



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

H.B. NO. 462, RELATING TO CORRECTIONAL FACILITIES.

BEFORE THE:

HOUSE COMMITTEE ON PUBLIC SAFETY

DATE: Thursday, February 9, 2017 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 312

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

Chair Takayama and Members of the Committee:

The Department of the Attorney General appreciates the intent of this bill, but believes that its provisions may be subject to challenge as violating article XI, section 5 of the Constitution of the State of Hawaii.

This bill directs the building of a new prison on land that is the current location of the Waiawa Correctional Facility, which accommodates approximately 330 inmates at the present time. The new facility would accommodate 3,000 beds. The Oahu Community Correctional Center is directed to then move to the current Halawa Correctional Facility site, whose prisoners will have been moved to the new facility built in Waiawa.

Because this bill is specific in nature, and is not capable of general application, it may be challenged as violating article XI, section 5 of the Constitution of the State of Hawaii which states that, "The legislative power over the lands owned by or under the control of the State...shall be exercised only by general laws"

The department welcomes the opportunity to work with the committee to draft alternate wording to address this concern.

The department appreciates the opportunity to testify on this bill.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
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No. _____

TESTIMONY ON HOUSE BILL 462
RELATING TO CORRECTIONAL FACILITIES

by

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Public Safety
Representative Gregg Takayama, Chair
Representative Matthew S. LoPresti, Vice Chair

Thursday, February 9, 2017; 10:00 a.m.
State Capitol, Conference Room 312

Chair Takayama, Vice Chair LoPresti, and Members of the Committee:

The Department of Public Safety (PSD) strongly **supports** the passage of House Bill (HB) 462, which would enable PSD to initiate development of a 3,000-bed correctional facility at the site of the Waiawa Correctional Facility (WCF). This plan would dovetail with the Department's efforts to replace the antiquated Oahu Community Correctional Center (OCCC), and which, together, would sufficiently increase PSD's housing capacity to relieve the long-standing problems of overcrowding and to finally return home all Hawaii inmates from mainland facilities.

At the same time, PSD would expect to enhance reentry programming statewide in order to more effectively transition inmates from incarceration back to the community.

Thank you for the opportunity to present this testimony.



LATE

HB462
RELATING TO CORRECTIONAL FACILITIES
House Committee on Public Safety

February 9, 2016

10:00 a.m.

Room 312

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend that the Board of Trustees **COMMENT** on HB462, which would require the Department of Public Safety to solicit proposals for a new correctional facility.

OHA appreciates the intent of this measure to alleviate the substandard conditions and overcrowding at the O‘ahu Community Correctional Center. **However, OHA encourages the full exploration and execution of programs and policies that effectuate evidence-based alternatives to incarceration, which 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

Moreover, OHA has grave concerns over the potential privatization of our prisons and jails. Partnerships with private, for-profit prison companies may alleviate the burden of building or operating correctional facilities in the short-run, but foster dependency upon high prison populations and undermine efforts to divert or rehabilitate offenders in the long-run. When faced with the record-high prison population we have today, we must prioritize

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://www.oha.org/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. THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 28-38 (2010), http://www.oha.org/wp-content/uploads/2014/12/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 over 1,400 percent since 1977.

addressing the root causes of mass incarceration, reforming sentencing to reduce prison populations, and rehabilitating offenders to reduce recidivism and promote public safety. It would be antithetical to entrust these goals to any company whose profit is dependent upon voluminous prison populations and lengthier sentences. For these reasons, we strongly urge against relying upon the private sector to help finance, develop, and especially operate any new correctional facilities.

Mahalo for the opportunity to testify on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY
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THE HONORABLE GREGG TAKAYAMA, CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawai'i

February 9, 2017

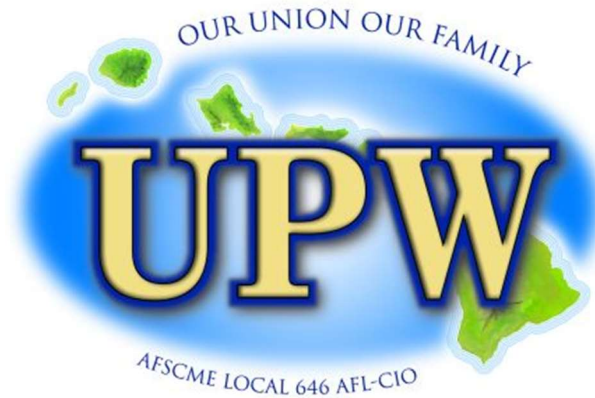
RE: H.B. 462, RELATING TO CORRECTIONAL FACILITIES.

Chair Takayama, Vice-Chair LoPresti and members of the House Committee on Public Safety, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Department”) submits the following testimony in support of H.B. 462.

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 noted in H.B. 462—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 all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of H.B. 462. Thank you for this opportunity to testify.



THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Ninth Legislature
Regular Session of 2017

COMMITTEE ON PUBLIC SAFETY

The Honorable Representative Gregg Takayama, Chair
The Honorable Representative Matthew LoPresti, Vice Chair

DATE OF HEARING: Thursday, February 9, 2017
TIME OF HEARING: 10:00 a.m.
PLACE OF HEARING: State Capitol, Rm. 312
415 South Beretania Street

TESTIMONY ON HB 462 RELATING TO CORRECTIONAL FACILITIES

By DAYTON M. NAKANELUA,
State Director of the United Public Workers,
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive bargaining representative for approximately 14,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

HB462 requires the department of public safety to solicit proposals for a new correctional facility at Waiawa Correctional Facility. The DPS must solicit proposals for the purchase or construction of a three thousand-bed correctional facility at the site of the Waiawa correctional facility. The bill also provides the DPS authority to enter into a lease-option contract for a set amount of time.

The UPW strongly supports this measure and asks the committee to pass it out.

Thank you for the opportunity to submit this testimony.

TESTIMONY
THE LIBERTARIAN PARTY OF HAWAII
c/o 1658 Liholiho St #205
Honolulu, HI 96822

February 5 2017

RE: HB 462 to be heard Thursday February 9, in Room 312 at 10:00 AM

To the members of the House Committee on Public Safety

We **oppose** spending money on more jails. The solution to our prison problems lies in reducing the number of incarcerated persons. Repealing laws, improving social programs, reducing sentences and putting some of that money back into better prison programs that reduce repeat offenders, reduce crime, and reduce spending are the appropriate ways to go.

We should be setting a state goal to reduce our incarcerated population by 50% in five years. We can bring all of our inmates back from the mainland and not need an expensive new jail run by some private corporation.

Signed:



Tracy Ryan, Chair



COMMITTEE ON PUBLIC SAFETY
Representative Gregg Takayama, Chair
Representative Matt LoPresti, Vice Chair

DATE: Thursday, February 9, 2017
TIME: 10:00 AM
PLACE: Conference Room 312

Dear Honorable Committee Members,

Strong opposition to HB 462 – Relating to correctional facilities

We strongly oppose new correctional construction in Hawai'i. The state currently imprisons about 5800 people and about 75% of them are class C felons or misdemeanants. Many could be released into community supervision with reentry support. Our prison population has grown by 645% from 1975 to 2014.¹ The state is not working to decrease the prison population. Act 217, passed last year to help reduce the prison population, is being limited by PSD which has indicated: "we're not going to release anybody with mental health needs, we're not going to release anybody who's homeless."² Yet everyday PSD releases the mentally ill and homeless who have served their sentences. It is troubling that PSD receives about \$250 million a year, and spent about \$24 million on *correctional building planning*, yet fails to provide sufficient reentry services including photo identification.

For years we have understood that prison *over crowding is due to poor reentry efforts*: "probation and parole failures, not new prison admissions that fuel our current prison crowding crisis"³ Almost everyone in prison today will eventually be released. They need support for reentry and their other needs to successfully avoid repeat crime and re-incarcerated. Expanding community supervision by properly providing for reentry for people released from corrections, providing substance abuse treatment and sufficient parole and probation services, would reduce the need for correctional facilities.

Over three years ago, Hawai'i Friends of Restorative Justice (HFRJ) and the Community Alliance on Prisons, submitted a detailed 17-page response with evidence-based suggestions to department of public safety's (PDS) 14-COR-35 Request for Information concerning Rehabilitation of Correctional Facilities Statewide. This carefully prepared response suggested how imprisonment could be reduced and alleviate the need for thousands of prison beds. PSD never responded to the suggestions. PSD and the state have suggested no plans for reducing prison populations, which is necessary as many states throughout the nation today are working to do. Instead of spending on constructing new facilities, funds should be used for reentry and reducing the prison population.

HFRJ has generated evidence-based knowledge of what increases law abiding behavior. Janet Davidson evaluated our reentry circle program, provided since 2005, and found it decreased recidivism, see: www.hawaiifriends.org. Restorative and other harm reduction programs are needed instead of more correctional construction, to help keep our community stay safe and increase criminal desistance. Please contact me at (808) 218-3712 and lorenn@hawaiifriends.org about our work and strong opposition to this bill. Mahalo for your time and public service, Lorenn Walker, JD, MPH, executive director, HFRJ

¹ <http://www.bjs.gov/index.cfm?ty=nps>

² <http://www.staradvertiser.com/2017/01/18/hawaii-news/program-to-ease-overcrowding-in-states-jails-has-yet-to-launch/>

³ Byrne, J.; Taxman, F. & Young, D.; (2002). *Emerging Roles and Responsibilities in the Reentry Partnership Initiative: New Ways of Doing Business*, National Institute of Justice report. Retrieved February 5, 2017 from <https://www.ncjrs.gov/pdffiles1/nij/grants/196441.pdf>.

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H.B. No. 462
Relating to Correctional Facilities
House of Representatives Committee on Public Safety
Public Hearing – Thursday, February 9, 2017
10:00 AM, State Capital, Conference Room 312
by
Rep. Gregg Takayama, Chair
Rep. Matthew S. LoPresti, Vice Chair

February 7, 2017

H.B. No. 462 proposes expanding the current Waiawa correctional facility by building a new prison which can accommodate 3,000 of Hawaii's prisoners. Hawaii's Innocence Project submits this statement in opposition of H.B. No 462, and respectfully asks the Committee to consider our concerns and proposed changes.

Hawaii's Innocence Project is a non-profit legal clinic with the goals of exonerating the wrongfully convicted, reforming the criminal justice system that failed our clients, and ultimately seeking justice for the victims by determining the real perpetrator of the crime. Based on our Project's missions and goals, we cannot support a bill that supports the increase in the number of Hawaii's citizens who are incarcerated, nor can we support a bill that would permit a private corporation from profiting from our prisoners.

The Hawaii's Innocence Project supports the Committee's need to improve the quality of our prisons. Furthermore, we appreciate the Committee's desire to no longer send Hawaii's inmates to the mainland to serve their sentences. However, despite the potential favorable impacts that H.B. No. 462 may produce, the Hawaii's Innocence Project opposes this bill as it is currently submitted. Hawaii's Innocence Project respectfully requests that the Committee consider the following comments and changes, which if implemented may allow us to support an amended bill.

Hawaii's Innocence Project respectfully submits the following comments with regards to H.B. No. 462:

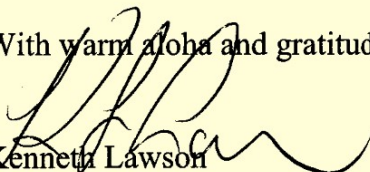
1. Page 2, Section (1) states: "Require the department of public safety to solicit proposals for the purchase or construction of a three thousand bed correctional facility..."
 - a. Hawaii's Innocence Project does not support increasing the prison industrial complex by expanding prison beds in Hawaii by 3,000. The saying "if you

build it they will come” could not be more true of our current prison system, which has substantially swelled size and bed space even as crime rates have decreased around the country. Hawai’i Innocence Project cannot support the increase in prison capacity without prison reform, for example, as proposed in H.B. No. 1295. Hawai’i Innocence Project supports prison reform, increasing rehabilitative and alternative programs, but not solely increasing prison bed space.

2. Page 2, Section (1) states: “The new facility shall be capable of housing...Hawaii inmates now housed in Arizona,”
 - a. Hawai’i Innocence Project requests further clarification of this bill with reference to inmates housed in Arizona. Most of our clients are housed in Arizona, where they are serving very lengthy sentences away from their families. We witness firsthand the emotional and financial costs to the families of these inmates who often can never afford to visit them. Without the support of family and community, these prisoners face increased punishment that prisoners housed locally are not forced to face. While we support the bill’s desire to find a solution to bringing Hawai’i prisoners home, this bill does not guarantee with any certainty that the prisoners housed in Arizona would in fact be relocated to this new facility. As the bill is currently written, Hawai’i Innocence Project does not have confidence that the new prison would eliminate the exporting of Hawai’i prisoners nor eliminate the \$40 million per year costs of housing our prisoners out of state.
3. Page 4, Section (1) proposes a “public-private partnership” for the new Waiawa prison.
 - a. Hawai’i Innocence Project strongly opposes any privatization of Hawai’i prisons. We strongly disagree with any proposal that would allow a private business to profit off of Hawai’i prisoners. The privatization or “prison for profit” industry, rewards increases in prison populations and further incentivizes prisons to prevent the paroling of prisoners. Hawai’i Innocence Project cannot support the privatization of the Waiawa prison as we believe that it would only serve to increase the prison population instead of decrease it as proposed by bills such as H.B. No. 1295.

Hawai’i Innocence Project strongly believes that incorporating the above changes will ensure that Hawai’i prisoners remain in Hawai’i, helping to reduce prison costs and the burdens to our clients and families. Thank you for your time and the opportunity to provide testimony regarding H.B. No. 462.

With warm aloha and gratitude,



Kenneth Lawson
Co-Director, Hawai’i Innocence Project
and Associate Faculty Specialist,
William S. Richardson School of Law

Iopresti2 - Isabella

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 4:01 AM
To: pbstestimony
Cc: blawaiianlvr@icloud.com
Subject: Submitted testimony for HB462 on Feb 9, 2017 10:00AM

HB462

Submitted on: 2/6/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

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

Comments: We FULLY SUPPORT this UNION BUSTING BILL! Mahalo.

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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COMMUNITY ALLIANCE ON PRISONS

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

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



COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair

Rep. Matt LoPresti, Vice Chair

Thursday, February 2, 2017

11:00 am

Room 312

STRONG OPPOSITION TO HB 462 - BUILDING MORE "CORRECTIONAL" FACILITIES

Aloha Chair Takayama, Vice Chair LoPresti 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 in Hawai'i for two decades. This testimony is respectfully offered on behalf of the approximately 6,000 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. 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.

Mahalo for this opportunity to share our research. Community Alliance on Prisons was stunned to see this bill about building a 3,000 bed prison at Waiawa and moving OCCC to the existing Halawa Prison building. Wow! Have we learned nothing about poor planning from the ongoing OCCC debacle?

The replacement of OCCC is the largest public works project in Hawai'i and it is obvious that there was little to no thought or planning on this very costly project. After \$10.4 million was allocated for the design and site selection and after the consultants were 30% into the project, the community hears the department say that we should be building a prison! Sorry, that \$10.4 million of taxpayer dollars is for a jail, not a prison.

Now, after the department decides they need a 20-acre site, there is talk about finding a smaller site. This is after \$1.5 million of OUR MONEY has been spent by the consultants and our cash is still flowing to these guys.

The community, the legislature¹, and the HCR 85 Task Force have all been ignored by the consultants and the department. The department has even asked the Task Force to delete any reference to the

¹ The Chair of Finance made this assertion about the consultants ignoring her and Chair Takayama's input at the January 2017 DPS Budget Briefing.

“lack of community engagement” from their interim report to the Legislature. Why would they do this unless they want to hide what is really happening? WE NEED HONESTY AND TRANSPARENCY.

WHY IS HAWAII SO PUNITIVE?

Hawaii did not always have such a large prison population. From 1977 to 2016 Hawaii’s prison population increased 1359% (from 398 prisoners in 1977 to 5806 in July of 2016). During roughly the same time period (1980 to 2016) Hawaii’s incarceration rate increased 887% (from 41 per 100,000 in 1980² to 405 per 100,000 in 2016).

Hawaii’s prison population of 5806 (in July 2016) is greater than the prison population of Sweden (5245) even though Sweden has about six times as many people as Hawaii – 9,850,000 compared to Hawaii’s 1,431,000.

The crime rate is the lowest it has been in decades and yet our facilities are overflowing with lawbreakers who committed non-serious crimes, and in many cases, crimes stemming from public health challenges such as mental illness and substance mis-use.

LAW ENFORCEMENT’S PLEA FOR REFORM

In July 2016, a letter³ signed by David LaBahn, President, Association of Prosecuting Attorneys; Ronal Serpas, Chairman, Law Enforcement Leaders to Reduce Crime and Incarceration; J. Thomas Manger, President, Major Cities Chiefs Association; William Fitzpatrick, President, National District Attorneys Association; and Jim Bueermann, President, Police Foundation was sent to Presidential candidates, Donald Trump and Hillary Clinton. Here is an excerpt:

As the next president of the United States, we respectfully urge you to make the public safety of this country a top priority. Specifically, we request that you:

- *Prioritize funding for local law enforcement to eradicate serious and violent crime in our communities. Stopping violence should be our number-one priority. Too many resources go toward arresting, prosecuting and imprisoning low-level offenders, and those suffering from mental illness and drugs or alcohol addiction, making it difficult for law enforcement to address more serious crime. This leaves us without the appropriate tools to bring the most dangerous criminals to justice. We urge you to commit to making reducing violent crime a priority in your Administration and to target resources for local law enforcement accordingly.*
- *Support policy changes that appropriately address the burgeoning prison population through thoughtful and sensible measures that protect public safety. These include modifications to sentencing laws that carefully filter out the truly dangerous individuals who belong in prison and out of our communities, while allowing lower*

² *The Disparate Treatment of Native Hawaiians in the Criminal Justice System.*

http://www.justicepolicy.org/uploads/justicepolicy/documents/10-09_exs_disparatetreatmentofnativehawaiians_rd-ac.pdf

³ The full text of the letter can be found here: <http://lawenforcementleaders.org/wp-content/uploads/2016/07/Law-Enforcement-Letter.pdf>

level offenders a chance for redemption through alternative punishments that are proven to reduce recidivism and rehabilitate. Such measures allow law enforcement to more effectively protect and serve our country.

By committing to these principles and solutions, you can show your strong support for the law enforcement officials of this country. We also would like to request a meeting with you to discuss how to best keep our country safe. We appreciate your time and attention to this matter.

CLASSIFICATION OF INCARCERATED PERSONS

It is indeed a noble goal to bring back our people serving their Hawai`i sentences thousands of miles from home, however, shouldn't we decide who actually should be in prison before deciding to build a 3,000-bed facility? There are people in Arizona who are CLASSIFIED AS MINIMUM OR COMMUNITY CUSTODY. What are they doing in a MEDIUM security facility?

In 2008, the department contracted with Criminal Justice Institute, Inc. (CJI) to reclassify Hawai`i's inmate population. CJI has extensive experience in reclassification, having completed reclassification studies for 48 states and both principles, Camille and George Camp, have tons of correctional experience. In short, they are respected and know what they are doing. The preliminary findings were presented at an informational briefing in January 2008.

The data is clear - the majority of Hawai`i's incarcerated individuals are non-violent (63% male; 84% female). This is confirmed in an email sent to me by the contractors since the department delayed the release of the report.

Research done by Keith Chen of Yale and Jesse Shapiro of the University of Chicago entitled, 'Does Prison Harden Criminals?'⁴ looked at 950 inmates with the same lengthy rap sheets and similar criminal histories but held in different classifications (some minimum custody and some low custody) and then studied them 1, 2, and 3 years after release to see if prison conditions and classification made them more apt for re-arrest. Their findings show that harsher prison conditions - classifications from low on up -- are associated with significantly more post-release crime. HARSHER CONDITIONS DO MAKE MORE HARDENED CRIMINALS.

The Hawai`i Democratic Party passed a resolution in 2014 calling for a comprehensive review of the entire incarcerated population and the full implementation of the Hawai`i Justice Reinvestment Initiative before any plans are proposed for new facilities. The Association of Hawaiian Civic Clubs also passed a similar resolution. Both these resolutions have been ignored by the former and current administration.

SMART JUSTICE IS A BETTER, MORE SUSTAINABLE STRATEGY

As former Attorney General Eric Holder said in a presentation on July 9, 2009 at the Vera Institute of Justice:

⁴“Does Prison Harden Inmates? A Discontinuity-based Approach
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=470301

Getting smart on crime requires talking honestly about which policies have worked and have not, without fear of being labeled as too hard or, more likely, as too soft on crime. Getting smart on crime means moving beyond useless labels and instead embracing science and data, and relying on them to shape policy. And it means thinking about crime in context – not just reacting to the criminal act, but developing the government's ability to enhance public safety before the crime is committed and after the former offender is returned to society.

If we build a huge facility, we will enact policies to fill it. Isn't that the opposite direction from what the Legislature has been saying about downsizing?

ARE WE INTERESTED IN GROWING THE PRISON INDUSTRIAL COMPLEX OR JUSTICE?

Do we want to continue to use the most expensive sanction for the majority of our people (74%) serving sentences for Class C felonies, misdemeanors, petty misdemeanors and parole and probation violations? Do we really want to increase the number of people in our community suffering from PTSD, from which so many people suffer after exiting incarceration?

Researchers calculate that we are past the point of diminishing returns, where each additional prison cell provides less and less public safety benefit. For example, in 1980, Washington State received more than \$9 in benefits for every dollar spent locking up drug offenders; now that there are so many people behind bars, the state receives just 37 cents in benefits for each dollar spent.⁵

Jurisdictions across the U.S. continent are increasing community correctional alternatives and reforming sentencing laws instead of building new prison beds acknowledging that most incarcerated populations are nonviolent lawbreakers.

*"The fact that there are now over ten million men, women and children in prisons around the world should be a matter of grave public concern. A small proportion of these are a threat to public safety and there is no question that they need to be detained. However, in many countries the majority of prisoners come from minority and marginalized groups, or are mentally ill, or are drug and alcohol abusers. Sending such people to prison is inappropriate, does not improve public safety and is very expensive. There are indications in a number of countries that current economic difficulties are at last forcing politicians and public commentators to acknowledge that prisons cannot continue to expand in the way they have done in recent years."*⁶

CONTRACTING WITH PRIVATEERS - CAVEAT EMPTOR - LET THE BUYER BEWARE!

Page 4 (1) of the bill speaks to public-private partnerships and (2) about a lease-option contract with a private owner of the facility. WOW! Has any research/due diligence been done on what has

⁵ State Of Recidivism - The Revolving Door of America's Prisons, Pew Center on the States, April 2011.
http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/sentencing_and_corrections/State_Recidivism_Revolving_Door_America_Prisons%20.pdf

⁶ The International Center for Prison Studies discussing the World Prison Population List (ninth edition)
<http://www.prisonstudies.org/news/all/140-more-than-ten-million-prisoners-in-the-world,-new-report-shows.html>;
<http://www.idcr.org.uk/wp-content/uploads/2010/09/WPPL-9-22.pdf>

happened to many jurisdictions that contracted with the corporate prison companies for the lease-option deal? There are plenty of horror stories of towns that have been left with either half-built or crumbling facilities and a HUGE balloon payment as the privateers demand payment as they leave town. Here are some things to consider before we go down this dangerous path:

Shoddy Construction: Saguario was built by CCA for Hawai'i's people who are incarcerated for felony offenses. Within months of the prison's opening in July 2007, complaints were filed about dirty shower water running into the pods because the drains were not installed properly. Community Alliance on Prisons met with the department on this issue. They promised to investigate and when they finally did, they said there was no problem. Six months later the showers were closed for repairs because of the serious drainage problems.

Expansion Spending: In 2012, CCA spent less on expansion than any year since 2002. That's a far cry from the expansion spree the Company went on in 2007 and 2008. In fact, in February 2008, CCA began construction of a 2,040 bed prison which was expected to cost US \$143 million. What started as a "temporary" halt appears to be turning into a permanent one.

Labor Problems: There is evidence that CCA has engaged in anti-union activities and committed Unfair Labor Practices (ULP) in violation of the National Labor Relations Act (NLRA). In 2006, the NLRB issued a decision finding that CCA interfered with protected concerted activity in violation of the NLRA by initiating a drive to decertify the union (International Union, Security, Police and Fire Professionals of North America (SPFPA)) and then coercing and threatening its employees to support the decertification drive. The board also upheld the finding that the company violated the NLRA by unlawfully transferring an officer to a less desirable position and unlawfully discharging another officer because of those individuals' union activities. Also, in 2010, the NLRB reversed an earlier decision holding that CCA unlawfully discharged an employee in retaliation for protected union activity in violation of the NLRA.⁷

Ethical Problems: CCA was held in contempt of court in the Idaho suit against the CCA prison called the "gladiator school." Most disturbing are the ethical violations, falsifying staffing information, failure to comply with court orders, etc. **U.S. District Judge David Carter said, 'For CCA staff to lie on so basic a point – whether an officer is actually at a post – leaves the Court with serious concerns about compliance in other respects, such as whether every violent incident is reported.'**⁸

Lobbying Against Transparency: Existing federal Freedom of Information Act (FOIA) regulations do not extend to corporate prisons. However, advocates and legislators have for years argued that privately-contracted facilities should be subject to open records law. Since 2005, legislators have introduced the Private Prison Information Act (PPIA), a federal bill that would subject private prisons to the same open records laws as publicly operated facilities. Yet each hearing has been met with staunch resistance from the corporate prison industry, swiftly dying in or before subcommittee

⁷ National Labor Relations Board, Corrections Corporation of America Case number: 26-CA-023180, board decision, July 26, 2010.

http://www.sourcewatch.org/index.php?title=Corrections_Corporation_of_America#Fair_Labor_Standards_Act_Violations

⁸ Judge, CCA in Contempt For Prison Understaffing, Boone, September, 16, 2013. Associated Press, The Big Story. Retrieved December 7, 2013 from <http://bigstory.ap.org/article/judge-cca-contempt-prison-understaffing>

hearings.⁹ CCA has led this attack, spending more than \$7 million lobbying against various incarnations of the Private Prison Information Act since 2007.¹⁰

HAWAII HAS MANY OPTIONS TO REDUCE THE INCARCERATED POPULATION

Correctional-Based Resources & Solutions

- Fully implementing the Hawai'i Justice Reinvestment Initiative
- Expanding existing work furlough programs
- Using electronic monitoring for violent lawbreakers on parole
- Instituting community placement programs for nonviolent law violators
- Institutionalizing Jail Diversion programs statewide
- Creating a good time/early release program
- Expanding educational programs in prison facilities
- Instituting Restorative Circles in all facilities to help people reenter the community

Former Secretary of Education Arne Duncan said, "*Correctional education programs provide incarcerated individuals with the skills and knowledge essential to their futures. Investing in these education programs helps released prisoners get back on their feet – and stay on their feet – when they return to communities across the country.*"

Community-Based Resources & Solutions

- Increasing localized Community-based Programs/Services such as: Substance Mis-use, Mental Health, Employment training, Parenting, etc.
- Establishing Pu'uhonua/Wellness Centers that are culturally competent in the districts with the greatest needs
- Developing Reentry Drop-In Centers with computers, classes, case management to help individuals successfully reintegrate with the community
- Implementing and Funding Restorative Practices in the community

BEFORE ANY DECISION IS MADE...

The Data Must Be Public: DPS should share with the public:

- the number of individuals who are currently incarcerated,
- their classifications,
- their locations (where they are serving their sentences),
- their program participation/completion and
- their TPD (tentative parole date).

This will help the community understand how many people need to be incarcerated and how many could be treated more successfully in community-based programs. If we put the resources into increasing community alternatives, we can decrease the need for prison beds.

⁹ Christopher Petrella, "Private Prisons Currently Exempt from Freedom of Information Act," NationofChange, September 25, 2012.

¹⁰ Open Secrets, "Lobbying Spending Database - Corrections Corporation of America, 2012"

Our goal should be to decrease prison beds, not keep them at current levels or create any new beds.

Hawai'i must embrace community corrections and deal with law-breaking in more positive ways. We have a vastly lower rate of crime than most cities the size of Honolulu in the United States.¹¹ **We need to focus on how to the decrease incarceration and prisons for our small island state.** The expenditure of millions or even a billion dollars for prisons and jails is short-sighted and will harm the overall safety of our community in the long run. It is well known that prisons increase bad behavior,¹² expanding prisons is an "old school" attempt to fix a problem that is social in nature not criminal. The average grade level of people in our prisons is the sixth grade. This alone points to an obvious deficit in our community.

Common sense must prevail. Taking someone's liberty away is very serious. In essence, the state banishes that person from society for a period of time. This is the most serious and expensive sanction and should be reserved only for those who present a danger to society, not people whose social challenges lead them to abuse substances.

Instead of building more facilities and more beds, let's do what make the most sense, has been proven to be cost effective, and achieves the outcomes that every community wants: a safe, healthy, and just environment in which to raise their families and enjoy their lives.

Prison harms people. Employ evidence-based practices to develop effective strategies that would help folks get on track while avoiding prison. It has been proven that effective programs using evidence- and culturally-competent practices are what work in Hawai'i nei. They don't threaten public safety; in fact, most of these programs are very involved in their communities. This is a win-win for individuals, families, and communities.

Partnering with any corporate prison entity to renovate and/or construct any facilities in Hawai'i is a bad idea and we respectfully urge the state to not to open Hawai'i's door to the corporate prison industry.

Hawai'i can do more to rehabilitate people. We know that prisons further increase criminal thinking. Hence, prison-building is not a good investment for Hawai'i. Invest in our people. Increase everyone's social capital.

We can do this.

**Hawai'i has been playing the Mass Incarceration Game for too long.
Let's admit that, like the war on drugs, the mass incarceration experiment
is a costly and abject failure.**

Mahalo for this opportunity to share our research. We respectfully ask the committee to hold this bill until a complete analysis of our incarcerated population done by an independent entity is publicly available.

¹¹ Crime Rate Comparison - Compare US City Crime Rates. <http://www.areaconnect.com/crime/compare.htm>

¹² The Lucifer Effect: Understanding How Good People Turn Evil, Zimbardo, 2007, Random House: New York.

lopresti1 - Randy

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 2:48 AM
To: pbstestimony
Cc: blawaiianlvr@icloud.com
Subject: Submitted testimony for HB462 on Feb 9, 2017 10:00AM

LATE

HB462

Submitted on: 2/9/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

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

Comments: Do we really need a 3,000 bed prison? Have we already figured out who we really need to keep in prison & who we don't need to be imprisoned? Are there not reasonable alternatives to incarceration that will reduce the need to build a massive monstrosity, at TAXPAYER EXPENSE! What wrong with just renovating the prison & jails we have now at a lower cost to TAXPAYERS! Or how about retro-fitting government buildings that are no longer in use?

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LATE

Committee: Committee on Public Safety
Hearing Date/Time: Thursday, February 9 2017, 10:00a.m.
Place: Conference Room 312
Re: Testimony of the ACLU of Hawaii in **Opposition to H.B. 462, Relating to Correctional Facilities**

Dear Chair Takayama, Vice Chair LoPresti, and Members of the Committee on Public Safety:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) strongly opposes H.B. 462, which would allow the Department of Public Safety to contract with a for-profit corporation to plan, construct, and lease a new correctional facility.

As the Legislature is aware, many of Hawaii’s prisons are overcrowded, with five out of Hawaii’s nine correction centers over capacity — three of those five being 150% or more over capacity. However, to address this problem, the State must first look to long-term, comprehensive criminal justice reform prior to constructing any new correctional facility. Even if, after the State has begun to implement a long-term plan to address this issue, the State should not allow a *private, for-profit corporation* to own or run its correctional facilities.

For-profit prisons do not necessarily save money — on the contrary, it may cost the State more to incarcerate inmates in private prisons than in state-run facilities.¹ This is despite private prisons’ tendency to cherry pick their prisoners, often choosing the least expensive inmates to incarcerate.²

In recent years, private prisons have become a multibillion-dollar industry. The most compelling reasons why the State should not consider a public-private partnership for the operation of a correctional facility, therefore, is that a private prison will naturally be driven by what is best for its profit margins rather than what is best for the people of Hawaii. Private prisons are typically paid per inmate they house and benefit from harsher sentencing and the curtailment of probation and parole. While the State has a duty to those in its custody, the

¹ D. M. Levine, *What’s Costlier than a Government Run Prison? A Private One*, Fortune, Aug 18 2010, http://money.cnn.com/2010/08/17/news/economy/private_prisons_economic_impact.fortune/index.htm.

² Richard A. Oppel Jr., *Private Prisons Found to Offer Little in Savings*, May 18, 2011, <http://www.nytimes.com/2011/05/19/us/19prisons.html>.

American Civil Liberties Union of Hawaii
P.O. Box 3410
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Chair Takayama and Members of the Committee
February 9, 2017
Page 2 of 2

executives of a private prison have fiduciary duties to its shareholders and incentives to maximize profits — incentives that often conflict with public safety and ensuring decent living conditions for inmates. Hawaii needs to implement smart, evidence-based reforms to more effectively rehabilitate offenders, save money, and reinvest savings into communities. Private prisons are simply not the answer.

Thank you for the opportunity to testify.

Sincerely,



Mandy Finlay
Advocacy Coordinator
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

American Civil Liberties Union of Hawai'i
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Iopresti2 - Isabella

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 4, 2017 7:01 PM
To: pbstestimony
Cc: baisag@hotmail.com
Subject: Submitted testimony for HB462 on Feb 9, 2017 10:00AM

HB462

Submitted on: 2/4/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Gladys C Baisa | Individual | Oppose | No |

Comments: I testify in strong support of the testimony submitted by the Community Alliance on Prisons. Thank you!

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Sent: Sunday, February 5, 2017 5:48 PM
To: pbstestimony
Cc: drjoeka@gmail.com
Subject: Submitted testimony for HB462 on Feb 9, 2017 10:00AM

HB462

Submitted on: 2/5/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| joe kassel | Individual | Oppose | No |

Comments: Dear Representatives: While I welcome the possibility of Hawaii prisoners returning home from private prisons in Arizona, I do not welcome the introduction of the private sector into Hawaii's corrections system. The engagement of private corporations in the criminal justice system is profoundly unethical, the goal of our corrections system must be rehabilitation, not corporate profit. The reduction of imprisonment of those with chemical dependency concerns along with improved treatment and vocational training would do far better for the prisoners and society at large. Sincerely, Dr Joseph Kassel N.D. L.Ac.

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TESTIMONY IN OPPOSITION OF HB462

Tai-An Miao
500 University Ave, Apt 904
Honolulu, HI 96826

Aloha Chair Takayama and Vice Chair LoPresti,

I am submitting testimony in strong opposition to House Bill 462. I am directly connected to this issue in multiple ways. I am a mother, a teacher, an active community member and a researcher and advocate for justice reform. At the heart of this bill is a misguided assumption that we should continue the current course of incarcerating our residents who are accused of or adjudicated for committing non-violent offenses. I oppose investing more of our precious resources in a new prison facility and/or entering into any relationship with a private corrections corporation. Hawai'i is uniquely positioned to advance a different notion of justice than the failed logic that has earned the U.S. the dubious title of the most incarcerated nation on earth. With the combination of our low rate of violent crime and the strength of our generational ties to 'āina and family, Hawai'i can offer the nation and the world a notion of justice that is centered on the health of our people and our commitment to caring for one another as neighbors and 'ohana in these islands.

Thanks to an ongoing commitment to reforming our juvenile justice system, we have reduced annual admissions to the Hawai'i Youth Correctional Facility by 79% (from 193 in FY2009 to 41 in FY2016). The current daily headcount at HYCF is approximately 20 youth. This transformation is the result of reviewing admission policies and decisions so that individuals who are not a threat to public safety are not incarcerated and utilizing appropriate community-based alternatives to incarceration. These changes have been underway for years without any compromise to public safety. Seeking opportunities for early intervention and diversion from court-based responses to community-based supports are becoming second-nature in all four counties; this changing mindset is another step that reduces our reliance on incarceration. As crime continues to drop among both the minor and adult populations, we can take similar steps to safely reduce our adult prison population and ease over-crowding without building a new lockdown facility.

We must recognize that the moment we subject any individual to incarceration, we increase the likelihood of that person returning to prison again and systematically begin to eliminate their opportunities to find and keep meaningful work and sustain healthy and positive long-term relationships. Justice policy that relies too heavily on incarceration rends the fabric of our society and needlessly sentences all to the social and fiscal consequences of limiting our island residents' future opportunities.

Rather than over-reacting and increasing the system disadvantage that our most vulnerable residents face, let's invest our resources in community-based alternatives to incarceration that address the poor educational opportunities, trauma of adverse childhood experiences and lack of natural supports in the lives of those who are at greatest risk of incarceration for nonviolent offenses. The prevailing U.S. justice system policies have the worst outcomes of any developed nation. Rather than following broken logic and failed practices, let Hawai'i become a model of what a genuine commitment to justice looks like.

Mahalo for your consideration of this timely and significant policy decision.

Aloha,
Tai-An Miao

Iopresti2 - Isabella

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 12:21 PM
To: pbstestimony
Cc: shannonkona@gmail.com
Subject: Submitted testimony for HB462 on Feb 9, 2017 10:00AM

HB462

Submitted on: 2/6/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Shannon Rudolph | Individual | Oppose | No |

Comments: STRONGLY OPPOSE!!! NO PRIVATE PRISONS IN HAWAI'I - VERY BAD IDEA!!!

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Iopresti2 - Isabella

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 3:07 PM
To: pbstestimony
Cc: Bmcd63@gmail.com
Subject: Submitted testimony for HB462 on Feb 9, 2017 10:00AM

HB462

Submitted on: 2/6/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Elizabeth McDermott | Individual | Oppose | No |

Comments: This bill opens the door to private prison operations in Hawaii. I am absolutely and totally opposed to this. The Obama Administration confirmed that corporate run prisons do a disservice to our communities and to rehabilitating our incarcerated population. Please STOP this bad bill

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lopresti2 - Isabella

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 10:59 AM
To: pbstestimony
Cc: rbkarasuda@hotmail.com
Subject: Submitted testimony for HB462 on Feb 9, 2017 10:00AM

HB462

Submitted on: 2/7/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| RaeDeen Karasuda | Individual | Oppose | No |

Comments: The answer is not prison building, it's rehabilitation and restoration. We have many other options that lead to public safety and are cost-effective, e.g., treatment, electronic custody, etc.

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February 7, 2017

TESTIMONY OPPOSING HB 462
PBS Hearing in Room 312, 10AM, February 9, 2017

Dear Chair Takayama, Vice Chair LoPresti and members of the House Committee on Public Safety,

I understand that the initiators of HB462 are very concerned about Hawaii's prisoners on the mainland, a concern I share, and are seeking a way to return them to Hawaii. However, this bill is not a good way to accomplish that. I oppose the bill for the following reasons:

1. The state has already spent thousands of dollars to begin work for a replacement of a jail, not a prison. The contractors have made that clear. Starting over would delay dealing with the overcrowding of our jails and prisons for many years.
2. A better way of bringing prisoners home would be to reassess sentencing guidelines and requirements, resulting in fewer inmates. The Department of Public Safety has not been able to implement the requirements established by the legislature over the past five years. A task force composed primarily of community service providers and prison reform advocates could review current laws and provide the legislature with a list of proposed changes for your consideration in the 2018 legislative session. We do not need to continue mass incarceration.
3. The proposal to transfer OCCC inmates to Halawa suggests a lack of concern for the kinds of people held there, almost all of whom are either awaiting trial (and therefore legally innocent) or have been convicted of minor crimes. The Halawa prison is two miles from a bus stop, making it difficult for family to stay in contact with inmates, although research has continually shown that recidivism is greatly lowered by maintaining family ties. Although I understand that Halawa was originally intended as a jail rather than a prison, it is a seriously outdated facility, designed primarily for punitive purposes, an attitude toward low level crimes that does not serve Hawaii well. OCCC currently serves as a crime school for many of the inmates held there. Unless a modern jail or jails are built, which are not simply warehouses for people who are no danger to society, we are likely to continue to experience high levels of recidivism.
4. I strongly oppose the use of a public/private partnership for building or operating new corrections facilities! The state has had difficulties with more than one corrections business on the mainland, such that it is unthinkable to allow those corporations to gain a foothold in the state. For example, Core Civic (formerly Corrections Corporation of America) is incorporated in Delaware. According to Delaware law, all corporations incorporated there are *required* to prioritize profits over impacts on humans or the environment. This helps account for the murders and suicides that have taken place among Hawaii prisoners in CCA facilities, and likely in other private prisons as well. These are not the values of Hawaii and have no place here in constructing or running a prison or providing any other pre- or post-incarceration services.

For these reasons, I urge you not to pass this bill. Thank you for the opportunity to provide this testimony.

Sincerely,
Barbara B. Polk
House District 24

February 7, 2017

To: **COMMITTEE ON PUBLIC SAFETY**
Representative Gregg Takayama, Chair
Representative Matt LoPresti, Vice Chair

Re: **HB462 — CORRECTIONAL FACILITIES — hearing on Thursday, Feb 9, 2017**

STRONG OPPOSITION

Aloha Chair Takayama, Vice Chair LoPresti and members of your committee,

Although this bill probably was crafted with the best of intentions, it once again puts the cart before the horse in the domain of public safety, unnecessarily wasting time and money. May I respectfully request that we:

- allow the legislatively mandated HCR 85 task force to finish its work and provide us with guidance on potential new detention measures/facilities and other public safety issues;
- honestly and thoroughly evaluate all potential private-prison operators to determine if any meet our standards of “pono;” and
- learn from the current flawed OCCC community-inclusion process how to communicate better with our citizens, who have much to lose as we move forward — and much to gain.

Please do not pass this bill. Instead, let’s do our homework and draft a better one.

Mahalo nui loa.

Aloha,



Peter Gellatly

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



pgellatly@mac.com • 808.542.8880
PO Box 88022 • Honolulu, HI 96830

Iopresti2 - Isabella

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 8, 2017 11:17 AM
To: pbstestimony
Cc: rkailianu57@gmail.com
Subject: *Submitted testimony for HB462 on Feb 9, 2017 10:00AM*

HB462

Submitted on: 2/8/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Rachel L. Kailianu | Individual | Support | Yes |

Comments:

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COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair
Rep. Matt LoPresti, Vice Chair
Thursday, February 9, 2017
10:00 am in Room 312

RE: HB 462 Correctional Facilities – OPPOSE

Dear Chair Takayama, Vice Chair LoPresti and Committee Members:

My name is Carrie Ann Shirota, and I am sharing comments in light of my work experience and research relating to criminal justice issues, with a focus on alternatives to incarceration and out-of-state prisoner transfers. Over the past fifteen years, I have served in various capacities – as an Enforcement Attorney for the Hawai`i Civil Rights Commission, Deputy Public Defender, Program Director for MEO's BEST Reintegration Program, Soros Justice Fellow, Faculty Counselor for a federally-funded Title III Native Hawaiian Program at the University of Hawai`i Maui College, Parents and Children Together Group Facilitator at Maui Community Correctional Center and currently as a Lecturer for UHMC. I am also a member of Community Alliance on Prisons.

While I fully support legislation that would discontinue the practice of transferring Hawai`i's incarcerated population to private-for-profit prisons on the American continent, expanding prisons in Hawai`i is NOT the solution!

Our overcrowding problem in Hawai`i is the result of deliberate policy-making decisions, not an implosion in crime rates. If you are genuinely interested in decreasing the incarcerated population and committed to bringing back prisoners transferred out-of-state, the best means to achieve this goal is to prioritize and implement comprehensive criminal justice reform, starting with **SENTENCING REFORM**.

Simply put, we put too many people behind bars, for too long! The federal government and a handful of other states have acknowledged the impact of sentencing on overcrowding, and have had tremendous success in significantly reducing their incarcerated population by enacting sentencing reform. Reducing America's Correctional Populations: A Strategic Plan, James Austin, <http://www.jfa-associates.com/publications/reduce/How%20to%20Reduce%20Mass%20Incarceration.pdf>; <http://harvardlawreview.org/2017/01/the-presidents-role-in-advancing-criminal-justice-reform/>

In addition to sentencing reform, we can reduce overcrowding in Hawai`i's jails and prisons by enacting **JUSTICE REINVESTMENT** strategies. Although Hawai`i was selected as a Justice Reinvestment site in 2012, our three branches of government have failed to implement and track the vast majority of recommendations outlined in the JRI Report to decrease the jail and prison population in Hawai`i. See <https://csgjusticecenter.org/wp-content/uploads/2014/08/JR-in-HI-Analyses-and-Policy-Options.pdf>

Many states have REDUCED their incarcerated population through various means. Some have worked with Justice Reinvestment, others have enacted reforms under a federal consent decree (California), or through bipartisan leadership across the three branches of government. **In *Fewer Prisons, Less Crime: A Tale of Three States*, The Sentencing Project highlights three states that have achieved prison population reductions in the range of 25%.** Here are some of the key findings:

- New York and New Jersey led the nation by reducing their prison populations by 26% between 1999 and 2012, while the nationwide state prison population increased by 10%.
- California downsized its prison population by 23% between 2006 and 2012. During this period, the nationwide state prison population decreased by just 1%.
- During their periods of decarceration, violent crime rates fell at a greater rate in these three states than they did nationwide. Between 1999-2012, New York and New Jersey's violent crime fell by 31% and 30%, respectively, while the national rate decreased by 26%. Between 2006-2012, California's violent crime rate drop of 21% exceeded the national decline of 19%.
- Property crime rates also decreased in New York and New Jersey more than they did nationwide, while California's reduction was slightly lower than the national average.

Other reputable resources with strategies to end mass incarceration policies, reduce overcrowding and improve Justice Reinvestment processes include:

- *Ending Mass Incarceration: Charting a New Justice Reinvestment* (2015), The Sentencing Project, A paper co-authored by a group of researchers, analysts, and advocates dedicated to **ending mass incarceration**.
- HOW MANY AMERICANS ARE UNNECESSARILY INCARCERATED? Brennan Center for Justice, Dr. James Austin and Lauren-Brooke Eisen with James Cullen and Jonathan Frank Preface by Inimai Chettiar (December 2016)

In summary, I strongly encourage this Committee to focus on the big picture, and enact comprehensive criminal justice reform, instead of throwing resources into prison construction, whether publicly funded or through public-private partnerships.

Sincerely,
Carrie Ann Shirota, JD
Haiku, Maui, Hawai'i 96708
Cashirota808@gmail.com

Iopresti2 - Isabella

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 8:22 PM
To: pbstestimony
Cc: maukalani78@hotmail.com
Subject: Submitted testimony for HB462 on Feb 9, 2017 10:00AM

HB462

Submitted on: 2/5/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| E. Ileina Funakoshi | Individual | Comments Only | No |

Comments: Public Safety Committee Rep. Gregg Takayama, Chair Rep. Matthew LoPresti, Vice Chair Aloha Chair Takayama, Vice Chair LoPresti & Committee Members: I support the proposed building of a prison at Waiawa to incorporate the prisoners from Halawa and AZ, and moving the OCCC jail people to the Halawa prison once its vacated. However, I don't agree with partnering with a private contractor. Even President Obama realized that it was better having the prisons under federal control. I believe the state should operate the prison and contract out the hiring of the guards/ACOs so we don't run into the problem of absenteeism during super bowl games and certain holidays. Thank you for opportunity to submit my testimony. Aloha, e. ileina funakoshi

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Iopresti1 - Randy

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 8, 2017 4:38 PM
To: pbstestimony
Cc: lady.flach@gmail.com
Subject: *Submitted testimony for HB462 on Feb 9, 2017 10:00AM*

HB462

Submitted on: 2/8/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Teri Heede | Individual | 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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Iopresti2 - Isabella

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 8, 2017 10:29 PM
To: pbstestimony
Cc: rkailianu57@gmail.com
Subject: *Submitted testimony for HB462 on Feb 9, 2017 10:00AM*



HB462

Submitted on: 2/8/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Rachel L. Kailianu | Individual | Support | Yes |

Comments:

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February 4, 2017

Testimony Presented Before the
House Public Safety Committee
Thursday, February 9, 2017

LATE

RE: LEGISLATIVE TESTIMONY AGAINST HB 462

To Committee Members TAKAYAMA, CREAGAN, DECOITE, EVANS, LOPRESTI,
MIZUNO, THIELEN:

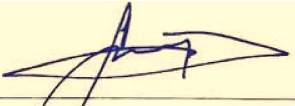
Aloha. I am imploring all of you, as our legislators, to **STOP HB 462**. With 74% of the people incarcerated are categorized as Class C and below, these individuals would be better served in appropriate community-based programs, instead of building a 3,000-bed prison that has no rehabilitative impact. I want to point out several important contentions:

- A corporate prison in Hawai'i is not cost effective. The scope of services of private prisons have proven to be sub par in many states including Arizona, Washington, Ohio, and many other States. The cost is quite expensive and the first thing they cut are rehabilitative programs that could help individuals transition back into the community.
- Is Hawai'i ready to face the "end of lease balloon payments" to these corporate prisons? Not one privately owned Prison Management Company is locally based in Hawai'i. The majority of the profit will go to an out-of-state company. They might claim that local people will be hired, but the majority of the funds are funneled to outsiders. This is not in the best interest of our State and the people of Hawai'i.
- Putting OCCC at Halawa, where public transportation is 2 miles from the gate would be difficult for families, particularly those who rely on public transportation, to visit their loved ones. Support system is one of the most important factors in the rehabilitation process of an individual. This will be a deterrent in their path to improve their lives.
- Requiring DPS to solicit bids, when the current infrastructure requires intensive review and improvement, is indeed irresponsible and unconscionable. In fact, the current OCCC process has left the community and the HCR 85 Legislatively-Appointed Task Force out of the discussion of what we should do about overcrowded facilities.

There are a lot of other worthwhile programs that can benefit from our state budget, building prisons is not one of them. In fact, if we create a system that strives to unnecessarily criminalize our community members, this situation will create a detrimental ripple effect not only in this generation but future generations to come.

Thank you for taking the time to consider my testimony.

Sincerely,



Joy Lacanienta

lopresti1 - Randy

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 8:58 AM
To: pbstestimony
Cc: sonnyganaden@gmail.com
Subject: Submitted testimony for HB462 on Feb 9, 2017 10:00AM



HB462

Submitted on: 2/9/2017

Testimony for PBS on Feb 9, 2017 10:00AM in Conference Room 312

| Submitted By | Organization | Testifier Position | Present at Hearing |
|-----------------------|--------------|--------------------|--------------------|
| Sonny M Ganaden, Esq. | Individual | Oppose | Yes |

Comments: From: Sonny Ganaden, Esq. Re: Testimony in Opposition of of HB 462 Aloha Chair Takayama, Vice Chair LoPresti, and members of the Committee, I offer my testimony in opposition to HB 462, which would cost the state an unreasonable amount, and exacerbate the state's relationship with private prisons. I am a practicing attorney, journalist, and instructor at the University of Hawai'i at Manoa. I offer my testimony as a private individual. In 2012, I had the opportunity to be the lead author for the Native Hawaiian Justice Task Force Report, produced for and delivered to the 2013 Hawaii state legislature. I represent a Hawai'i inmate who is housed in Saguaro prison in Pinal County, Arizona. There are two costly and dire problems with the bill. As written, HB 462 has no requirement to allow space for programs, rehabilitation, or education. The Justice Reinvestment Initiative, the Native Hawaiian Justice Task Force, and the recent changes to the state's juvenile system all note how essential these services are to community safety. Nowhere in these reports is a massive new facility discussed. A prison this large would be almost as large as the largest prison in Europe, where legislators and advocates recently visited. The second problem is the further entrenchment of a relationship with private prisons. Since 1994, the state has contracted with private prisons. In recent years, Minnesota, Texas, Idaho, Kentucky, California, and the federal government have ended or are in the process of wrapping up their relationships with private prisons. It is clear that the criminal justice system requires change, and that inmates housed out of state will need to be returned. I commend this committee for taking up the bills discussing bail, programing, and altered sentencing. HB 462 is not the avenue for change that will make our community safer. Mahalo for the opportunity to testify.

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