspects of that part of Halawa Valley that must be taken into account, a.) Halawa Valley is a known Sacred Archeological site. Remember the H-3 fiasco (echoes of Governor Ige's message that we must "learn from the mistakes of our past!"), b.) What harmful effects will the inmates in the Halawa Medium Security Facility & the Coast Guard housing complex be subjected to, while the new jail is being built? c.) With only one road in to Halawa currently available, that is heavily used by the industrial complex, how will traffic be affected by the building of this new jail? d.) With the latest fiasco regarding the Red Hill Fuel Tank leakages, which is literally across the freeway from Halawa, how will this new jail be impacted from the contamination of the ground water from that fuel tanks? e.) What studies, if any, have recently been done regarding the fuel tanks in the hill that sits right behind Halawa Medium Security Facility? Are they leaking as well? f.) Will the State/PSD need to negotiate with the military to re-open the military access road on the Coast Guard housing side of Halawa, to help alleviate traffic from the industrial road? If so, how will this increase in traffic affect the Coast Guard housing population? Has anyone even thought of informing the Coast Guard neighborhood? As we have just shown, there is a myriad of issues are awaiting the building of the new jail, for which there has been NO INFORMATION from PSD on how it will deal with any of those issues. While it is a cute notion that Government simply has to wave its magic wand by eliminating or circumventing to EIS process, to allow PSD to have its new jail built without accountability to the tax paying citizens of this State, especially in light of the continuing troubles that plagues PSD, in lawsuit settlements & federal oversight of OCCC & WCCC. It would not be prudent, especially in this voting year to go soft on the EIS

requirements. For these reasons, we must respectfully OPPOSE this bill & caution this committee to consider the long term ramifications that this bill will have. PLEASE HOLD OR DEFER 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.

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The Institute for Human Services
Ending The Cycle of Homelessness

Women & Family Shelter
Business Office
546 Kaaahi Street
Honolulu, HI 96817
Phone: 808.447.2800
Fax: 808.845.7190

Men's Shelter
350 Sumner Street
Honolulu, HI 96817
Phone: 808.447.2900
Fax: 808.537.2697

Housing & Employment
916 Kaamahu Place A
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Committee on Energy and Environmental Protection
Rep. Chris Lee, Chair
Rep. Nicole Lowen, Vice Chair

Committee on Water and Land
Rep. Ryan Yamane, Chair
Rep. Ty Cullen, Vice Chair

RE: IHS IN STRONG OPPOSITION TO HB 2388 HD1 - NEW JAIL EXEMPTION FROM EIS

Aloha Committee Chairs and Members of your respective committees,

On behalf of IHS, The Institute for Human Services, an experienced homeless services provider for over 37 years, I offer testimony strongly opposing HB2388 HD1's intent to exempt the State from Environmental Impact Assessment for a new jail to either be built near the existing Halawa Correctional Facility or to perhaps be rebuilt at its current site in Kalihi.

We recognize the need to improve overcrowding conditions at Oahu Community Correctional Center and support the administration's desire to act quickly. However, bypassing community input through public hearings and exempting it from environmental impact assessment would be a recipe for wasting taxpayer dollars and missing an opportunity to prioritize investment of resources in a transformation of our current correctional system.

While our environmental impact concerns are weighted in the social area, we also have grave concerns about the addition of 1250-1500 new "residents" to the Halawa area and wonder if our island's already overtaxed infrastructure is able to accommodate the expanded needs presented by such a project. Building new residential structures without attention to these environmental concerns like traffic, water access and quality, sewage, energy supply, lighting, are unfair to a community and do not reflect a commitment to transparency on the part of the administration.

From a social impact perspective, without more community support, better coordination with courts and judges and especially without developing more robust and appropriate discharge planning by the Department of Public Safety for the jailed population reflects a philosophy of public safety that is devoid of any commitment to genuine rehabilitation or ending the revolving door of repeated incarceration. The State's appeared preference to build a new facility near HCF also reflects the understanding that offenders come from the community and need family and community support to turn over a new leaf.

Locating a new jail at HCF further isolates the short term jailed because of the lack of transportation (no bus lines) and the more stringent entry guidelines currently in place at HCF. It will make it more difficult for family and community based case management services to become an integral part of rehabilitation and discharge preparation.

Literature shows that offenders who remain connected to family and social supports are less likely to reoffend when released. Same is true for those who have housing arrangements from which they can launch employment and remain in any needed treatment. Release from incarceration is one of the points in any community for vulnerability to becoming homeless and this currently occurs routinely.

Plans for a new jail facility should be carefully thought through with as much input from the community and done in the most transparent way as possible to promote success. Please do not allow this bill to pass out of committee exempting the State from EIS. Let's remember the wasted dollars from the Super Ferry's failure to comply with EIS requirements.

Thank you for the opportunity to testify.

Mahalo,

Connie Mitchell
Executive Director
IHS, The Institute for Human Services, Inc.

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MĀLAMA I KA HONUA. *Cherish the Earth.*

LATE

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

HOUSE COMMITTEE ON WATER AND LAND

Tuesday February 16, 2016 10AM Room 325

In Opposition HB2388 Relating to Correctional Facilities

Aloha Chairmen Lee and Yamane, and Members of the EEP and WAL Committees:

On behalf of our 12,000 members and supporters, the Sierra Club of Hawai'i strongly OPPOSES HB2388 to exempt a new prison facility in Halawa from environmental review. This bill proposes to carve out a special exemption in the state law requiring Environmental Impact Statements for new correctional facilities on "existing parcels."

Informed Decision Making is Not Too Much to Expect

The requirement to conduct an environmental review before proceeding with any project using state funds or state lands is not onerous. Rather it is essential to ensuring informed decision making about a proposed project before causing irreparable harm and spending irreplaceable resources.

Our position is simple: conduct an environmental assessment on the prison proposal as state law requires. If there truly are no significant impacts to our environment or cultural heritage, then there will be no need to conduct a full environmental impact statement. If, however, significant impacts are identified, then the project proponents — as much as anyone else — must know the extent of those impacts and how to mitigate them. How else can the project proponent know that the proposed site is the right location, that the proposed building is the right design, that the proposed use meets our stated needs? It can't.

That is why we require all projects use state funds or state lands to conduct first an environmental assessment and then, if our cultural and environmental resources might be at risk, a more in-depth environmental impact statement.

In a post-Superferry world, it is simply irresponsible to consider codifying such a counter-intuitive precedent as proposed in this bill. Please do not allow this counter-productive conversation to continue. Hold this bill.

Thank you for the opportunity to testify on this measure.

Martha Townsend
Director

LATE



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

**TESTIMONY FOR HOUSE BILL 2388, HOUSE DRAFT 1, RELATING TO
CORRECTIONAL FACILITIES**

House Committee on Energy and Environmental Protection

Hon. Chris Lee, Chair

Hon. Nicole E. Lowen, Vice Chair

House Committee on Water and Land

Hon. Ryan I. Yamane, Chair

Hon. Ty J.K. Cullen, Vice Chair

Tuesday, February 16, 2016, 10:00 AM

State Capitol, Conference Room 325

Honorable Chair Lee, Chair Yamane, and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 350 local members. On behalf of our members, we offer this testimony in strong opposition to HB 2388, HD1, relating to correctional facilities.

Environmental impact statements and assessments exist to determine how certain actions, particularly involving new infrastructure or construction, positively and negatively impact the environment. EIS and EA statements promote informed decision-making by ensuring detailed information concerning significant environmental impacts is available to both agency leaders and the public, while encouraging communication and cooperation between all stakeholders involved in environmental decisions. Moreover, environmental reviews serve as an enforcement mechanism to ensure compliance with applicable environmental regulations.

According to HRS §343-5(a)(1) environmental assessments shall be required for any actions that “**propose the use of state or county lands or the use of state or county funds**, other than funds to be used for feasibility or planning studies for possible future programs or projects that the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property,” with the purpose of the assessments, as elucidated in HRS §343-1, being

that “the quality of humanity's environment is critical to humanity's well being, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions,” and further that “the process of reviewing environmental effects is desirable because **environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.**”

A new correctional center on an existing parcel of the Halawa Correctional Center—a new O’ahu Community Correctional Center—will, by its very size, have a significant impact on the surrounding environment and its enmeshment with human activities. Additionally, environmental reviews typically include archaeological assessments. A 1983 environmental assessment of the Halawa land noted the existence of two small archeological sites “with research potential.” Finally, the Halawa facility abuts the Navy’s underground fuel storage units at Red Hill, making necessary the need to account for public health risks associated with potential fuel leakage during the development, construction, and operation of the new jail complex. Each of these concerns presuppose the need for “environmental consciousness,” stakeholder “cooperation and coordination,” and “public participation,” as already espoused in state law, to maximize information sharing, solicit public input on project details, minimize health risks and liability concerns, protect our historical and natural resources, and build support within the surrounding community.

Mahalo for the opportunity to testify in opposition to this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance



CARRIE ANN SHIROTA, JD
1839 Wells Street
Wailuku, Hawaii 96793
Phone: 808-269-3858

LATE

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Representative Chris Lee, Chair
Representative Nicole Lowen, Vice Chair

COMMITTEE ON WATER & LAND
Representative Ryan Yamane, Chair
Representative Ty Cullen, Vice Chair

Tuesday, February 16, 2016
10:00am
Room 325

OPPOSE: HB 2388 HD1 – New Jail Exemption from Ch. 343 & Funding for New Maui Prison

Aloha Chairs Lee and Yamane, and Members of the Committee:

I am writing in strong opposition to HB 2388 HD1 that exempts the State from environmental impact statement or assessment requirements for a jail facility on an existing parcel of the Halawa Correctional Facility. This proposed measure also clarifies the governor's authority to contract for construction of correctional facilities and appropriates funds for a new Oahu Community Correctional Center and relocating Maui Community Correctional Center.

As a former Deputy Public Defender and Director of MEO's Being Empowered and Safe Together (BEST) Reintegration Program, and as a member of Community Alliance on Prisons, I oppose this measure for the following reasons.

1) ***Dangerous legal precedent.***

This proposed measure would allow the State to build a NEW 1250-bed prison without complying with the current environmental review mandates under HRS Chapter 345. If the State is permitted this exemption for building new prisons that will ultimately cost taxpayers millions of dollars, this administration or future administrators may advocate for similar exemptions for other "state" projects. This exemption thwarts the essence of HRS Chapters 353-16.37 that requires the Department of Public Safety to develop and implement a community partnering process to include a community hearing for the purpose of soliciting community input. Community input, through HRS Chapters 343 and 353, are necessary to promote TRANSPARENCY and ACCOUNTABILITY for these NEW prisons and jails.

2) ***Maui Community has voiced strong opposition to building a new prison, and will continue to resist this ill-sighted investment.***

For the past decade, I, as well as other concerned community members, have attended numerous community meetings, hearings and informational sessions regarding the proposed need to build a new jail/prison on Maui. **This proposed legislation which appropriates funds for the "relocation of the Maui community correctional center" is based upon a misrepresentation of the facts:**

"The legislature also notes that that Maui jail was designed for two hundred inmates and now houses more than double that number; there is no more room for expansion on its current site."

First, the majority of MCCC's incarcerated population is comprised of pre-trial inmates. JRI listed specific policy recommendations to REDUCE the pre-trial population. It is unconscionable for the State to invest in millions of dollars beyond the \$14 million already spent on planning the Maui prison without implementing the JRI strategies that would reduce the pre-trial population, and hence, the overall population at MCCC.

Second, this bill ASSUMES that there is no more room for expansion on its current site. PSD and DAGs started, but NEVER completed the EIS process for the proposed relocation of MCCC to the Pu'unene site. Some community members who submitted comments on the proposed relocation recommended renovations and expansion on the current MCCC site in Wailuku. **Nonetheless, since the EIS process was never completed for the proposed relocation of MCCC, this legislative body may not assume there is no room for expansion at the current MCCC site.**

3) ***Building NEW prisons makes us poorer, not safer.***

In 2011, our then Governor Neil Abercrombie, Judiciary and State Legislature applied for, and was selected as a Justice Reinvestment site. The purpose of Justice Reinvestment policies is conduct a comprehensive assessment of the state's incarcerated population in order to reduce correctional costs, while enhancing public safety through the following means:

- Focus on the people most likely to commit more crime;
- Use programs proven to work and ensure they are high quality;
- Deploy supervision policies and practices that balance sanctions and treatment; and
- Target places where crime and recidivism rates are the highest

This proposed measure perpetuates the myth that building NEW prisons is the solution to prison overcrowding. Across the United States, jurisdictions that have enacted Smart Justice policies and implemented JRI recommendations have experienced success in reducing recidivism rates and reducing the overall prison population. Notably, some jurisdictions AVOIDED THE NEED TO BUILD MORE PRISONS, and allowed for the reinvestment of funds earmarked for prison construction toward a range of strategies designed to increase public safety and reduce recidivism.

In summary, I respectfully request that you hold this bill. Mahalo for the opportunity to submit comments in opposition to this proposed measure.

Sincerely,

Carrie Ann Shiota

To: **COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**
Representative Chris Lee, Chair
Representative Nicole Lowen, Vice Chair

COMMITTEE ON WATER & LAND
Representative Ryan Yamane, Chair
Representative Ty Cullen, Vice Chair

LATE

Re: **HB 2388 HD1** Tuesday, February 16, 2016 10:00 a.m. Room 325

STRONG OPPOSITION

Aloha Chair Lee, Chair Yamane and members of your committees,

For so many reasons, this is a bad bill. Chief among them are disregard for both the letter of the law and the spirit of governance itself. I fear that Governor Ige and the Legislature alike will be held up to ridicule if it passes.

Without using the word “pono,” Governor Ige invoked its consistent usage in matters of legislative conduct during his State of the State address. To paraphrase, “We must do the right thing.” When he pointed his finger at the SuperFerry and Kakaako, we all knew what he meant. Embarrassing, isn’t it? In years to come — after a costly lawsuit, costly delays and an even more costly repudiation of the principles of open, honest government — will another governor add this debacle to the list?

OCCC is a disgrace, yes. Perhaps if the Corrections Population Management Commission was doing its job, the situation would be different. But the urgent need to do something about OCCC does not override the stronger need to do that something correctly.

Dodging the bullet of an EIS only invites a bigger bullet down the road. It is foolhardy at best, and it signals an unwillingness to do for ourselves what we ask of others. Pono? No. Similarly, partnering with the community on a set of circumstances that involves so many of us — and the weakest and sickest among us at that — is not just the law, it is the right thing to do. These two are “musts” for the ‘ohana that Governor Ige pledged to honor.

I respectfully request that you hold this bill. Thank you very much.

Aloha,



Peter Gellatly

Corrections Population Management Commission, 2004-2011
Penal Code Review Committee, 2015



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