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TESTIMONY ON HOUSE BILL 2388, HOUSE DRAFT 3, SENATE DRAFT 1
RELATING TO CORRECTIONAL FACILITIES

By
Nolan P. Espinda, Director

Senate Committee on Ways and Means
Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair

Monday, April 4, 2016; 2:00 p.m.
State Capitol, Conference Room 211

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

The Department of Public Safety (PSD) **supports** the enactment of House Bill (HB) 2388, House Draft (HD) 3, Senate Draft (SD) 1, as it addresses the dire need to redevelop both the Oahu Community Correctional Center (OCCC) and Maui Community Correctional Center (MCCC).

In particular, the Department acknowledges the Administration's responsibility to conduct a study to rebuild OCCC on its current site in Kalihi using a multi-story design that minimizes its footprint, thereby allowing for the redevelopment of the remainder of the property. Additionally, PSD recognizes the need to examine all financing options, including private-public partnerships, to make the most effective use of State funds.

Thank you for the opportunity to present this testimony.

BIA-HAWAII

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Testimony to the Senate Committee on Ways and Means

Monday, April 4, 2016

2:00 p.m.

State Capitol - Conference Room 211

RE: H.B. 2388 H.D. 3 S.D. 1: Relating to Correctional Facilities

Dear Chair Tokuda, Vice-Chair Dela Cruz, and members of the Committee:

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 **support the intent** of H.B. 2388 H.D. 3, S.D. 1, which clarifies the Governor's authority to negotiate for the construction of correctional facilities and aligns environmental impact statement and assessment requirements as generally applicable requirements. It also would appropriate funds for a new Oahu Community Correctional Center and relocating Maui Community Correctional Center. And finally, it would require a feasibility report on development of Oahu Community Correctional Center land.

The bill is attempting to provide certainty and predictability to the public disclosure process known as Chapter 343 HRS, while also providing for maximum flexibility in planning and designing a new 1,250 bed facility at one or more sites. If the site or sites have not been selected it would be difficult to prepare a public disclosure document that meets the requirements of Chapter 343 HRS.

The existing OCCC site is 16.46 acres and currently zoned Industrial. Prisons require an approved "Plan Review Use" or PRU in any of the City and County of Honolulu's zoning districts. The bill states that redevelopment opportunities to be considered for the current OCCC site include housing, retail, restaurants, government buildings, and parks. We believe that most of these new uses would not be allowed under the existing Industrial zoning of the property.

Perhaps the legislature should focus on that portion of the OCCC lot that will not be used for the proposed vertically constructed prison. This area would probably need to be rezoned out of Industrial into one of the BMX zoning districts to allow for the uses proposed in the bill.

We believe the Legislature should consider one of the following options:

1. Fund an EA/EIS and construction of the relocated OCCC facility to the Halawa Correction Facility; or,
2. Fund an EA/EIS to rezone the lands surplus to the OCCC facilities needs when the new 1,250 bed facility is built multi-story;
 - a. Fund an RFP process and construction process to select a developer to:
 - i. Construct the new 1,250 bed multi-story facility on a smaller foot print at the existing OCCC site; and,
 - ii. Lease the surplus OCCC property based on the maximum allowable uses under the BMX zoning.

Under this approach, the legislature could specific minimum or maximum limits for specific uses in the BMX zoning (i.e. affordable housing) or weight the selection criteria based on desired outcomes for the redevelopment of the site.

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).

We support the intent of H.B. 2388 H.D. 3 S.D. 1, and appreciate the opportunity to express our views on this matter.



CARRIE ANN SHIROTA, JD
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COMMITTEE ON WAYS AND MEANS

Sen. Jill Tokuda, Chair
Sen. Donovan Dela Cruz, Vice Chair
Monday, April 4, 2016
2:00 p.m.
Room 211

STRONG OPPOSITION: HB 2388 HD3 SD1 –Funding for New OCCC/Maui Prison

Dear Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

I am writing in strong opposition to HB 2388 HD3 SD1 that purports to clarify the Governor's authority to negotiate for the construction of correctional facilities and align environmental impact statement and assessment requirements as generally applicable requirements. In addition, this measure appropriates funds for a new Oahu Community Correctional Center and relocating the 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 is purposefully vague, and appears to create less stringent standards than what is currently required of an EIS under the law. If the State is permitted to water down EIS requirements when building new prisons, this administration or future administrators will likely advocate for similar watered down exemptions for other "state" projects. This vague wording 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 any proposed NEW prisons and jails.

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

It is unconscionable for the State to invest in \$200 million dollars beyond the \$14 million already spent on planning the Maui prison without implementing the Justice Reinvestment Initiative (JRI) strategies that would reduce the pre-trial population, and hence, the overall population at MCCC. For the past decade, many 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 MCCC erroneously assumes that building a new prison is the only means to reduce overcrowding and that "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. According to the Department of Public Safety's 2014 Annual Report, MCCC was designed for 209 beds. The Operational bed count is 301, and the actual inmate population as of June 30, 2014, was 412. **However, the report fails to highlight that the 279, or 68% of the MCCC population consists of pre-trial inmates.**

Weekly Inmate Population Report at MCCC (PSD Annual Report 2014)

Design Beds	Operational Beds	Total	Sentenced	Pretrial
209	301	412	133 (32%)	279 (68%)

The Justice Reinvestment Initiative, a collaboration between Hawai'i's executive, legislative and judicial branches and the Council of State Governments Justice Center, reviewed and analyzed Hawai'i's criminal justice data and made policy recommendations to REDUCE the overall jail and prison population, including the pre-trial population. Specifically, the JRI Report concluded that the "jail population was increasing due to delays in pre-trial process" and noted that the pretrial length of stay in Hawaii averaged much longer than other counties in a national study.

Pretrial Felonies Length of Stay by Release Type and Facility in Hawaii (JRI Report, July 2, 2013)

Release Type	Number	Average Length of Stay
Bailed	444	20 days
ROR (release upon recognizance)	143	32 days
Supervised Release	288	75 days

Pretrial Felonies Length of Stay by Facility (JRI Report, July 2, 2013)

OCCC	KCCC	MCCC	HCCC
98 days	96 days	62 days	31 days

In Hawai'i, the average length of stay (LOS) for non-financial conditions ranges from 32 to 75 days. According to the JRI Report, Hawai'i's average length of stay is much longer than most jurisdictions. **The Report notes that "32 counties out of 39 in a national study manage to release defendants under non-financial conditions in less than 15 days."** For MCCC, the average length of stay for pre-trial persons is 62 days, and at OCCC, the average LOS is 98 days.

Significantly, the JRI Report also listed specific action steps to address this problem. These steps include: Training ISC staff on the assessment instrument and begin conducting assessments, piloting an expedited pre-trial decision-making process; adjusting the processes to maximize efficiency and implementing training of judges, prosecutors, and defense attorneys on pretrial principles and new processes. By implanting these recommendations, Hawai'i will cost-effectively reduce the pre-trial population at MCCC and other correctional facilities in Hawai'i. The cost-savings from these measures should be invested in evidenced based justice reinvestment strategies that have proven effective in other jurisdictions.

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.** Moreover, if we invest in Justice Reinvestment strategies, we will reduce the overall population at MCCC, and have the opportunity to renovate MCCC and invest the additional funds into expanding the capacity of treatment and diversion programs.

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 is to 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 bill 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 have 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

Carrie Ann Shiota