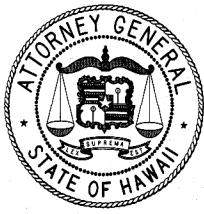


HB2388 HD3

Measure Title:	RELATING TO CORRECTIONAL FACILITIES.
Report Title:	Correctional Facilities; Appropriation (\$)
Description:	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. Appropriates funds for a new Oahu Community Correctional Center and relocating Maui Community Correctional Center. Requires a feasibility report on development of Oahu Community Correctional Center land.
Companion:	SB2917
Package:	Governor
Current Referral:	PSM/WLA, WAM
Introducer(s):	SOUKI (Introduced by request of another party)



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

ON THE FOLLOWING MEASURE:

H.B. NO. 2388, H.D. 3, RELATING TO CORRECTIONAL FACILITIES.

BEFORE THE:

SENATE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL AND
MILITARY AFFAIRS AND ON WATER, LAND, AND AGRICULTURE

DATE: Friday, March 18, 2016

TIME: 2:45 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Diane Taira, Deputy Attorney General

Chair Nishihara, Chair Gabbard, 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 the Oahu Community Correctional Center (OCCC).

We propose the following amendments on page 10, lines 6 through 10, to allow more flexibility in the procurement method to be employed for the new facility:

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 support buildings,
for [~~the~~] an Oahu community correctional center [~~to be located on
an existing parcel of the Halawa correctional facility~~].

We support passing this bill with the foregoing amendments.

DAVID Y. IGE
GOVERNOR



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

NOLAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Shawn H. Tsuha
Deputy Director
Law Enforcement

No. _____

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

By
Nolan P. Espinda, Director

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator Will Espero, Vice Chair

Senate Committee on Water, Land, and Agriculture
Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair

Friday, March 18, 2016; 2:45 p.m.
State Capitol, Conference Room 224

Chairs Nishihara and Gabbard, Vice Chair Espero, and Members of the Committee:

The Department of Public Safety (PSD) **supports** the enactment of House Bill (HB) 2388, House Draft (HD) 3 as it addresses the dire need to relocate the Oahu jail (OCCC) out of the urban core community of Kalihi and also appropriates funds to relocate the Maui Community Correctional Center (MCCC).

The OCCC facility's aged and deteriorating infrastructure and the grossly outdated 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.

Additionally, the MCCC population is at more than double the campus' design capacity, and there is no room to properly expand on the current site. Funding for a new MCCC campus would allow the State to pursue a new Maui facility, building upon progress made over the past few years.

The Department appreciates the two separate funding sources proposed in the bill (General Obligation Bonds and General Fund Appropriation) and would like to suggest that the Committee request from DAGS updated amounts for the design and construction of both facilities as part of their deliberations and to provide reasonable guidance to the Committee on Ways and Means, should the measure advance.

Thank you for the opportunity to present this testimony.



HB2388 HD3
RELATING TO CORRECTIONAL FACILITIES
Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senate Committee on Water, Land, and Agriculture

March 18, 2016

2:45 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB2388 HD3.

OHA appreciates the intent of this measure to alleviate the substandard conditions and overcrowding at the O‘ahu Community Correctional Center. **However, OHA first encourages the full exploration and execution of programs and policies that effectuate evidence-based alternatives to incarceration, that could improve public safety and effectively rehabilitate pa‘ahao, while also saving taxpayer dollars.**¹ Proactive efforts to reduce the number of non-violent inmates, a disproportionate number of whom are Native Hawaiian,² must continue to be prioritized prior to and alongside planning for construction of any new facility to house the record-high and growing pa‘ahao population in Hawai‘i.³

Mahalo for the opportunity to testify on this measure.

¹ In its 2012 report, the Native Hawaiian Justice Task Force recommended several options to address systemic issues resulting in the disproportionate overrepresentation of Native Hawaiians in the criminal justice system. These included reconsidering several proposals from the 2011 Justice Reinvestment Initiative legislation that were not originally passed or implemented, investing in early intervention programs, increasing public defender funding, expanding implicit bias training, strengthening supervised release programs, executing compassionate release consistently, supporting indigenous models of healing alternatives such as pu‘uhonua, and bolstering reintegration programs and services to better prevent recidivism. OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT (2012), http://19of32x2yl33s8o4xza0gf14.wpengine.netdna-cdn.com/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

² A 2010 OHA study found that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at every stage, noting that Native Hawaiians made up “24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population.” Moreover, controlling for many common factors such as type of charge, the study revealed that Native Hawaiians were more likely to be found guilty, receive a prison sentence, and receive a longer prison sentence or probation term than most other ethnic groups. OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 28-38 (2010), http://www.oha.org/sites/default/files/ir_final_web_rev.pdf.

³ The number of people incarcerated in Hawai‘i has increased by more than 900 percent between 1977 and 2008. *Id.* at 19. More recent figures indicate that our prison population has now increased by 1,400 percent since 1977.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
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KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY

**THE HONORABLE CLARENCE K. NISHIHARA, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS**

**THE HONORABLE MIKE GABBARD, CHAIR
SENATE COMMITTEE ON WATER, LAND, AND AGRICULTURE**

**Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawai'i**

March 18, 2016

RE: H.B. 2388, H.D. 3, RELATING TO CORRECTIONAL FACILITIES.

Chair/Vice-Chair Nishihara, Chair Gabbard, Vice-Chair Espero, AND members of the Senate Committees on Public Safety, Intergovernmental, and Military Affairs, and on Water, Land, and Agriculture, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in support of H.B. 2388, H.D. 3, particularly Parts IV and V regarding building a new correctional facility to replace Oahu community correctional center ("OCCC"). The Department takes no position on other portions of the bill.

The Department greatly appreciates the Legislature's recognition that Hawai'i is in urgent need of a new correctional facility(s), and also appreciates the Legislature's willingness to provide the necessary support and resources. The Department agrees that public-private partnership is the ideal solution for accomplishing this endeavor—as touched upon in H.B. 2388, H.D. 3,—as this could provide the much-needed facility(s) at little or no cost to the State, for both construction and maintenance.

While the Department appreciates that the proposed facility would incorporate much-needed programs in-house, to address substances abuse, mental health and other issues, we strongly believe that a corresponding increase in community-based programs is also needed, to better prepare inmates for their return to the community, throughout parole and ultimately release. If an adequate network of support and resources can be provided to inmates and parolees, to assist in their transition from the correctional facility(s) to the outside community, this will ultimately help them to refrain from re-offending or re-entering the criminal justice system in the future. In the long-run, this would assist us in guarding the safety and welfare of the community and of future generations.

For these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of H.B. 2388, H.D. 3. Thank you for this opportunity to testify.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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Testimony to the Senate Committees on Public Safety, Intergovernmental, and Military Affairs, and Water, Land and Agriculture Friday, March 18, 2016 2:45 p.m. State Capitol - Conference Room 224

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

Dear Chairs Nishihara & Gabbard, Vice-Chairs Espero & Nishihara, 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 **supports the intent** of H.B. 2388 H.D. 3, 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 offer the following options for your consideration:

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 specify 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, and appreciate the opportunity to express our views on this matter.

From: mailinglist@capitol.hawaii.gov
To: [PSMTestimony](#)
Cc: leilani.maxera@gmail.com
Subject: *Submitted testimony for HB2388 on Mar 18, 2016 14:45PM*
Date: Wednesday, March 16, 2016 10:51:06 AM

HB2388

Submitted on: 3/16/2016

Testimony for PSM/WLA on Mar 18, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Leilani Maxera	The CHOW Project	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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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence Nishihara, Chair
Senator Will Espero, Vice Chair

COMMITTEE ON WATER, LAND, AND AGRICULTURE

Senator Mike Gabbard, Chair
Senator Clarence Nishihara, Vice Chair

Friday, March 18, 2016
2:45 p.m.
Room 224

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.

Our state currently imprisons about 6000 people, which costs about \$150 million a year. Proper reentry, educational, and social programs could help reduce the number of people imprisoned, which would save physical and human resources. Instead, of working to prevent and reduce imprisonment the state wants to build a new prison and continue incarcerating at its current level. Spending on imprisonment takes away needed educational and social resources, and it seriously damages our community.

The average grade level for an imprisoned person in Hawai'i is the only sixth grade; many of the incarcerated suffer mental health problems; and a disproportionate number of Native Hawaiians are in prison. Educational and social issues are contributing to imprisonment, which the state has the means to control, e.g. ensuring all people coming out of prison have legal identification, a place to live, job skills or participation in some meaningful activity, repaired and restored family relationships, etc.

Our high rate of incarceration makes our communities unsafe, it damages families, and it diminishes the potential for individuals with social disadvantage to do well.

Until there are concrete plans to reduce the number of people in prison, no new prison plans should be considered.

The state has already spent about \$14 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 bill.

Mahalo again for your public service.

Aloha, Lorenn Walker, JD, MPH

Hawai'i Friends of Restorative Justice Board of Directors:

Rich Turbin, Esq., President • Roger Epstein, Esq., Vice President • Svitlana Pronina Campbell, Secretary,
Madonna Castro Perez, Treasurer, Cheri Tarutani, MSW, Amphan "Amphay" Champathong, JD, MSW, Kellen Kashiwa, OD,
Elizabeth Naholowa`a Murph



**Testimony to the Senate Committee on Public Safety, Intergovernmental, &
Military Affairs and Committee on Water, Land, & Agriculture
Friday, March 18, 2016 at 2:45 P.M.
Conference Room 224, State Capitol**

RE: HOUSE BILL 2388 HD 3 RELATING TO CORRECTIONAL FACILITIES

Chairs Nishihara and Gabbard, Vice Chairs Espero and Nishihara, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent of** HB 2388 HD 3, 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 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 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.

Perhaps the legislature should consider one of the following options:



Chamber of Commerce HAWAII

The Voice of Business

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, 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 PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Sen. Clarence Nishihara, Chair

Sen. Will Espero, Vice Chair

COMMITTEE ON WATER, LAND, AND AGRICULTURE

Sen. Mike Gabbard, Chair

Sen. Clarence Nishihara, Vice Chair

Friday, March 18, 2016

2:45 p.m.

Room 229

OPPOSITION AND COMMENTS ON HB 2388 HD3

Aloha Chairs Nishihara and Gabbard 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, far from their ancestral lands.

HB 2388 HD3 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. Appropriates funds for a new Oahu Community Correctional Center and relocating Maui Community Correctional Center. Requires a feasibility report on development of Oahu Community Correctional Center land.

Community Alliance on Prisons continues to oppose this measure as it is confusing and, in some parts, contradictory.

Our concerns stem from the total focus on the building and not on the people who will live and work there. You do not develop the hardware first...you always design the software first to address problems, improve quality, advance knowledge, etc. and then you build the appropriate hardware. We are deeply concerned that the state is building first and thinking later. Generally this strategy is expensive and becomes "yesterday" pretty quickly.

Some of CAP's problems with this bill:

Page 1, lines 12-17: *"There is adequate space to move the Oahu community correctional center to the grounds of the Halawa correctional facility. Such use would be consistent with the current use of the site and also provide cost efficiencies through shared use of common services, such as food preparation, laundry, and medical clinics."*

Why couldn't those services be consolidated now to "provide cost efficiencies through shared use of common services, such as food preparation, laundry, and medical clinics." The OCCC site is centrally located to provide these common services to WCCC, Halawa, Waiawa and OCCC.

The current OCCC site is perfect for a right-sized jail: near public transportation and job centers! The Halawa site is too remote for a transient jail population. It is unfair to the community who have loved ones inside.

Page 2, lines 1-10: *"The legislature finds that the new, 1,250-bed Oahu community correctional facility will be a secure, minimum- to medium-security community correctional facility designed to include in-house rehabilitation programs for the treatment of chemical dependency and abuse and other mental health programs, as well as to prepare inmates for re-entry into society. In addition, the design of the new facility will incorporate the separation of low-risk offenders and high-risk offenders and be orientated toward recovery models for inmates with substance abuse and mental health issues."*

One of the things that policymakers should receive, and this should also be made publicly available, is a report of who exactly is in OCCC. This analysis should include custody level and numbers of people in each level, the number of people at each risk level, the number of people with mental illnesses (separate out those who are severely mentally ill-SMI-and those who do not quite make the SMI diagnosis), people with substance abuse disorders, and people who were living unsheltered at the time of arrest.

The questions that this committee and our communities must ask:

- Are we satisfied that our jails have become the de facto mental health and shelter facilities?
- How many people in OCCC and MCCC have mental health problems?
- How many people in OCCC and MCCC were living unsheltered on the streets?
- The figure of \$489.3 million was projected for OCCC; only \$60 million allocated in the budget - what happens now?
- \$200 million for MCCC - What happened to the almost \$14 million of taxpayer money that was already spent on MCCC?
- Was the \$5 million for OCCC that the Governor provided in 2015 mid-session that stopped the bill for OCCC ever spent? By whom and for what?

Page 3, lines 9-11: *"...of a jail, such as that needed on Maui, and aligns environmental impact statement and assessment requirements for such a jail with generally applicable requirements."*

This language is confusing. What does it mean? Will the state follow the EIS law (Chapter 343) or are they trying to invent something else? **Sounds like you want environmental requirements and not our environmental impact statement law and we are deeply concerned about this.**

Page 3, lines 14-16: *“The legislature finds that this Act and the funds appropriated by it will enable the State to pursue the relocation of Maui’s correctional facility.”*

Where? The Pu`unene site has no water (the 6.5 inch pipe to serve the National Guard is inadequate and `Iao aquifer has been over-pumped for decades), no public transportation, and the area is so hot, the community has referred to it as “hell”. Better dig up those old site surveys.

Page 3, lines 20-21; Page 4 lines 1-5: *“(1) Clarifying the governor’s authority to negotiate for the construction of a correctional facility to include the authority to negotiate for construction of a jail, such as that needed on Maui, and aligning environmental impact statement and assessment requirements for such a jail with generally applicable requirements.”*

What does this mean? Does it mean that a corporate prison company could be contracted to build and operate new facilities in Hawai`i? The community has been repeatedly told that the state would operate all of our facilities. Community Alliance on Prisons has deep concerns about any further contracting with Corrections Corporation of America (CCA). This “temporary solution” to overcrowding has led to 20 years of the banishment of our people to the hands of corporate profiteers. Over the years we have seen many contract violations that have not and are NOT enforced. The 2010 audit made clear that the Department of Public Safety has a cozy relationship with CCA; sadly at the expense of the health and safety of our people held in their prisons and taxpayers who have borne the costs of litigation and/or settlements of claims.

Page 4 lines 6 -13: *“(2) Requiring the governor to commission a feasibility study that includes reconstructing the Oahu community correctional center with a smaller footprint on the land that it currently occupies and redeveloping the remainder of the site; and (3) Appropriating funds for reconstruction of the Oahu community correctional center and the relocation of the Maui community correctional center.”*

This is confusing because the bill first talks about how Halawa is the perfect site and now there is a requirement for a feasibility study of building a new LARGE OCCC high-rise on a smaller footprint of the current OCCC. What is going on?

Page 5, lines 9 - 21: *“(b) Any development or expansion proposal [shall] may address the construction of the facility separate from the operation of the facility ...and shall consider and include: (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[t] or detainees; (2) The facility’s impact on existing infrastructure, and an assessment of improvements and additions that will be necessary; (3) The facility’s impact on available modes of transportation, including airports, roads, and highways; and ...”*

Why was “shall” changed to “may” if that is truly the intent? We find it concerning that “shall” was changed to “may”, thereby making it optional to consider (1), (2), and (3).

And, as mentioned before, it is concerning that there has been no attention paid to who actually lives and works at OCCC and at MCCC. Again we ask,

- *Are we satisfied that our jails have become the de facto mental health and shelter facilities?*

- *Are there more effective ways to spend our resources than imprisoning people struggling with various ailments?*
- *Are there more effective ways to spend our resources that would help people struggling with mental illness, homelessness, and substance disorders rather than imprisonment?*
- *Have we explored the alternatives or other strategies that will achieve the outcomes that we all desire... safe, healthy, and just communities?*

All these questions are part of due diligence and no public funds should be spent before they are adequately answered.

Page 6, lines 7-10: *“partnering process to be incorporated into [the request for proposal;] the planning of any new prison or jail; this partnering process shall include a community hearing for the purpose of soliciting community input.*

Please don't insult the community in this way. We have been to hundreds of “public hearings” over the decades and they could never be honestly construed as “partnering”.

How else will the community be a partner (besides picking up the tab)?

Excessive incarceration is tearing apart the social fabric of Hawai'i families and now this bill promises a DPS dog and pony show without even consulting the community/taxpayers on the best strategies for addressing Hawai'i's social problems? THIS IS INSULTING and diminishes the intent of the 1998 law that addresses consulting the community early in the process. Incarceration affects everyone and the community – who end up paying – have a right to know how their hard-earned dollars are spent. Without transparency how do not know what we have given up without our prior and informed consent?

Page 9, lines 17-19: *“In financing the new facility, the State shall examine all possible financing options, including private-public partnerships, to make the most effective use of state funds.*

Again we implore the state to not contract with a private prison corporation for any facility. Please do not open the door to them. CCA was granted a REIT (real estate investment trust) by the federal government in February 2013. As a REIT, corporations can avoid paying federal taxes on their earnings as long as at least 90% of those earnings are paid out to shareholders in the form of dividends. As a New York Times article explained: *“One of the bedrock principles – and the reason for tax exemption – was that the trusts do not do any business other than owning real estate. But bit by bit, especially in recent years, that has changed as the IRS, in a number of low profile decisions, has broadened the definition of real estate, and allowed companies to split off parts of their business that are unrelated to real estate.”*¹

There are many studies about some pitfalls in public-private partnerships. When the state takes a partner, they are giving up some of our rights in order to finance public projects. Just what have we given up with no prior informed consent? The problem for Community Alliance on Prisons is the lack of transparency that seems to be inherent in public-private partnerships.

¹ **CCA gets feds' nod for REIT move, by Geert De Lombaerde, Published February 8, 2013**
<http://www.nashvillepost.com/home/article/20468372/cca-gets-feds-nod-for-reit-move>

- **The rush to build:**

This proposal is one of the largest public projects in Hawai'i outside of the ill-conceived rail debacle. Why is Hawai'i rushing into building buildings rather than building communities when the research and data show that providing community-based programming is a far better and less expensive option? Incarceration should be the LAST RESORT.

- **Implement Justice Reinvestment BEFORE building:**

Criminal justice reform is happening all around the nation. Hawai'i has a golden opportunity to implement Justice Reinvestment (JRI), yet this administration has decided to build facilities first and then implement JRI. This is completely backwards from the goals of this Department of Justice initiative, which is to REDUCE THE INCARCERATED POPULATION. As Jeremy Travis, president of the John Jay College of Criminal Justice at the City University of New York and one of the authors of the National Academies Press report on the Growth of Incarceration in the US has said, *"As a society we've become more and more punitive even though crime is at its lowest rate ever. We put people in prison for offenses that would have received a light sanction in former times."*

- **Address social problems; DON'T HIDE THEM!**

Incarceration 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 assist those needing help; rather it exacerbates their problems; costs the taxpayers millions of dollars; and destroys communities. As Professor Angela Davis has said, *"Prisons do not disappear social problems, they disappear human beings. Homelessness, unemployment, drug addiction, mental illness, and illiteracy are only a few of the problems that disappear from public view when the human beings contending with them are relegated to cages."*

- **Develop the "software" first; then the hardware:**

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.

Mahalo for the opportunity to offer this testimony.



March 15, 2016

Senator Clarence K. Nishihara, Chair
Senator Will Espero, Vice Chair
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair
Senate Committee on Water, Land, and Agriculture

Comments Regarding HB 2388 Relating to Correctional Facilities (Clarifies the Governor's authority to negotiate for construction of correctional facilities; appropriates funds for new Oahu Community Correctional Center (OCCC) and relocating Maui Community Correctional Center (MCCC); and requires a feasibility report on development of OCC land.)

Friday, March 18, 2016, 2:45 p.m., in Conference Room 224

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

HB 2388. The purpose of this bill is to expeditiously and efficiently facilitate the development or expansion of in-state correctional facilities by clarifying the governor's authority to negotiate for construction of a jail and aligning environmental impact statement and assessment requirements for such a jail with generally applicable requirements; requiring the governor to commission a feasibility study that includes reconstructing the OCCC with a smaller footprint and redeveloping the remainder of the land it currently occupies; and appropriating funds for the reconstruction of the OCCC and relocation of the MCCC.

LURF's Position. LURF respects and commends the legislative efforts being made by this bill to address needs and issues relating to the State's correctional facilities, particularly the study proposed to be commissioned on the feasibility of State redevelopment of the land presently occupied by the OCCC should the OCCC be

relocated or rebuilt on the current Kalihi site in a manner that reduces its current footprint. Such a feasibility study is proposed to include exploration of options to rebuild the OCCC on its current site to possibly still enable redevelopment opportunities such as affordable housing and mixed uses in the urban core, which would complement Transit Oriented Development along the corridor in the Kalihi area, as well as to partner with the private sector to generate financing and revenue, and create development opportunities. The conduct of such a feasibility study would also allow for the input of experts from government agencies and the private sector regarding redevelopment of State land; and a community partnering process for the purpose of soliciting community input.

Given the significant public health, safety and welfare concerns, and the social impacts associated with the placement and redevelopment of correctional facilities, LURF believes the proposed feasibility study is critical in order to allow the Legislature to thoroughly review, analyze, and address all the facts and information relating to the proposed redevelopment/relocation of the facilities, as well as any potential consequences thereof, all of which are expected to be included in the final report.

Thank you for the opportunity to provide **comments regarding HB 2388.**

From: mailinglist@capitol.hawaii.gov
To: [PSMTestimony](#)
Cc: lady.flach@gmail.com
Subject: *Submitted testimony for HB2388 on Mar 18, 2016 14:45PM*
Date: Thursday, March 17, 2016 6:32:47 AM

HB2388

Submitted on: 3/17/2016

Testimony for PSM/WLA on Mar 18, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Oppose	No

Comments:

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Date: Friday, March 18, 2016 12:59:27 AM

HB2388

Submitted on: 3/18/2016

Testimony for PSM/WLA on Mar 18, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Carrie Ann Shiota	Individual	Oppose	No

Comments:

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