

SB 665

RELATING TO PRISONS

Creates an independent prison oversight committee to monitor and report on the conditions of state correctional facilities, ensuring that the State's correctional facilities comply with federal and state laws and to achieve transparency and accountability in the operation of safe and humane correction facilities. Expands visitation access to correctional facilities to include prison oversight committee members. Authorizes temporary denials of visitation to visiting officials under certain conditions.

PSM, WAM

DAVID Y. IGE
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February 3, 2015

TESTIMONY ON SENATE BILL 665
A BILL RELATING TO PRISONS
Nolan P. Espinda, Director
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental and Military Affairs
Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair

Tuesday, February 3, 2015, 1:15 PM
State Capitol, Conference Room 229

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

The Department of Public Safety (PSD) **opposes** this measure.

The need for transparency and accountability in Hawaii's correctional system is fully acknowledged and advocated by the PSD, however, there are already in place at the very least, three existing entities fully capable and reliably able to perform the type of oversight being proposed.

In 2015 PSD-Corrections will be implementing the first of its kind Program Auditing System. This legal-based program is specifically designed for Hawaii and the unique nuances of our incarceration system.

We strongly assert that all conditions and reports regularly generated will serve as an even more transparent and effective tool for all affected parties.

Thank you for this opportunity to testify.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Roz Baker, Vice Chair

Tuesday, February 3, 2015

1:15 p.m.

Room 229

SUPPORT for SB 665 - PRISON OVERSIGHT COMMITTEE

Aloha Chair Espero, Vice Chair Baker and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 665 creates an independent prison oversight committee to monitor and report on the conditions of state correctional facilities, ensuring that the State's correctional facilities comply with federal and state laws and to achieve transparency and accountability in the operation of safe and humane correction facilities. Expands visitation access to correctional facilities to include prison oversight committee members. Authorizes temporary denials of visitation to visiting officials under certain conditions.

Community Alliance on Prisons is in support of this measure. Correctional facilities are part of the community, paid for by taxpayers, and the places where some of our friends and family live. This measure is long overdue.

According to Michelle Deitch, a leading expert on prison oversight, "[a] robust system of correctional oversight involves sound internal auditing and accountability measures, countered by credible and effective forms of external security."¹

¹ **Special Topics in Preventing and Responding to Prison Rape: Medical and Mental Health Care, Community Corrections Settings, and Oversight**, Testimony of Michelle Deitch, Hearing before the Prison Rape Elimination Commission, December 6, 2007.

<http://cybercemetery.unt.edu/archive/nprec/20090820160902/http://nprec.us/docs3/Deitch%20Testimony.pdf>

Professor Deitch's concluding remarks to the PREA Commission included: *"Systems of accountability must be developed to ensure that prisoners are safe and are being treated appropriately. There must be effective internal accountability measures so that correctional administrators can better manage their facilities, and there must be meaningful forms of external scrutiny, including routine monitoring of correctional facilities and investigation of prisoner complaints.*

(...)

In contrast, however, there is an enormous need for additional correctional oversight mechanisms in the United States, which lags behind the rest of the world in this respect. The United States is one of the only Western nations that lack a comprehensive mechanism for ensuring the routine external monitoring of all correctional facilities. While the size of our country and the federal structure make design of an oversight body somewhat more complicated than in most other countries, we should ensure that every state and local government, as well as the federal system, has effective oversight structures in place to ensure transparency and accountability of the detention facilities based within that jurisdiction."

The University of Texas at Austin held a conference entitled "Opening Up A Closed World" in 2006. The keynote speech at this conference was by Nicholas Katzenbach, the U.S. Attorney General in President Lyndon Johnson's administration. He also chaired the 1967 Commission on Crime in the United States.

In the Fall of 2010, the Pace Law Review devoted an issue to expert essays on prison oversight² and included Mr. Katzenbach's speech³, some of which is excerpted below.

"...It seems to me that "Yes," of course there has to be oversight of prisons, just as there is oversight of virtually every other public institution. One may wonder about whether there is a valid comparison with schools and hospitals. The only difference that I see is that these other institutions have natural constituencies of their own to provide a broader range of oversight, invoking standards that are central to their concerns. ...

You don't have a natural constituency, unfortunately, for the oversight of prisons, a constituency that is recognized by the public as well as by the people who run the prisons. It is also true that it's very hard to think of anybody running an operation who in any sense really welcomes oversight."

Here is an interesting idea from Nebraska that appeared in Corrections.com:

INSPECTOR GENERAL FOR CORRECTIONS: A bill (LB606) introduced by Mello would establish an independent investigation and performance review, much like the inspector general for child welfare, to provide increased accountability and oversight of the Nebraska correctional system. It also would mandate that the governor declare a correctional system overcrowding emergency whenever the director certifies the population is more than 140 percent of design capacity.⁴

² **Opening Up a Closed World: A Sourcebook on Prison Oversight**, Pace Law Review, Volume 30, Issue 5 Fall 2010. <http://digitalcommons.pace.edu/plr/vol30/iss5/>

³ **Reflections on 60 Years of Outside Scrutiny of Prisons and Prison Policy in the United States**, Nicholas de B. Katzenbach, September 2010. <http://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1747&context=plr>

⁴ **Prison reform bills tackle crowding and oversight**, By fremonttribune.com- JoAnne Young, Published: 01/22/2015. <http://www.corrections.com/news/article/38656-prison-reform-bills-tackle-crowding-and-oversight>

There is growing recognition internationally that prisons and jails must be transparent, have strong internal accountability mechanisms, and be open to external monitoring.⁵

Hawai'i has instituted unannounced visitation of care homes to improve conditions for those living there. Hawai'i can do the same for our very expensive and bloated correctional system. It is time to open this closed world that has become the 4th leg of Hawai'i's economy.

Sunshine is still the best disinfectant!

Mahalo for this opportunity to testify.

⁵ **The Need for Prison Oversight**, Just Detention International, February 2009.
<http://www.ushrnetwork.org/resources-media/need-prison-oversight>

From: mailinglist@capitol.hawaii.gov
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SB665

Submitted on: 2/2/2015

Testimony for PSM on Feb 3, 2015 13:15PM in Conference Room 229

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

Comments:

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COMMITTEE ON PUBLIC SAFETY, GOVERNMENTS OPERATIONS, & MILITARY AFFAIRS

Senator Will Espero, Chair

Senator Rosalyn H. Baker, Vice Chair

Tuesday, February 3, 2015

1:15; Room 229

SUPPORT SB 665 - Relating to Prison

Dear Chair Espero, Vice Chair Baker and Committee Members:

I strongly support SB 665

Thank you for SB665. An oversight committee is sorely needed to inform the general public of how their taxpaying dollars are being spent for the operation and maintenance of our prison system.

It will also reassure the families of the inmates to know that there is another level of unbiased oversight being conducted so they know that their loved ones are being treated humanely and fairly. Yes, these inmates belong to families - fathers/mothers, husbands/wives, and sons/daughters who care very much about the care of their loved ones. They will also have an understanding of why so many visitations are cancelled. Many of them drive from the north shore or come from the mainland only to be denied access to the facility to see their loved ones.

Thank you for the opportunity to submit my testimony.

Aloha,

e. ileina funakoshi