



The Judiciary, State of Hawai‘i

**Testimony to the
House Committee on Judiciary**
Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice Chair

Wednesday, February 1, 2017, 2:00 PM.
State Capitol, Conference Room 325

by
Calvin C. Ching
Deputy Chief Court Administrator, District Court of the First Circuit

Bill No. and Title: House Bill No. 457, Relating to the Community Court Outreach Project.

Purpose: Establishes a community court outreach project in the city and county of Honolulu from July 1, 2017, to June 30, 2020, subject to availability of funds and memoranda from the Judiciary, prosecuting attorney and public defender. Appropriates funds.

Judiciary's Position:

The Judiciary supports House Bill No. 457.

The district court criminal calendars include numerous cases involving nonviolent offenders, many of whom face multiple life challenges, such as substance abuse, mental health issues and the inability to provide themselves and/or their families with basic needs of food and housing. In an effort to address some of these cases, the community court outreach project ("community outreach court") would allow the Judiciary to collaborate with the Office of the Prosecuting Attorney, the Department of the Public Defender and various community organizations to provide meaningful solutions to the problems facing these nonviolent offenders and to prevent recidivism.

In his State of the Judiciary Address on January 25, 2017, the Chief Justice commended Honolulu Prosecutor Keith Kaneshiro and state Public Defender Jack Tonaki for putting these ideas into action through a program called Community Outreach Courts. The Chief Justice further stated, "The ultimate goal is to send the court and a treatment team out into the



community and offer these nonviolent offenders an opportunity to resolve pending cases, obtain needed service and move forward with their lives.”

Subsequently, on January 26, 2017, the Judiciary, the Department of the Prosecuting Attorney, the Office of the Public Defender, successfully held the first session of this court in Honolulu District Court. The next step is to mobilize this court into the community.

To implement and ensure the continuous success of this court, the Judiciary can provide: 1) a judge - for the community outreach court; 2) the ability to hold court sessions at locations (other than traditional courthouses) where offenders can more easily access court proceedings without taking time off from work, traveling substantial distances to traditional courtrooms and/or securing necessary child care; and 3) data on the progress of the community outreach court using the Judiciary’s Information Management System (JIMS).

The Judiciary will also need the following to manage and staff this mobile community outreach court:

1) one (1) new, full-time program coordinator to plan, develop, implement, and coordinate this court’s operations and activities with the Department of the Prosecuting Attorney, the Office of the Public Defender and various community organizations;

2) one (1) new, full-time court clerk position to record and execute the court’s orders and dispositions;

3) one (1) new, full-time court bailiff position to manage the court’s calendar and court proceeding;

4) one (1) new, full-time social worker assigned to the Judiciary’s community service sentencing program to screen and coordinate the multitude of community services for the defendants with various government and private sector agencies, and monitor and report on the defendants’ compliance; and

5) associated computer and peripheral equipment, and office supplies dedicated for this court’s disposition and remote connectivity to JIMS.

Additionally, safety and security is a concern when taking the court staff to other locations away from traditional courthouses (similar to when hearings are held at the Hawaii State Hospital); therefore, assistance from the Department of Public Safety will be required.

Thank you for the opportunity to provide testimony on this measure.

**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on
Judiciary**

February 1, 2017

H.B. No. 457: RELATING TO COMMUNITY COURT OUTREACH
PROJECT

Chair Nishimoto and Members of the Committee:

We strongly support H.B. No. 457 which would establish a community court outreach project in the city and county of Honolulu. Honolulu's homeless situation is well documented and has been highly publicized. With the explosion in the homeless population has come a tremendous increase in criminal offenses which target homeless persons. The courts have seen a major increase in offenses such as trespassing, littering, sitting or lying on public sidewalks, urinating or defecating in public, unlawful camping and liquor in public places.

The increase in these offenses has impacted the court system and the prosecuting attorneys and public defenders. Many of those cited are not able to come to court or choose not to attend court for fear that they will be incarcerated. These failures become a vicious cycle – persons are cited because they have no place to call home, they are not able to attend court hearings and a bench warrant is issued due to their non-appearance in court. They become more fearful of the system, hide out in parks and feel they are on constant run from the authorities.

Outstanding bench warrants can prevent people from obtaining state identification, renewing drivers' licenses, qualifying for employment and obtaining housing. In other words, the vicious cycle of homelessness is sometimes perpetuated by legal problems arising out of citations which penalize various acts which would not take place but for the very fact that a person is living on the streets.

The Community Court Outreach Project is a collaborative effort by the Honolulu Prosecutor, the Office of the Public Defender and the First Circuit Court to assist non-violent offenders in the community in taking care of their legal problems so that they can "start off with a clean slate" and become productive members of the community once again.

The idea is to take the court into the community via a mobile court to assist needy community members in resolving their legal problems. This would be in lieu of persons having to come to the courthouse which is sometimes impossible because of distance or immobility of the defendant. We are hoping that this outreach effort, in addition to other homeless initiatives which are being implemented by the Legislature, the Governor's homeless coordinator and the

City and County of Honolulu will result in a major alleviation of this very complex issue which currently plagues our state.

Despite not obtaining funding for the Community Court in the 2016 legislature, the collaborators on this project continued their earnest efforts to get the project off the ground using existing resources. On Thursday, January 26, 2017, the Honolulu Community Outreach Court held its first court session. Four participants appeared before the court and, among the four participants, more than fifty citations and bench warrants were disposed of in that one session. The four participants were enthusiastic about the court session and seemed to be grateful for the services that were offered to them. Certainly the potential of the Community Court can be gleaned from this inaugural court session.

We strongly support H.B. No. 457. Thank you for the opportunity to provide testimony in this matter.



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

February 1, 2017

TO: The Honorable Representative Scott Y. Nishimoto, Chair
House Committee on Judiciary

FROM: Scott Morishige, MSW, Governor's Coordinator on Homelessness

SUBJECT: HB 457 – RELATING TO THE COMMUNITY COURT OUTREACH PROJECT

Hearing: Wednesday, February 1, 2017, 2:00 p.m.
Conference Room 325, State Capitol

POSITION: The Governor's Coordinator on Homelessness supports this bill, as it aims to divert homeless individuals from the criminal justice system and connect them with shelter and other social services. The State's strategy to address homelessness includes identifying and connecting with other systems that serve as "touch points" for the homeless, such as the criminal justice system, and aligning outreach and other services as particular entry/exit points (e.g. District Court) to divert individuals to housing. The Coordinator defers to the Judiciary, Department of Prosecuting Attorney and the Office of the Public Defender regarding appropriations and operational issues.

PURPOSE: The purpose of the bill is to establish a community court outreach project in the City and County of Honolulu, subject to the availability of funds and memoranda of agreements from the Judiciary, Department of the Prosecuting Attorney, and the Office of the Public Defender. The bill also appropriates funds to support a community court outreach project.

The State has adopted a comprehensive framework to address homelessness, which includes a focus on three primary leverage points – affordable housing, health and human services, and public safety. All three of these leverage points must be addressed to continue forward momentum in addressing the complex issue of homelessness.

The community court outreach project addresses the public safety component of the homeless framework. Many homeless individuals with outstanding bench warrants for unpaid criminal citations can be a major barrier to obtaining housing. The community court outreach project will prevent individuals from encountering these barriers by targeting individuals cited or arrested for nonviolent offenses that often result in bench warrants, and connecting these individuals to shelter and other social services. By providing needed services as an alternative to arrest or citation, the community court outreach project will divert individuals from the criminal justice system and create pathways to permanent housing.

Thank you for the opportunity to testify on this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
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THE HONORABLE SCOTT NISHIMOTO, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawai'i

February 1, 2017

RE: H.B. 457; RELATING TO THE COMMUNITY COURT OUTREACH PROJECT.

Chair Nishimoto, Vice-Chair San Buenaventura, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in strong support of H.B. 457.

The purpose of this bill is to recognize and address the impact that homelessness has had on our criminal justice system, to the extent that our courts are currently clogged with low-level, non-violent cases, in which the defendants are homeless. To do this, H.B. 457, would implement a new and innovative means of bringing the courtroom into the community, for certain types of cases, in a collaborative effort between our Department, the Department of the Public Defender, and the Judiciary. Essentially, the Community Court Outreach Project would simultaneously:

- Decrease the backlog of pending, low-level, non-violent cases;
- Allow offenders to clear their pending cases;
- Provide court orders for counseling, treatment, and/or referral to homeless services, on a case-by-case basis;
- Provide consequences through community service instead of incarceration or fines.

The Project would begin with a four-year pilot program on the island of Oahu, with ongoing assessment and potential application for other islands thereafter.

Currently, our courts are seeing a large number of defendants, charged with low-level, non-violent crime, who are not appearing for arraignment or other hearings; this leads to a bench warrant (for arrest) being issued by the court. If and when the defendant is subsequently arrested, they are either jailed overnight (unable to post bail) and sentenced to credit for time

served, or fined, or released on recognizance. If released on recognizance, they may again fail to appear for their next hearing, and another bench warrant will have to be issued. Ultimately, these cases utilize a disproportionate amount of limited resources from all agencies involved, and clog our court calendars, without offering the defendant sufficient rehabilitation to prevent recurring offenses.

Under H.B. 457, certain designated personnel from our Department, the Department of the Public Defender, and the Judiciary would officially set up a “mobile court” that could be convened in public schools, recreation centers, community health centers, or other community-based locations that are more convenient for selected defendants. Each case and defendant would be specifically reviewed and selected ahead of time, for participation in this program. The types of offenses that could likely be considered are:

- Parking violations (currently a total of 7,163 in our court system)
- Liquor in public place (2,173)
- Smoking violations (1,146)
- Simple trespass (1,312)
- Criminal littering (282)

All participating defendants would be represented by a Deputy Public Defender, and assisted by a social worker/advocate arranged by the Public Defender, both of whom would be present at the “mobile court” location. Appropriate sentences would be determined on a case-by-case basis, and would not include imprisonment, but may include a range of other options, such as court-imposed community service, mental health care and/or substance abuse treatment.

Because our Department, along with the Department of the Public Defender and the Judiciary have long recognized the issues that H.B. 457 seeks to address, we have already begun exploring the potential for a Community Court Outreach Project on Oahu. After being awarded one of 10 federal grants in 2016—two year grant in the amount of \$200,000 annually—for planning, training and staffing this type of project, our three agencies initiated a test-run of the Community Court Outreach Project on January 26, 2017. Due to restrictions on the grant monies, the test-run was held at the Honolulu District Court at 1111 Alakea Street, Honolulu Hawaii.

For purposes of this “soft launch,” our Department and the Department of the Public Defenders selected four (4) defendants who voluntarily agreed to participate in the project. Between these four (4) defendants, fifty-three (53) different charges were consolidated and resolved through agreed-upon plea agreements that imposed community service work without incarceration. These charges ranged from low-level traffic offenses to minor nuisance cases. In the process, a total of nineteen (19) outstanding bench warrants were also addressed and resolved. Moreover, each defendant was able to speak with various service providers on-site, such as substance abuse or housing. Most importantly, each defendant was given the chance to clean their slate, give back to the community and finally have the chance to regain control of their life and start anew.

The Department is proud to be part of an innovative plan to address these various aspects of homelessness, while also maintaining respect for our criminal justice system and relieving

some of the backlog that currently weighs on our court system. Homelessness should not equate to lawlessness.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports the passage of H.B. 457. Thank you for the opportunity to submit testimony on this matter.



Dedicated to safe, responsible, humane and effective drug policies since 1993

TO: House Committee on Judiciary
FROM: Carl Bergquist, Executive Director
HEARING DATE: 1 February 2017, 2 PM
RE: HB457, Relating to the Community Court Outreach Project, **IN SUPPORT**

Dear Chair Nishimoto, Vice Chair San Buenaventura, Members of the Committee:

The Drug Policy Forum of Hawai'i (DPFHI) supports the establishment of a community outreach court as one tool to deal with non-violent offenders who enter the criminal justice system, do not receive proper rehabilitative services and instead wind up burdening law enforcement whose resources should be focused elsewhere. Many of these non-violent offenders are in need of treatment for drug use or mental health issues.

Ideally, the Court can serve as the backend solution for some of these individuals, complementing the front-end solutions of existing diversion programs and an innovative new one known as Law Enforcement Assisted Diversion (LEAD) as proposed in [SB716](#) and [HB535](#). LEAD would operate pre-arrest or pre-booking and divert certain individuals into treatment rather than into prison.

Above and beyond these initiatives, in order to further decrease the burden on the criminal justice system we also believe in changing some of our outdated statutes, particularly as they relate to controlled substances. Decriminalization of cannabis for adult personal use and of drug paraphernalia (as proposed by e.g. [HB107](#), [HB1463](#) and [HB1501](#)) would strike offenses from the books that should no longer be part of the criminal justice system. This would help not just the individuals being criminalized and stigmatized, but also allow both the diversion programs like LEAD and the proposed Community Court to better focus their limited resources.

Mahalo for the opportunity to testify.



DOING THE MOST GOOD

Founded in 1865

William Booth
Founder

Andre Cox
General

Kenneth Hodder
Territorial Commander

John Chamness
Lani Chamness
Divisional Leaders

Melanie Boehm
Executive Director

The Salvation Army

Addiction Treatment Services and Family Treatment Services

1-31-17

HB 457 Community Court Outreach Project: Establishes a community court outreach project in the City and County of Honolulu, subject to the availability of funds and memoranda of agreements from the Judiciary, Prosecuting Attorney, and the Public Defender. Appropriates funds.

HOUSE COMMITTEE ON JUDICIARY:

- Representative Scott Nishimoto, Chair; Representative Joy San Buenaventura, Vice Chair
- Wednesday, Feb. 1st, 2017: 2:00 p.m.
- Conference Room 325

The Salvation Army Addiction Treatment Services (ATS) and Family Treatment Services (FTS) SUPPORTS HB457 (Community Outreach Court Project)

- Help and services are available to those offenders who are homeless, non-violent, mentally ill and /or have a substance use disorder. Community efforts to work together (courts and treatment providers) to appropriately and effectively address these issues without clogging up the court system and without criminalizing health conditions, is one solution.
- Treatment agencies can connect and participate in this process through a partnership with the community outreach court project. Outcomes as a result of court and treatment interventions remain positive with the close and collaborative support of the court(s) and social service agencies.
- Early treatment connections and connections with appropriate basic resources is also a cost-effective approach and one which may return a non-violent non-felony offense into an opportunity for someone to become a productive contributing member of our community.
- This represents another proactive response and alternative to the expensive efforts and processes for arresting, charging, convicting, and/or incarcerating non-violent non-felony offenders.
- There may also be coordinated diversion efforts (i.e. Law Enforcement Assisted Diversion, shown to be highly effective in King County WA) which may be complementary to the Community Outreach Court Project which will also help to identify those in need of social services.

The Salvation Army ATS-FTS supports the development and implementation of this project as well as the collaborative efforts in addressing the needs of this population. There is an effective means to using collaboration with community based social services to address the clogged court issues.

Thank you for the opportunity to provide written testimony on this important bill.

Sincerely,

Melanie T. Boehm MA, LMHC, CSAC
Executive Director ATS-FTS

Addiction Treatment Services

3624 Waokanaka Street ♦ Honolulu, Hawai'i 96817 ♦Tel: (808) 595-6371 ♦Fax: (808) 595-8250

Family Treatment Services

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Visit us at: www.SalvationArmyHawaii.org

Participating Agency



Aloha United Way

COMMUNITY ALLIANCE ON PRISONS

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

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COMMITTEE ON JUDICIARY

Rep. Scott Nishimoto, Chair

Rep. Joy San Buenaventura, Vice Chair

Wednesday, February 1, 2017

2:00 p.m.

Room 325

SUPPORT with COMMENTS HB 457 - COMMUNITY COURT OUTREACH

Aloha Chair Nishimoto, Vice Chair San Buenaventura 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.

Community Alliance on Prisons supports helping houseless individuals clear up outstanding warrants for non-serious offenses and we believe this pilot program can beautifully dovetail with Law Enforcement Assisted Diversion (LEAD) program for which there are bills this session.

The difference in the conception of these two pilot programs is interesting for the Legislature to take note. The Community Court Outreach has been a top-down process. No community was invited to participate in its formation whereas the LEAD discussions were started in the community, by the community and for the community.

Community Alliance on Prisons is a member of the LEAD Hawai`i Hui, along with the ACLU, CARE Hawai`i, CHOW Project, Drug Policy Forum of Hawai`i, Harm Reduction Hawai`i, Harm Reduction Services Branch of the Hawai`i State Department of Health, Hawai`i Appleseed, Helping Hands Hawai`i, Hina Mauka, Institute for Human Services, Ku Aloha Ola Mau, Mental Health America Hawai`i, Partners in Care, PHOCUSED, Salvation Army ATS-FTS, Susannah Wesley Center, We Are Oceania. Our Hui is still growing.

I point out this difference to show the absolute necessity for inclusive planning when embarking upon an innovative idea. When something is implemented top down like the Community Court Outreach, it makes it difficult for our service providers and community members who were left out of the discussion.

Conversely, our community has been working together for seven months to first build the infrastructure for the LEAD program before talking to policymakers about it. A recent visit by the National Director for LEAD in Seattle met with our Hui and was amazed at how inclusive we were in creating the infrastructure first. You can see by the members of our still-growing Hui that it was important to all of us to reach out into the community to make the LEAD program hit the ground running, so to speak.

Community Alliance on Prisons supports the alternative sentencing the court is intended to impose and hopes that our policymakers understand that more than 51% of the people imprisoned at OCCC at the end of December 2016 are Pre-Trial Detainees who could not make bail – innocent until proven guilty.

These 534 Pre-Trial Detainees cost taxpayers	\$ 77,430 a day
	\$ 542,010 a week
	\$ 2,168,040 a month
	\$26,016,480 a year

Page 3, line 3 says that the legislature will evaluate the community court outreach project but does not elaborate on how that will be done and who will actually be contracted to do the evaluation since there is no appropriation mentioned.

Section 3, Page 3 line 17 mentions the challenges that many individuals face, such as food and shelter, and we wonder how the community court intends to provide these basic necessities.

Page 4, line 6 (B) appears to be missing words. It reads:

(B) Do not pose a threat to the public, live and congregate; and

Perhaps the intention was for *“live and congregate; and”* to be (C).

In short, the Community Outreach Court could work in collaboration with the proposed LEAD program to handle the unresolved bench warrants that haunt some of the most vulnerable people in our community.

We urge the committee to mention this potential collaboration in the committee report so the Finance Committee can see how these two programs can work together to reduce the over-population of OCCC with low-risk people facing many public health challenges.

Mahalo for this opportunity to testify.

LATE



HB 457 Community Court Outreach: Establishes a community court outreach project in the City and County of Honolulu, subject to the availability of funds and memoranda of agreements from the Judiciary, Prosecuting Attorney, and the Public Defender.

HOUSE COMMITTEE ON JUDICIARY:

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HAWAII SUBSTANCE ABUSE COALITION (HSAC) Supports HB457.

GOOD MORNING CHAIR NISHIMOTO, VICE CHAIR SAN BUENAVENTURA AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of over 30 non-profit alcohol and drug treatment and prevention agencies.

The Hawaii Substance Abuse Coalition (HSAC) supports Community Court Outreach. Many people can't afford bail and linger in jail for minor offenses. Housed in jails that have no services is counterproductive and expensive to the state. This program would reduce costs.

However, many of them have substance abuse problems or mental health disorders, often undiagnosed. This is a good opportunity for projects such as LEAD or other forms of outreach that could refer people to substance abuse treatment or mental health services.



As this project develops, the next steps will be to provide outreach for those people with health conditions that precipitates their aberrant behavior that led them to arrest, that accessing appropriate services may help them find recovery in their life and stop recidivism.

We appreciate the opportunity to provide testimony and are available for questions.

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 31, 2017 7:46 PM
To: JUDtestimony
Cc: maukalani78@hotmail.com
Subject: *Submitted testimony for HB457 on Feb 1, 2017 14:00PM*

HB457

Submitted on: 1/31/2017

Testimony for JUD on Feb 1, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	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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