



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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No. _____

TESTIMONY ON SENATE BILL 2858, SENATE DRAFT 2
RELATING TO PUBLIC SAFETY
AND
SENATE BILL 2861, SENATE DRAFT 2
RELATING TO PUBLIC SAFETY
by
Nolan P. Espinda, Director
Department of Public Safety

House Committee on Public Safety
Representative Gregg Takayama, Chair
Representative Cedric Asuega Gate, Vice Chair

Thursday, March 15, 2018; 10:30 a.m.
State Capitol, Conference Room 312

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

The Department of Public Safety (PSD) **supports the intent** of Senate Bill (SB) 2858, Senate Draft (SD) 2 and Senate Bill (SB) 2861, Senate Draft (SD) 2 and offers the following comments.

The Department notes that because of the similarities between the two bills, the Committee may wish to combine and streamline the two measures to eliminate the substantial overlap.

The bills' main area of concern appears to be PSD's Reentry program. The Department fully recognizes this program, aimed at returning inmates to our communities to be law-abiding, productive citizens, to be its most important program area and has concentrated additional resources and efforts into increasing its success. In response to the Justice Reinvestment Initiative and learning from national best practices, PSD's Reentry Coordination Office (RCO)

has gone through a massive overhaul over the past two years. After staffing up, it has been working intensively to build upon existing programs to develop a comprehensive program that energizes facilities' staff to effectively deliver the necessary support and services to inmates as they transition back to our communities.

Given the current circumstances, scrutinizing the RCO with a battery of performance indicators may be premature at this time. There is simply insufficient data to be studied. The Department cannot agree more with the value of program evaluation, but believes it would be more effective if it is used as a diagnostic tool, with the goal of enhancing programs for the benefit of those it serves. PSD respectfully recommends that the Department's annual reporting to the Legislature include a more robust report on the Reentry program which describes program elements and presents performance indicators specific to each element, together with a section of recommended program enhancements, all towards the goal of continual improvement to benefit inmates and our communities.

PSD would also be interested in exploring the idea of consolidating, wherever possible, its reports to the Legislature. However, this would be a large internal undertaking involving many staff and data collection protocols. The Department also notes that the time required for extensive data collection takes staff away from performing their program duties and would like to request that funds be appropriated to hire staff to take on the additional data and reporting functions.

Thank you for the opportunity to present this testimony.

LATE



SB2858 SD2
RELATING TO PUBLIC SAFETY
House Committee on Public Safety

March 15, 2018

10:30 a.m.

Room 312

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2858 SD2, which would require the Department of Public Safety (PSD) to collect, aggregate, and publicly report data relating to key enumerated performance indicators. **This measure would promote important legislative and community oversight, and provide information that may be critical to the enactment of much-needed reforms to our criminal justice system.**

Decades of a traditional criminal justice approach have led to the highest prison population in Hawai‘i’s history. Between 1977 and 2008, the number of people incarcerated in Hawai‘i increased by more than 900 percent, between 1977 and today, our incarcerated population increased by 1,400 percent.¹ The Native Hawaiian community has been particularly impacted by this increase, making up 40% of our current prison population.² Moreover, this overrepresentation of Native Hawaiians in the criminal justice system indicates larger systemic issues, such as implicit bias and disparate treatment in interactions from arrest, to adjudication, to final release.³ **Accordingly, OHA has long advocated for criminal justice reform that would thoroughly examine and effectively implement evidence-based incarceration alternatives, that can improve public safety, effectively rehabilitate pa‘ahao, reduce recidivism, and save taxpayer dollars.**⁴

¹THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 17 (2010), available at http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf.

² In contrast, Native Hawaiians only represent 24% of the general public in Hawai‘i. *Id.* at 36.

³ OHA’s 2010 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.” (at pg. 10) Moreover, controlling for many common factors including 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. *Id.* at 28-38.

⁴ The NHJTF recommended several options to address systemic issues resulting in 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. *Id.* at 27-30.

The Native Hawaiian Justice Task Force, in its 2012 report, found that data collection, integration, and infrastructure needed to be improved at various levels within the criminal justice system.⁵ The Task Force noted that an analysis of additional control variables “would provide a richer understanding of why Native Hawaiians remain disproportionately represented in the criminal justice system.”⁶ Consistent with the Task Force’s report, this measure will help to provide robust and comprehensive data, which can inform the exploration, development, and implementation of policies and programs that meaningfully address the costly and growing impacts of our criminal justice system on Native Hawaiians and the larger community.

Therefore, OHA respectfully requests that the Committee **PASS** SB2858 SD2. Mahalo for the opportunity to testify on this measure.

⁵ OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT (2012) at 8, *available at* http://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

⁶ *Id.*

SB-2858-SD-2

Submitted on: 3/13/2018 9:29:25 PM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

We continue to STRONGLY SUPPORT this bill, as the TAXPAYERS have a right to know how their TAX MONIES are being spent. Mahalo.



COMMITTEE ON PUBLIC SAFETY
Rep. Gregg Takayama, Chair
Rep. Cedric Asuega Gates, Vice Chair
Thursday, March 15, 2018 at 10:30 AM
Conference Room 312

RE: SUPPORT SB 2858, SD2 Public Safety (Performance Indicators)

Dear Chair Takayama, Vice Chair Gates and Members of the Committee:

Hawai'i Justice Coalition is a grassroots education and advocacy coalition comprised of organizations and individuals united in our work to reduce the number of people incarcerated in Hawai'i's jails and prisons. We seek to shift the state's spending priorities away from mass criminalization and incarceration towards rehabilitation, education, restorative justice, health and human services. We believe that comprehensive criminal justice reform makes fiscal sense, and builds safe and healthy communities.

When analyzing proposed criminal justice legislation, we implore policy makers to evaluate each bill from a systems thinking approach with two overarching principles in mind:

- Criminal justice policies, NOT crime rates, are the prime drivers of changes in jail and prison population.
- Through comprehensive criminal justice reform policies, other states have proven that it is possible to substantially reduce the incarcerated population, and save money, without compromising public safety.

SB 2858 requires the Department of Public Safety to establish key performance indicators for inmate reentry system, and requires reports, using key performance indicators, to be provided to the legislature. As it stands, the Legislature has limited access to PSD data to effectively evaluate the cost-effectiveness of current policies, programs and services. Codifying these performance measures in statutes would increase accountability and transparency within the Department of Public Safety, and provide Legislators and community members with data to better assess the efficacy and cost-benefit analysis associated with PSD policies, programs and services.

Sincerely,
Carrie Ann Shirota, JD
Hawai'i Justice Coalition
www.hi.justice.org
cashirota808@gmail.com

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair

Rep. Cedric Gates, Vice Chair

Thursday, March 15, 2018

10:30 am

Room 312

SB 2858 SD2 – PERFORMANCE INDICATORS FOR REENTRY = SUPPORT

Aloha Chair Takayama, Vice Chair Gates 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 more than two decades. This testimony is respectfully offered on behalf of all the people who have died in our facilities including, JESSICA FORTSON, JOEY O'MALLEY, DAISY KASITATI, ASHLEY GREY. and the approximately 5,500 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 1,600 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 Kanaka Maoli, far, far from their ancestral lands.

SB 2858 SD2 requires the Department of Public Safety to establish key performance indicators for inmate reentry system. Requires reports, using key performance indicators, to be provided to the legislature. Creates the annual corrections and program report as a consolidated report of other annual reports.

Community Alliance on Prisons is in strong support of this measure and any bill or resolution that mandates transparency and open access to data.

The department does file lots of reports every year with the legislature. This great bill consolidates the reports and instead requires reporting on specific programs and that they are gender-responsive, as well as specifics contained in Chapter 353H – Hawai'i's reentry law – The Community Safety Act. This requirement will ensure that the usual "cut and paste" reports will actually be useful documents for policymakers and the public. Open access means that policymakers and the community have quick access to raw data. The only way for a department to improve its services is to track how they are doing.

If the legislature and the community do not have access to data, then we have the current situation – a department that operates in secret with zero accountability. Community Alliance on Prisons urges the committee to support this measure.

*"Some of the best theorizing comes after collecting data
because then you become aware of another reality."*

Robert J. Shiller, Winner of the Nobel Prize in Economics

SB-2858-SD-2

Submitted on: 3/14/2018 10:05:56 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Gregg Takayama, Chair; the Honorable Cedric Asuega Gates, Vice-Chair, and Members of the House Committee on Public Safety:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SB2858 SD2**, relating to Inmate Rehabilitation; Reentry System; and Performance Indicators.

The OCC Legislative Priorities Committee is in favor of **SB2858 SD2** and support its passage.

SB2858 SD2 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it requires the Department of Public Safety to establish key performance indicators for inmate reentry system; requires reports, using key performance indicators, to be provided to the legislature; and creates the annual corrections and program report as a consolidated report of other annual reports.

The DPH Platform states that "[w]e support restorative justice that repairs the harm caused by criminal behaviors and reintegrates the offenders as contributing members of society. Likewise we support opportunities for those who have been incarcerated to effect a smooth transition back into the community and make available health, educational, and other assistance programs needed to allow them to become productive and respected members of the community. We want the practice of private for-profit detention centers and prisons prohibited." (Platform of the DPH, P. 5, Lines 273-278 (2016)).

Given that **SB2858 SD2** requires the Department of Public Safety to establish key performance indicators for inmate reentry system; requires reports, using key performance indicators, to be provided to the legislature; and creates the annual corrections and program report as a consolidated report of other annual reports, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

LATE



Aloha Chair Takayama, Vice Chair Gates and members of the House Committee on Public Safety,

The members of the Young Progressives Demanding Action – Hawai‘i **strongly support** both SB2858 SD2 & SB2861 SD2. Both of these bills are steps toward accountability and transparency when dealing with corrections and the criminal justice system. People who are committed to this system are stripped of certain rights because they have been deemed to have violated some part of the social contract. They are also locked away from sight and mind of the public, physically, emotionally and mentally cut off from their loved ones and advocates. As a result, they are particularly vulnerable to civil and human rights violations.

The overall direction this committee is leading the State of Hawai‘i when it comes to criminal justice reform is good. Many of the bills that have been introduced this session give us hope. In particular, bills aimed at assessing and reforming pretrial and effective incarceration practices must be supported. However, without specific data, task forces currently looking at both avenues of reform will continue to be limited in their ability to formulate good recommendations on policy for this committee to act on.

Even basic information, like the demographics of our jail and prison population and the cost of incarceration, are only available upon request and are difficult to acquire from the department. More and more states are adopting data-driven approaches to incarceration to implement truly best practices in reducing rates of recidivism, taxpayer costs, and to improve the safety of their communities. And their progress has been well-documented now. Hawai‘i should join this “smart justice” approach and implement a comprehensive data collection system. This information must be made publicly available. These bills will help the state to develop sound policies that improve our communities, improve safety, and promote justice, and we ask that you support both and pass them through committee today.

Mahalo,

Will Caron

Social Justice Action Committee Chair
Young Progressives Demanding Action – Hawai‘i

LATE



Committee: House Committee on Public Safety
Hearing Date/Time: Thursday, March 15, 2018, 10:30 a.m.
Place: Conference Room 312
Re: *Testimony of the ACLU of Hawai'i in support of S.B. 2858, S.D. 2, Relating to Establishing Key Performance Indicators*

Dear Chair Takayama, Vice Chair Gates, and Committee Members:

The American Civil Liberties Union of Hawai'i writes in **strong support** of S.B. 2858, S.D. 2, which requires the Department of Public Safety (“**DPS**”) to, among other things, develop performance measures to track progress in improving recidivism rates, decreasing prisoner assaults, reducing staff turnover, and improving efficiencies. We support these measures, because clear performance metrics are important not only to public safety but also to transparency, efficiency, and accountability.

S.B. 2858, S.D. 2, also requires that DPS develop key performance indicators, including various data points relating to intakes, offender demographics, length of stay, etc. One of the barriers to meaningful and evidence-based criminal and correctional reform in Hawai'i is lack of relevant data. Therefore, we request that your Committee amend S.B. 2858, S.D. 2, so that there is no doubt that DPS is required to annually report on all key performance indicator referenced in the bill. Specifically, Section 3 of S.B. 2858, S.D. 2, should be amended to add the following language in red:

b) The department shall include in its annual report to the legislature pursuant to section 353-_____ a report section that shall **report on and** reference **all** key performance indicators for the fiscal year that ended before the report.

This data will allow DPS, the Legislature, the Judiciary, and the public to better assess Hawai'i's correctional system as we all weigh important decisions about the future of such system in Hawai'i.

American Civil Liberties Union of Hawai'i
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www.acluhawaii.org

March 15, 2018
Page 2 of 2

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mateo Caballero', written in a cursive style.

Mateo Caballero
Legal Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i 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 Hawai'i has been serving Hawai'i for over 50 years.

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SB-2858-SD-2

Submitted on: 3/13/2018 9:50:51 PM

Testimony for PBS on 3/15/2018 10:30:00 AM

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

Comments:

In STRONG SUPPORT.

SB-2858-SD-2

Submitted on: 3/14/2018 3:53:36 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments:

Thank you for considering this bill.

I ask your support for passage. Data is needed for evaluation and the public's need to know.

SB-2858-SD-2

Submitted on: 3/14/2018 7:41:31 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	Individual	Support	No

Comments:

SB-2858-SD-2

Submitted on: 3/14/2018 9:44:21 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk	Individual	Support	No

Comments:

Chair Takayama, Vice Chair Gates, and Members of the committee:

I strongly support SB2858 SD2, and especially its emphasis on reporting various data on pre-trial detainees. This data has been difficult to separate from other data for jail inmates in the past, leading to the possibility of misunderstanding of who is incarcerated and for what level of crime. I also especially support the improved emphasis on data on detainees of native Hawaiian ancestry. The percentage of Hawaiians in our jails and prisons suggests that the State is neglecting its responsibility for the native culture of the islands. Better data collection and performance measures will be very helpful to the public, legislators, judiciary and Department of Public Safety in understanding this issue.

I urge you to pass SB2858 SD2.

Thank you for the opportunity to testify IN SUPPORT OF SB2858.

HOUSE OF REPRESENTATIVES
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018

To: COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair

Rep. Cedric Asuega Gates, Vice Chair

Rep. Richard P. Creagan

Rep. Lynn DeCoite

Rep. Kaniela Ing

Rep. Calvin K.Y. Say

Rep. Cynthia Thielen

HEARING: Thursday, March 15, 2018 at 10:30am, Conference Room 312

RE: Testimony in SUPPORT of SB 2858, SD2: RELATING TO PUBLIC SAFETY.

Through SB 2858, SD2, the Department of Public Safety would be required to collect, analyze, and disseminate data relating to identified performance indicators. Transparency serves as one significant benefit afforded by this bill, yet I feel it's greatest strength lies in its push for communication.

If a sole government agency retains such information, change could only come from within that institution. However, if data is disseminated to the legislature and available to the public, this invites conversations on means to best address the issues of criminal justice reform, recidivism, and the associated economics. Moreover, I believe the multitude of data points would be of interest to various community organizations, resulting in their involvement, their coming to the table to brainstorm ideas.

Thank you for the opportunity to testify on this measure.

Respectfully submitted,

Chelsea Cordero

SB-2858-SD-2

Submitted on: 3/14/2018 10:29:19 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

LATE

SB-2858-SD-2

Submitted on: 3/14/2018 1:52:41 PM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Sue Haglund	Individual	Support	No

Comments:

It is very important that the Hawaii State Legislature publicly invest in this publicly funded research and data for specific data on reentry planning, programming, reporting requirements (just to name a few). The Department of Public Safety is a large operating unit that often does not provide the public and us researchers with proper, specific data that enables us to make better legislative policy that meets the needs to our public and accuracy on areas that are compliant or areas not in compliance to State and Federal laws, but needs improvement.

I fully support this measure.

LATE

SB-2858-SD-2

Submitted on: 3/14/2018 4:33:11 PM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erica Scott	Individual	Support	No

Comments:

LATE

SB-2858-SD-2

Submitted on: 3/15/2018 12:56:37 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nikos Leverenz	Individual	Support	No

Comments:

LATE

LATE

SB-2858-SD-2

Submitted on: 3/15/2018 10:58:41 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments: