

LATE TESTIMONY

Region 11 (HAWAII) Public Safety Regional Planning Committee Regional Public Safety Planning Meeting

Testimony on
SB 665

February 3, 2015
1:15 pm

Thank you to Senator Espero for the invitation to address you and the Public Safety Committee today on SB665, a bill relating to "Prisoners".

My name is Aaron Hunger. I am currently an instructor of Criminal Justice at Remington College, a Doctoral Student at The University of Hawaii at Manoa, and have served as a lecturer periodically at both of the University of Hawaii's campuses at Manoa and West Oahu's in Political Science and Public Administration respectively. I was also a police officer for over 16 years before retiring from an industrial accident. During that time, I served the majority as a patrolman but was also assigned to corrections duty, both, at the county and federal levels.

I was P.O.S.T. certified and worked in corrections in California, and for several years at the United States Army Confinement Facility (U.S.A.C.F.) in Mannheim, Germany. During the 1990 Gulf War, I also had the honor to be assigned to a military police corrections unit that was responsible for custody and control of military personnel that were sentenced for war crimes, and espionage. I am aware of the unique responsibilities that come with providing care over our citizens, whose rights have been suspended by the government for crimes against the law. This is not an easy job, and I would like to begin by commending the men and women who devote themselves to ensuring public safety by doing this, often unrewarding, job.

This brings me to why I was asked to speak. The media has been resolute in spotlighting the problems that exist within the Hawaii State Department of Public Safety and the custody and care of our prison populations. The number of serious security failures that have occurred during a 3 year period between June 2011 and July 2014 that has led to the drafting of this bill is staggering. These include:

The escape of Jordan White, Elijah Keakahumoku, George Thomas, and David Carvalho from Waiawa correctional facility on June 26th, 2011.

The escape of Darius Ikaika Puni-Mau from Circuit Court on October 31st, 2012

The escape of Jarvis Higa from the Hawaii Community Correctional Center on December 5th, 2012

The escape of Ryan James Jeffries-Hamar from the Hale Nani facility on August 2012 and again on December 5th, 2012 from the Hawaii Community Corrections Center

The escape of Jarvis Higa in the same incident with Jeffries-Hamar

The escape of Teddy Munet from Honolulu Circuit Court on February 20th, 2013

The escape of Shaylyn Araw from the Hale Nani Correctional facility on April 7th, 2013

The escape of Daniel Skelton from OCCC on June 16th, 2014

The in custody death of Mark Davis Junior at OCCC on March 8th, 2013

The in custody death of Cyrl Chung at OCCC on March 14th, 2013

The in custody death of Darius Ikaika Puni-Mau at Halawa Correctional Facility on April 9th, 2013

The in custody death of Ikaika Andrade at OCCC on April, 29th 2013

The in custody death of Brian Kim at OCCC on July 12th, 2013

The arrest and conviction of John Joseph Kalei Hall and Feso Malufau who were employed at Halawa Correctional Facility as guards and who conspired to commit crimes and work with USO gang members

The discovery of roughly 500 gang members that belong to the USO crime family and who operate in the State of Hawaii Prison system by FBI agents, last year

This does not take into account the numerous prisoners who failed to return to custody that were assigned to various work furlough programs throughout the state. These problems compound the issues of maintenance, and visitation that are highlighted in Section 1 of SB 665. All of these issues are evidence that support the need for an "independent oversight committee," as suggested by this bill. As stated in the bill, independent oversight is, not only, a reform model used to address institutional problems in other states, but is the model for public safety oversight, nationwide.

In Hawaii, Police Commissions have been set up to provide oversight of county police departments when issues involving the loss of trust or confidence arise within law enforcement. The current state model that created county commissions for county police leaves the Department of Public Safety outside of these commissions jurisdiction. This is where including the new SubSection 353 language creates a state level commission to oversee this agency. This check-and-balance mechanism that is long overdue.

A public safety commission, who function is to provide a similar mechanism of checks and balances for the Department of Public Safety that mirrors law enforcement oversight makes perfect sense. SB 665 clearly creates an instrument from which to deliver oversight. A "Hawaii State Public Safety Commission", as proposed in this bill, is better suited to research and suggest new solutions to ongoing issues (i.e. problems surrounding prisoner visitation).

While SubSection 353, item C (The Prison Oversight Committee's Powers) allows this Public Safety Commission to investigate "any past wrong doings" (as defined in item 4), the language would indicate that the bill fall short of providing this new commission the powers needed to investigate any current or future wrongdoing that they may uncover. This omission is critical. If this board leaves item (c) in

place as written, we most likely will find ourselves in a position similar to challenges that face legislators surrounding the current police commissions.

Currently community members and legislators are seeking to adjust the current county police commissions' abilities to address similar serious institutional problems within our policing agencies. The omission of language that empowers this new commission will create problems with authority and power that resemble the need for SB 109. Not including the ability for this State level Public Safety Commission to be empowered to investigate any allegations of current or future wrongdoing, leaves in place the current gap in accountability.

SubSection 353, Item (c) (2) also raised questions. The language requires the new Commission to issue reports and recommendations. The concern revolves around who this new commission is recommending to, and whether that agency has the ability to take action on the commission's recommendation. Rather than relying on another agency to take action, empowering this commission with the abilities that are modeled after other state law enforcement commissions or oversight agencies would make more sense. This would include either, the power to terminate an employee that is found to have violated law, or a mechanism from which to recommend the same to an independent agency that is empowered to do so (i.e, HB 1210 or SB 568). While item (d) follows a clear path for accountability, where this commission would send its recommendations to, is in question. If the idea is for recommendations to be channeled back into the Department of Safety for disposition, a model similar to the one that exists with Honolulu Police would be created. The current model of the Honolulu Police Commission has been shown to be problematic which is currently being addressed with the introduction of SB 109 and SB 389.

If SB 665 is able to create a Public Safety Commission with those powers, it would allow communities an avenue to bring public grievances, and provide legislative and academic input that may be beneficial. This creates the path to a public perception of accountability and transparency, and is the first step in community trust building. Having the foresight to include a former inmate as stated in item (b)(3) of SB 665 also brings a new sense that our incarcerated citizens are not forgotten, but instead encouraged to reform and participate. Dr. Meda Chesney-Lind is an expert in women's incarceration and correctional models, a professor at the University of Hawaii at Manoa, and is just one example of the expertise that exists in our own communities surrounding corrections that would fit Subsection 353 (b)(2).

Even if none of the issues that I have pointed out are addressed, this bill is critical in developing a mechanism to begin to address the issues that have come to light in the Department of Public Safety's handling of the state correctional system. SB 665 is necessary and timely.

Thank you