



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

Testimony of
David Y. Ige
Governor, State of Hawai'i

Before the
**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND
MILITARY AFFAIRS**

April 4, 2019
1:15 p.m., Room 229

In consideration of
GM 543, Nolan P. Espinda
as the
Director of the Department of Public Safety

Chair Nishihara, Vice Chair Wakai and committee members:

I respectfully request your support in confirming the appointment of Nolan P. Espinda as the Director of the Department of Public Safety (DPS), a position that he has held since 2015.

Prior to being named director, Nolan worked in corrections for 32 years, starting his career in 1983 as a recreation specialist at the Hawai'i Youth Correctional Facility and working his way up to warden at the Waiawa Correctional Facility, O'ahu Community Correctional Center, and the Halawa Correctional Facility. In 1994, Espinda had the distinction of being named the recipient of the Department of Public Safety's "Manager of the Year" award. He is a graduate of 'Iolani School and holds a BA in political science from California State University at Chico.

As director, he has increased inmate visitation hours, improved electronic monitoring services for the OCCO Offender Furlough Program, improved victim restitution collection from inmates, increased services to inmates awaiting parole, increased focus on Offender Reentry Services, completed an environmental impact statement for relocating the Oahu Community Correctional Center, worked with other departments to meet the objectives of the State Opioid Action Plan, actively participated in multi-agency as well as coordinated state and county efforts to address homelessness, which includes outreach for shelter and social services and property storage.



EXECUTIVE CHAMBERS
HONOLULU

My administration is committed to transforming the culture of government by embracing and accelerating change. I am confident that Nolan Espinda will support our employees in the DPS. Moving forward together, we can build a better home for our keiki, kūpuna, and all the residents of Hawai'i.

Mahalo for your consideration.

April 2, 2019

The Honorable Clarence K. Nishihara
Hawaii State Legislature
Chair, Committee on Public Safety, Intergovernmental and Military Affairs
415 South Beretania Street, Room 214
Honolulu, Hawaii 96813

Re: GM 543

Nomination of Nolan P. Espinda as Director of Public Safety

Dear Senator Nishihara and Members of the Committee on Public Safety, Intergovernmental and Military Affairs:

I support the nomination of Nolan P. Espinda as the Director of Public Safety. The Department of Public Safety and the Criminal Justice Division of the Attorney General's office have worked closely and well together to address legal and logistical issues ranging from electronic enticement of children, homeless enforcement, prison crimes and planning for construction of the Thirty Meter Telescope.

In particular, Renee Sonobe Hong, Deputy Director of Law Enforcement, has been a trustworthy, intelligent and valuable ally in all that we do. Some have questioned her qualifications – undeservedly so. Her legal background in law enforcement serves the Department of Public Safety and the people of Hawaii well. We have had regular and frequent conversations to ensure that deputy sheriffs are making cases that result in successful prosecution and do not expose the state to liability. She is a consummate professional who has tirelessly sought to infuse professionalism into the Department of Public Safety – those efforts have not been universally appreciated. With that, I am reminded, “A person with no enemies is a person with no character.”

Respectfully,



Kevin K. Takata
Supervising Deputy Attorney General
Criminal Justice Division

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



SCOTT T. MURAKAMI
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321

HONOLULU, HAWAII 96813

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Phone: (808) 586-8844 / Fax: (808) 586-9099

Email: dlir.director@hawaii.gov

March 29, 2019

To: The Honorable Clarence Nishihara, Chair,
The Honorable Glenn Wakai, Vice Chair, and
Members of the Senate Committee on Public Safety, Intergovernmental, and
Military Affairs

Date: Thursday, April 4, 2019
Time: 1:15 p.m.
Place: Conference Room 229, State Capitol

From: Scott T. Murakami, Director
Department of Labor and Industrial Relations (DLIR)

**Re: G.M. No. 543 Submitting for consideration and confirmation as the Director of
the Department of Public Safety, Gubernatorial Nominee, NOLAN P. ESPINDA**

Chair Nishihara, Vice Chair Wakai, and Members of the Committee,

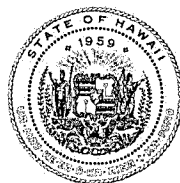
My name is Scott T. Murakami, and I am the Director of the Department of Labor and Industrial Relations. I am testifying in strong support of Governor's Message 543, Gubernatorial Nominee, Nolan P. Espinda, as the Director of the Department of Public Safety (DPS).

Mr. Espinda has demonstrated that he has the leadership and experience to successfully lead the DPS. As the Director of the DPS, Mr. Espinda provides leadership in the Department's facility operations, correctional programming, and administration. Prior to his tenure as Director, Mr. Espinda served as the Managing ACO IV Warden at the Halawa Correctional Facility where he was praised for maintaining professional standards and accountability. Overall, Mr. Espinda has dedicated almost forty years of his professional career to improving the conditions for inmates and workers at the DPS.

I urge you to confirm Mr. Espinda to serve as the Director of the DPS so that he may continue to provide leadership and service to the public.

Thank you very much for the opportunity to testify in strong support of Mr. Espinda.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS
HEARING ON APRIL 04, 2019 AT 1:15PM IN CR 229

IN SUPPORT OF

GM543

for consideration and confirmation as the Director of the Department of Public Safety,
Gubernatorial Nominee, **NOLAN P. ESPINDA**,
for a term to expire 12-05-2022

April 04, 2019

Aloha Chair Nishihara, Vice Chair Wakai, and members of the Committee:

We provide this testimony in support of Governor Ige's nomination of Nolan P. Espinda as the Director of the Department of Public Safety (DPS).

Mr. Espinda's background and experience show a long tenure at the DPS that certainly qualifies him for this appointment. During this tenure, Mr. Espinda has moved from Corrections Supervisor to Acting Corrections Manager I & II, to Warden, Halawa Correctional Facility, then Office of the Institutions Division Administrator, back to Warden at the Oahu Community Correctional Center and Halawa Correctional Facility, and in 2015, appointment as Director, Department of Public Safety. We thank him for his continuing service.

We respectfully ask your committee to advise and consent to this nomination, and we thank you for your consideration of our testimony.

DAVID Y. IGE
GOVERNOR



CURT T. OTAGURO
COMPTROLLER

AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY
OF
AUDREY HIDANO, DEPUTY COMPTROLLER
TO THE
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL,
AND MILITARY AFFAIRS
ON

THURSDAY, APRIL 4, 2019, 1:15 PM
CONFERENCE ROOM 229, STATE CAPITOL

G.M. 543

SUBMITTING FOR CONSIDERATION AND CONFIRMATION AS THE DIRECTOR
OF THE DEPARTMENT OF PUBLIC SAFETY, GUBERNATORIAL NOMINEE,
NOLAN P. ESPINDA, FOR A TERM TO EXPIRE AT NOON ON 12-05-2022.

Chair Nishihara, Vice Chair Wakai, and members of the Committee, thank you for the opportunity to submit testimony on G.M. 543. I support the nomination of Mr. NOLAN P. ESPINDA to the position of the Director of the Department of Public Safety, for a term to expire on 12-05-2022.

I have known Mr. Espinda, in his capacity as Director of Public Safety for almost five (5) years. We have worked together on various projects and have found him to be a “no nonsense” leader, caring for his employees and always thinking how to better things in his area of expertise.

Thank you for the opportunity to submit testimony on this matter.



DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
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Statement of
MIKE MCCARTNEY
Director
before the
**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL,
AND MILITARY AFFAIRS**

Thursday, April 4, 2019
1:15 PM
State Capitol, Conference Room 229

in consideration of
GM 543
**Submitting for consideration and confirmation as the Director of the
Department of Public Safety, Gubernatorial Nominee,
NOLAN P. ESPINDA, for a term to expire at noon on 12-05-2022.**

Chair Nishihara, Vice Chair Wakai and Members of the Committee.

I **support** the appointment of **Nolan P. Espinda** to serve as the Director of the Department of Public Safety.

Nolan has over three decades of experience in public safety and most recently as the Director of the Department of Public Safety (PSD) where he has served for over four years. While working at various correctional facilities throughout his career he has served in many roles from corrections supervisor to division administrator to warden. I am confident that he will continue to bring commitment and leadership to the position that will benefit the people of the State of Hawaii.

For these reasons, I urge his confirmation for the Director of the Department of Public Safety.

Thank you for the opportunity to comment.

DAVID Y. IGE
GOVERNOR



RYKER WADA
DIRECTOR

JASON MINAMI
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

March 28, 2019

TESTIMONY TO THE
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL,
AND MILITARY AFFAIRS
For Hearing on Thursday, April 4, 2019
1:15 p.m., Conference Room 229

By

RYKER WADA
DIRECTOR

Governor's Message 543
(WRITTEN TESTIMONY ONLY)

Dear Chair Nishihara, Vice-Chair Wakai and Members of the Public Safety,
Intergovernmental, and Military Affairs

RE: Consideration and confirmation of Nolan P. Espinda, for Director of the Department
of Public Safety

I submit this testimony in **Strong Support** of the confirmation of Nolan Espinda
as Director of the Department of Public Safety. I have had the opportunity to work with
Mr. Espinda over the past two years as Director. I have found him to be a dedicated,
knowledgeable, measured and a well-prepared person who is well suited for the
position of Director of the Department of Public Safety.

I support the confirmation of Mr. Espinda as the Director of the Department of
Public Safety.

Thank you for allowing me to testify in **SUPPORT** of Governor's Message 543
and Nolan P. Espinda.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF TAXATION**

830 PUNCHBOWL STREET, ROOM 221
HONOLULU, HAWAII 96813

<http://tax.hawaii.gov/>

Phone: (808) 587-1540 / Fax: (808) 587-1560

Email: Tax.Directors.Office@hawaii.gov

Re: GM 543 NOLAN P. ESPINDA

Mr. Chairman and Members of the Committee, my name is Linda Chu Takayama, Director of Taxation, and I offer this testimony in strong support of Nolan Espinda's confirmation as the Director of the Department of Public Safety.

It has been my privilege to work with Nolan since I joined this Administration nearly 4 years ago. From what I have seen in the Cabinet, Director Espinda faces one of the toughest jobs of all state directors. Like many in state government, he manages a system with inadequate resources, antiquated facilities and insufficient staff. Yet he has produced positive results while also dealing with a very difficult population.

- He has controlled overtime, always a huge challenge for all managers and especially so for his department. I understand overtime is down to about 9% of total salaries, below the benchmark of 10%.

- As director, Nolan has restored visiting days at correctional facilities – which prior to his leadership had been regularly cancelled, to the frustration of inmate families and loved ones. This is no longer a front-page story as it once was.

- He has improved recidivism – the rate at which former offenders are arrested for new crimes -- and a bottom-line concern for our community. Nolan took over a department in which more than 65% of discharged offenders re-offended and reduced this rate to less than 50%.

I look forward to continuing to work with Nolan and urge your favorable consideration of his nomination.

Thank you.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS**

**Thursday, April 4, 2019
1:15 PM
State Capitol, Conference Room 229**

**In consideration of
GOVERNOR'S MESSAGE 543
SUBMITTING FOR CONSIDERATION AND CONFIRMATION AS THE DIRECTOR
OF PUBLIC SAFETY, GUBERNATORIAL NOMINEE, NOLAN P. ESPINDA, FOR A
TERM TO EXPIRE AT NOON ON 12-05-2022.**

The Department of Land and Natural Resources (Department) strongly supports the confirmation of Mr. Nolan P. Espinda as the Director of Public Safety, for a term to expire at Noon on 12-05-2022.

In recent years, the Department of Public Safety (PSD) under Mr. Espinda's leadership has forged a close working relationship with the Department's Division of Conservation and Resources Enforcement (DOCARE) and other State Law Enforcement Coalition (SLEC) partners. These strong ties were evident as the SLEC, including PSD's Safety's Sheriff Division and Narcotics Enforcement Division, the Attorney General Investigations Division and the DOCAREt worked together to provide law enforcement and security during major events such as the 2016 International Union for the Conservation of Nature-World Conservation Congress Meeting in Honolulu, and the annual Legislature's Opening Day, and the Governor's State of the State address.

The Department believes the collaborative working environment created by Mr. Espinda and the senior leadership of PSD is essential and provides the necessary continuity to address law enforcement issues of mutual concern. The Department believes Mr. Espinda has the necessary experience, capability and commitment to continue to lead PSD.

Thank you for the opportunity to testify in strong support on the confirmation of Mr. Nolan P. Espinda as the Director of Public Safety.

DAVID Y. IGE
GOVERNOR



ARTHUR J. LOGAN
MAJOR GENERAL
ADJUTANT GENERAL

KENNETH S. HARA
BRIGADIER GENERAL
DEPUTY ADJUTANT GENERAL

STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE ADJUTANT GENERAL
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96816-4495

TESTIMONY ON GOVERNOR'S MESSAGE NO. 543
RELATING TO GUBERNATORIAL NOMINEE
NOLAN P. ESPINDA

PRESENTATION TO
THE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

BY

MAJOR GENERAL ARTHUR J. LOGAN
ADJUTANT GENERAL,
DIRECTOR OF THE HAWAII EMERGENCY MANAGEMENT AGENCY,
AND HOMELAND SECURITY ADVISOR

APRIL 4, 2019

Chair Clarence Nishihara, Vice-Chair Glenn Wakai and Members of the Committee.

I am Major General Arthur J. Logan, State Adjutant General and the Director of the Hawaii Emergency Management Agency. I am testifying in SUPPORT of Governor's Message 543, Gubernatorial Nominee Nolan Espinda as Director of the Department of Public Safety.

I wholeheartedly support Nolan Espinda as the Director of Public Safety. Nolan clearly has the capacity, as well as the proven track record of leadership to lead at the executive branch level, and has done an outstanding job currently serving as Director of the department. Working alongside Nolan has been a pleasure. He is a team player that is focused on helping the Governor achieve his priorities and protect the interests of the state. His previous assignments and experience with the Waiawa Correctional Facility, Oahu Community Correctional Center, Halawa Correctional Facility and the Hawaii Youth Correctional Facility make him uniquely qualified and an expert in the field.

I have great respect for Nolan and am confident that he will continue to do an outstanding job leading the Department of Public Safety in support of our state.

Thank you for allowing me to testify in SUPPORT of Governor's Message 543.

April 3, 2019

TO: The Honorable Clarence K. Nishihara, Chair
The Honorable Glenn Wakai, Vice Chair
Senate Committee on Public Safety, Intergovernmental, and Military
Affairs

FROM: Cathy Ross

SUBJECT: GM 543, Submitting for consideration and confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, NOLAN P. ESPINDA, for a term to expire at noon on 12-05-2022

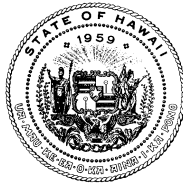
I am writing in **strong support** for the confirmation of Mr. Nolan Espinda as the Director of the Department of Public Safety (PSD). I was fortunate to work with Mr. Espinda for four (4) years as the PSD Deputy Director for Administration. This allowed me to directly experience and witness the kind of stalwart leadership that is essential for a department that lacked consistent leadership since its inception.

I observed many people across PSD, not just in corrections, who consulted with Mr. Espinda on managerial and operational issues. And while his extensive experience at PSD made him an “expert”, Mr. Espinda was always open to other perspectives and would do his due diligence before making a decision. I also saw that his decisions were always focused on what was best for the department, employees, clients, and the community.

Recently, it became apparent that some of Mr. Espinda’s decisions and actions as the leader of PSD have been misinterpreted. NOLAN ESPINDA IS A REFORMER. With the clients, staff, and community at the center of his decision-making, he made many necessary and difficult changes that may have upset some people or programs. However, there are significantly more people who are happy with his leadership and decisions and I hope this quiet majority is heard.

I respectfully urge your favorable consideration of the nomination of Mr. Espinda as the Director of the Department of Public Safety.

Thank you for the opportunity to submit testimony.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File:

Good Afternoon Chair Nishihara and Vice Chair Wakai:

I respectfully submit testimony in strong support for the re-confirmation of Nolan Espinda as Director of the Department of Public Safety.

I have worked closely with Director Espinda and his management team for the last three years and have appreciated the responsiveness and support we have received from them in our efforts to improve the behavioral health care system, particularly where the system intersects with law enforcement. The efforts of the Department of Health, Behavioral Health Administration and the Department of Public Safety intersect in a number of key ways that make it necessary to coordinate efforts to maintain balanced public health and public safety efforts.

For example, the Director, and by extension, his Deputy for Law Enforcement, Renee Sonobe-Hong, have been active members of the Hawaii Opioid Initiative. The implementation of the medication drop box program would not have been possible without the support of Deputy Sonobe-Hong and the Narcotics Enforcement Division, who stepped up to the plate and offered innovative solutions and worked collaboratively with local law enforcement entities in all the counties to make the program work.

Additionally, under the leadership of Director Espinda and Deputy Sonobe-Hong, the Sheriff's Department has been a key partner in the development and expansion of the Law Enforcement Assisted Diversion (LEAD) pilot program on Oahu and also its current expansion to Hawaii, Maui and Kauai counties.

There is also a strong partnership between the Departments of Health and Public Safety in implementing and expanding the PDMP as a vital tool in conducting public health research and evaluation of trends related to opioid and other narcotic prescribing.

Finally, without the support of the Department of Public Safety and the Sheriff's Division, the Behavioral Health Administration would be hard pressed to effectively coordinate patients court ordered to the Hawaii State Hospital for evaluation and treatment.

These are just some of the ways that Director Espinda and his management staff have been valued partners in our work to improve and enhance behavioral health care in the state and have been phenomenal through this collaboration. Partnership with the Department of Public Safety over the last several years has been a vital and invaluable component of many of the successful initiatives of the Behavioral Health Administration and I look forward to continued collaborative efforts between the Behavioral Health Administration and the Director and his staff.

Thank you for the opportunity to provide testimony in strong support of Director Espinda.

April 2, 2019

The Honorable Clarence K. Nishihara, Chair

The Honorable Glenn Wakai, Vice Chair

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

Re: GM 543 - Submitting for consideration and confirmation as the Director of the Department of Department of Public Safety, Gubernatorial Nominee, NOLAN P. ESPINDA, for a term to expire at noon on 12-05-2022.

Dear Chair Nishimura, Vice Chair Wakai, and Members of the Committee:

I would like to submit testimony in complete favor of the confirmation of Director of the Department of Public Safety, Gubernatorial Nominee Nolan Espinda, for a term to expire at noon on 12/05/2022. Nolan has been a competent and visionary leader for improvements to DPS while complying with state procurement and personnel policies and procedures. He has been instrumental in changing the prison system to be less punitive and more rehabilitative. I have over 35 years of experience working with programs that are funded through federal grants or MOA's between UH and State of Hawaii Departments. The last was through a state contract between DPS and UH, the Research and Evaluation in Public Safety (REPS) program. Although our contact with Nolan was through his Deputy Director, Cathy Ross, we did meet with him at least twice a year through progress meeting presentations. He always was interactive during these meetings and expressed his opinions whether positive or constructive on our approaches to fulfill the services of our contract. Nolan is a strong supporter of partnerships with UH researchers that bring expertise, evidence-based practices, and data driven decisions to promote positive changes in and to the correctional facilities he oversees.

Nolan is a strong advocate for re-entry programs that reduce recidivism rates. Part of the REPS contract services was to work with the non-profit agency, United Self Help (USH) to provide peer support services to "max-out" and legally released offenders. "Max-out" offenders serve their entire sentence and are not paroled. The innovative program meets with these offenders before they are released to develop a plan on ways to avoid re-incarceration. USH picks up these offenders if scheduled, on their release date, drives them to services that provide clothing, bus passes, free phones, Medicaid enrollment, and housing if required to IHS. USH checks back with these released offenders one week, 30 days, and 3 months after release to assist if they require additional help. USH also reaches out to companies that might provide employment opportunities. They employ these former offenders as "peer mentors", after they successfully transition to working and living in the community for one year. These "peer mentors" receive a living wage of \$15.00/hour.

Another successful collaboration was the Data Infrastructure Improvement Program (DIIP). UH contracted with vendor Pas de Chocolat to review the existing corrections management system and make recommendations. They made recommendations that include replacing their archaic system, which will encompass all offender management to include the data and reporting needs of PSD. This project ended in January 31, 2019 and provides PSD with the necessary mapping of all the data being

collected and improvements that need to be made in their data information systems. The recommendations include that PSD not purchase one over encompassing system because each correctional facility has its own unique work culture, work division differences, process owners, philosophy on custody management, style and programs. Their suggestion was to work with IT vendors to focus on performance and outcomes to unify the processes rather than forcing identical procedures for uniquely distinctive correctional facilities.

The REPS team worked on program evaluation and continuous quality improvement initiatives (CQI), reports documenting the use of the Level of Service Inventory, updating PSD's strategic planning project, held program development training for selected PSD staff, and provided evaluation of the Laumaka work furlough program.

In summary, my interactions and experiences with Director Espinda have convinced me that he is bright, progressive, an extremely competent leader, inclusionary, data driven, methodical, insightful collaborator, and a conscientious public servant. He has supported partnerships and contracts with agencies and individuals that collect data, identify, analyze, and make recommendations to improve the operational aspects within DPS. He seeks out competent deputy directors and allows them to oversee their areas of expertise and in turn supports directives and decisions to ensure articulated deliverables assist DPS to improve on services, programming, training, assessment, evaluation, and facilities.

Therefore, I completely support the confirmation of Nolan Espinda as Director of DPS for another 4 years.

Sincerely,

A handwritten signature in cursive script that reads "Paula L. Chun".

Paula L. Chun

GM-543

Submitted on: 4/3/2019 1:35:43 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn Brown	Individual	Oppose	No

Comments:

Dear Committee Members,

I am writing in my capacity as a citizen, but one with over twenty years of experience in studying corrections in Hawai'i. As a Ph.D., and educator in the Hawai'i system, I think that my opposition to Mr. Espinda's reappointment might carry some weight. However, no expert insights into the PSD under his Directorship are necessary to realize that the system is poorly and dangerously mismanaged. I won't list the many tragic episodes of these last few years, ranging from prisoner deaths to jail riots, because these are only symptomatic of the underlying lack of leadership. I've taught classes in corrections for many years and always stress to my students that institutions of corrections are accountable to the public -- or should be. And, that if our schools, for example, were managed like our prisons, the public would take to the streets in justified rage. But because of the closed nature of prisons, the public is less informed. That's why it is so incumbent on you, our legislators, to take great pains in ensuring proper leadership. You need to send a message that mismanagement will not be tolerated by voting against Mr. Espinda's re-appointment. I'm just fearful that his continued occupation of this position will lead to even more tragic occurrences. This should be your concern as well, because otherwise, the next inevitable PSD fiascos will be down to you. Thank you for your attention.

Marilyn Brown, Ph.D.

Volcano, HI

Rodney A. Maile

**Senate Committee on Public Safety,
Intergovernmental, and Military Affairs**

Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2019, 1:15 p.m.
State Capitol, Conference Room 229

Governor's Message No. and Title: GM543, Submitting for consideration and confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, Nolan P. Espinda, for a term to expire at noon on 12-05-2022.

WRITTEN TESTIMONY ONLY

Chair Nishihara, Vice Chair Wakai, and members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs, I respectfully submit this written testimony in my personal capacity, in support of the nomination of Nolan P. Espinda to be Director of the Department of Public Safety.

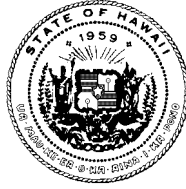
As the Administrative Director of the Courts for the Judiciary, State of Hawaii, I have had the opportunity to work directly with Director Espinda and his administrators during the past several years, on matters pertaining to the security and operational requirements of the Judiciary and the Department of Public Safety.

I have had a positive constructive working relationship with Director Espinda based on our mutual respect for the responsibilities and duties of the Department of Public Safety and the Judiciary. Director Espinda and his staff have always been willing to work cooperatively with the Judiciary to find ways to better serve the public.

As a result of my experiences working with Director Espinda, I have a great deal of respect for Director Espinda and I hold him in high regard.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



PANKAJ BHANOT
DIRECTOR

CATHY BETTS
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

April 1, 2019

TO: The Honorable Senator Clarence K. Nishihara, Chair
The Honorable Senator Glenn Wakai, Vice Chair
Senate Committee on Public Safety, Intergovernmental, and
Military Affairs

FROM: Pankaj Bhanot, Director

SUBJECT: **GM 543 - Submitting for consideration and confirmation as the
Director of the Department of Public Safety, Gubernatorial Nominee,
Nolan P. Espinda, for a term to expire at noon on 12-05-2022.**

Hearing: Thursday, April 4, 2019, 01:15 p.m.
Conference Room 229, State Capitol

DEPARTMENT'S POSITION: Aloha Chair Nishihara, Vice Chair Wakai, and members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs, my name is Pankaj Bhanot and I am the Director of the Department of Human Services (DHS). The DHS is in strong support of GM 543 submitted by the Governor for consideration and confirmation of Nolan P. Espinda as the Director of the Hawaii Department of Public Safety, for a term to expire at noon on December 05, 2022.

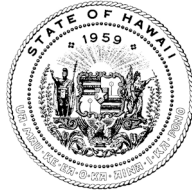
Nolan has a long and distinguished career in the Hawaii correctional system. He is serving as the Director of the Department of Public Safety since January 2015.

I have the privilege and honor of working collaboratively with Nolan, in his capacity as the Director of Public Safety, on various policy and operational issues impacting PSD and DHS. We partnered to address the public assistance needs of incarcerated individuals who were close to their release from prison; and explored the possibilities of filing for Medicaid application/reimbursements for incarcerated individuals who were eligible to seek treatment outside of the prison. DHS, at the request of Mr. Espinda, provided technical assistance to PSD on business process transformation. Throughout my interactions with Nolan, I found him to be a person of a great character and integrity.

I request the full Senate and Senate Committee on Public Safety, Intergovernmental, and Military Affairs to unanimously confirm my colleague Nolan as the Director of the Department of Public Safety.

Thank you for the opportunity to submit testimony in support of GM 543.

DAVID Y. IGE
GOVERNOR



DOUGLAS MURDOCK
CHIEF INFORMATION
OFFICER

OFFICE OF ENTERPRISE TECHNOLOGY SERVICES

P.O. BOX 119, HONOLULU, HI 96810-0119
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Testimony of
DOUGLAS MURDOCK
Chief Information Officer
Enterprise Technology Services

Before the

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY
AFFAIRS

Thursday, April 4, 2019

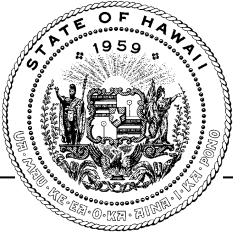
GOVERNOR'S MESSAGE No. 543
Gubernatorial Nominee Nolan P. Espinda

Dear Chair Nishihara, Vice Chair Wakai and members of the committee:

I am writing in strong support of Mr. Nolan P Espinda, nominee for the Director of Public Safety. Mr. Espinda has worked for the Department of Public Safety for more than three decades, starting his career in 1983, as a recreation specialist at the Hawaii Youth Correctional Facility. He has served as warden at the Waiawa Correctional Facility, Oahu Community Correctional Facility, and most recently, at the Halawa Correctional Facility since 2009.

During his tenure, Mr. Espinda was named the Public Safety Department Manager of the year in 1994. He is highly qualified for the position and as its current director, has been able to demonstrate exemplary leadership during the most difficult challenges at the department. Mr. Espinda is a tremendous asset and will continue to serve the people of Hawaii and the department well.

Thank you for the opportunity to testify in support.



OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

DIRECTOR
OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
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Statement of
LEO R. ASUNCION
Planning Program Administrator, Office of Planning

before the
**SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS**

Thursday, April 4, 2019
1:15 PM
State Capitol, Conference Room 229

in consideration of

Governor's Message (GM) 543

Chair Nishihara, Vice Chair Wakai, and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs.

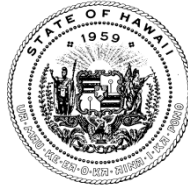
I strongly support the nomination of Mr. Nolan P. Espinda to serve as the Director of the Department of Public Safety.

Over the past number of years, I have had the opportunity to work with Mr. Espinda and his staff in advancing cross-cutting initiatives of the Department of Public Safety and the Office of Planning, and Mr. Espinda has supported this work while continuing to address many of the items that involve the Department of Public Safety. His steadfastness, integrity, dedication to public safety and willingness to continue service to the public are a few of his many assets.

Mr. Espinda will uphold the highest levels of leadership, and there is no question that he will continue to lead and contribute his knowledge and experiences to the work of the Department of Public Safety

I respectfully encourage the Committee to advise and consent to the nomination of Mr. Nolan P. Espinda as Director of the Department of Public Safety.

Thank you for the opportunity to provide testimony on GM 543.



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

**STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097**

April 4, 2019
1:15 p.m.
State Capitol, Room 229

G.M. 543

Submitting for consideration and confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, NOLAN P. ESPINDA, for a term to expire at noon on 12-05-2022.

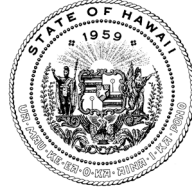
Senate Committee on Public Safety, Intergovernmental and Military Affairs

The Department of Transportation (DOT) **strongly supports** the confirmation of Nolan Espinda as the Director of the Department of Public Safety (DPS).

Mr. Espinda earned a BA in political science from the California State University. He has served in multiple correctional facility positions at DPS since 1983, and we welcome his commitment to continue as the Director of DPS. He was the warden at the Halawa Correctional Facility since 2009, and worked at the department for 32 years in operational and managerial capacities. By all accounts, he is and continues to be a strong leader. People who have worked with him cite his work ethic, his integrity and his determination.

Mr. Espinda knows Hawaii's prisons and is dedicated towards the rehabilitation and reintegration of inmates as productive individuals. The DOT appreciates the opportunity to be part of programs like the Hawaii Correctional Industries where we have partnered with DPS to help clean up highways by using prisoners to save money, which has been a great benefit to the DOT and the State. We also utilize DPS Sheriffs who provide public safety at our ports and facilities and believe that Mr. Espinda's tenure, experience and background are suited to meet the challenges of DPS.

Thank you for the opportunity to provide testimony.



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

335 MERCHANT STREET, ROOM 310
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony to the Senate Committee on
Public Safety, Intergovernmental, and Military Affairs

The Thirtieth Legislature
Regular Session of 2019

Thursday, April 4, 2019
1:15 p.m.

Testimony on **Governor's Message No. 543**, Submitting for Consideration and Confirmation as the **Director of the Department of Public Safety**, Gubernatorial Nominee, **Nolan P. Espinda**, for a Term to Expire on December 5, 2022.

To the Honorable Clarence K. Nishihara, Chair, the Honorable Glenn Wakai, Vice Chair, and Members of the Committee:

My name is Catherine Awakuni Colón, Director of the Department of Commerce and Consumer Affairs (DCCA), and I am writing in **support** of the appointment of Nolan Espinda to serve as the Director of the Department of Public Safety, for a term to expire on December 5, 2022.

Over the last four years, I have had the opportunity to work with Mr. Espinda in his capacity as the Director of the Department of Public Safety. Approximately a year ago, DCCA requested to have State sheriffs assigned to our place of business to replace the security guards who monitored our lobby. Mr. Espinda and his team were responsive and easy to work with throughout that process. We are grateful for the professionalism the sheriffs have demonstrated as they assist our team and our customers.

Mr. Espinda is a dedicated, thoughtful, and collaborative public servant who has demonstrated he possesses the tenacity, temperament, and aptitude needed to lead the Department of Public Safety.

Testimony of Catherine P. Awakuni Colón

G.M. 578

Page 2 of 2

I firmly believe Mr. Espinda will continue to be a valued and highly productive member of Governor Ige's cabinet, and respectfully request that you recommend approval of his nomination as Deputy Director of the Department of Transportation.

Thank you for the opportunity to support GM No. 543. I would be pleased to respond to any questions that you may have.

TESTIMONY OF DAMIEN ELEFANTE
TO THE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS
THURSDAY, APRIL 4, 2019 1:15 PM
CONFERENCE ROOM 229

GOV. MSG NO. 543

SUBMITTING FOR CONSIDERATION AND CONFIRMATION AS THE DIRECTOR OF
THE DEPARTMENT OF PUBLIC SAFETY, GUBERNATORIAL NOMINEE,
NOLAN P. ESPINDA, FOR A TERM TO EXPIRE AT NOON ON 12-05-2022.

Chair Nishihara, Vice Chair Wakai and members of the Committee. I am
testifying as an individual and I am in strong support of Nolan P. Espinda's confirmation
as the Director of the Department of Public Safety.

During his time at the Department of Public Safety he has actively sought to help
develop and improve the administrative process and procedures of the department. He
is committed and determined to work towards establishing and achieving goals for the
department. He has a long history and experience in public safety which is a vital asset
and resource for the State.

I urge you to support the confirmation of Nolan P. Espinda as the Director of the
Department of Public Safety.

Thank you for the opportunity to provide testimony.

WRITTEN TESTIMONY BY
ROBERT YU

TO THE
SENATE COMMITTEE ON
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

GOVERNOR'S MESSAGE NO. 543

April 4, 2019
1:15 p.m.
Room 229

SUBMITTING FOR CONSIDERATION AND CONFIRMATION AS THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, GUBERNATORIAL NOMINEE, NOLAN P. ESPINDA, FOR A TERM TO EXPIRE AT NOON ON 12-05-2022.

Chair Nishihara, Vice Chair Wakai and Members of the Committee:

I strongly support the appointment of Nolan Espinda to the position of director of the Department of Public Safety (department). I am working with Mr. Espinda in my professional capacity as Deputy Director of Finance.

Governor Ige's administration is committed to addressing the many issues facing our state in a direct and forthright manner. We strive to do the right thing, the right way to achieve our shared goal of a healthy, sustainable economy to support our keiki, our kupuna, and the disadvantaged.

Mr. Espinda is an integral part of a team that is committed to achieving the goals of this administration in an honest, transparent, accountable, and responsive manner.

Mr. Espinda currently serves as the director of the Department of Public Safety since 2015 and prior to that, he has been in various positions with the department for the past 36 years. His extensive work experience and background in corrections will benefit the department and the State; therefore, I support confirmation.

Thank you for the opportunity to provide testimony.

WRITTEN TESTIMONY BY
RODERICK K. BECKER

TO THE
SENATE COMMITTEE ON
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

GOVERNOR'S MESSAGE NO. 543

April 4, 2019
1:15 p.m.
Room 229

SUBMITTING FOR CONSIDERATION AND CONFIRMATION AS THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, GUBERNATORIAL NOMINEE, NOLAN P. ESPINDA, FOR A TERM TO EXPIRE AT NOON ON 12-05-2022.

Chair Nishihara, Chair Wakai and Members of the Committee:

I strongly support the appointment of Nolan Espinda to the position of director of the department of public safety.

I currently work with Nolan in my capacity as director of finance and previously as the state comptroller. My experiences working with Nolan have always been positive as we worked through various issues, including budget development and execution and the implementation of capital projects for his department.

I have always known Nolan to act with integrity and in the best interests of the state. I have found that he consistently addresses the complex and myriad issues facing his department in a deliberative and transparent manner and effectively communicates with stakeholders and the public.

Nolan is highly qualified and suited to be the director. Therefore, I highly recommend that he be confirmed to ensure that the state continues to have an effective director for the department of public safety.

Thank you for the opportunity to provide testimony.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

GLENN K. MURANAKA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL, & MILITARY AFFAIRS**

APRIL 4, 2019
1:15 P.M.
CONFERENCE ROOM 229

**GOVERNOR'S MESSAGE NO. 543
SUBMITTING FOR CONSIDERATION AND CONFIRMATION AS THE DIRECTOR OF
THE DEPARTMENT OF PUBLIC SAFETY, GUBERNATORIAL NOMINEE, NOLAN P.
ESPINDA, FOR A TERM TO EXPIRE AT NOON ON 12-05-2022**

Chairperson Nishihara and Members of the Committee:

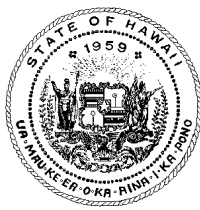
Thank you for the opportunity to testify on GM 543, submitting for consideration and confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, Nolan P. Espinda, for a term to expire at noon on 12-05-2022. The Department strongly supports this measure.

Mr. Espinda has many years of professional experience in public safety. He has served as the Director of the Department of Public Safety since 2015 and provided important leadership for the State of Hawaii. His continued dedication and commitment to serve the State in this critical role will be important for Hawaii.

Thank you for the opportunity to testify on this measure.



DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

TESTIMONY ON GOVERNOR'S MESSAGE 543
NOMINATION OF NOLAN ESPINDA AS
DIRECTOR, DEPARTMENT OF PUBLIC SAFETY.

by

Nolan P. Espinda, Director
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2019; 1:15 p.m.
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

Thank you for today's opportunity to provide this testimony regarding my nomination as the Director of the Department of Public Safety (PSD). When I came before this same Committee four years ago, clear directions and expectations were communicated to me, and I fully embraced those goals and objectives as my own. I viewed them and continue to believe they are reasonable expectations aimed at helping to solve some of the most intractable problems of Hawaii's correctional system. Therefore, I am proud to report on the progress and achievements we have made towards those ends.

- 1) ACO overtime has always been a front and center issue of concern of the Legislature, the news media, the public, and the Administration. I am pleased to report the four-year downward trending of ACO overtime, as outlined in the table below, from 12% in FY 2014 to 9% IN FY 2018.

Year	ACO Overtime (FY)	Furlough Walkaways (CY)	Cancelled Weekend Visits (CY) *
2014	\$8,069,718 12%	47	78
2015	\$7,969,584 11%	44	0
2016	\$6,720,345 9%	15	0**
2017	\$7,657,207 10%	19	0
2018	\$7,245,783 9%	15	0

- 2) The number of furlough participants who had been absconding from these programs was a major issue, and again, I am pleased to report the above-noted significant reduction in the numbers of walkaways. There are between 300 to 400 such eligible participants across the State, each allowed to exit and then later return to custody, 7 days a week, 365 days a year. In CY 2014, there were 47 instances of walkaways, and that number has been reduced to 15 in CY 2018.

- 3) The continuity of inmate family visitations was another front and center issue, with our correctional facilities having cancelled as many as 78 such scheduled days of visits across the State in 2014. The primary reason for such cancellations was security staffing shortages on scheduled visitation days, generally on the weekends, the most convenient time for visitors. Anecdotal experience and research have all shown the value of visits to an offender's rehabilitation and progress towards reentry to the community, so it was imperative that this harmful trend be reversed as quickly as possible. In this matter, I am especially proud to report that there have been no visitation cancellations, due to security staffing shortages, since the inception of my term as Director in 2015.

- 4) The establishment of a year-round, in-service training program for PSD's law enforcement officers (LEOs). The 330 LEOs are required to complete a minimum of 40 hours of classroom and firearms range training each year. In FY 2018, LEOs completed 192 training modules, as compared to 19 in FY 2015, an increase of 910%.
- 5) The conversion to a single new handgun weapons platform for all of PSD. The first phase of an overall plan to upgrade and supplement the Department's entire existing firearms and less lethal armament inventory is now complete. Replacement and supplemental armaments have been purchased, and we are set for systemwide distribution in 2019.
- 6) The clearance of OCCC's Mental Health Treatment Program from federal DOJ oversight. The program has, in fact, maintained and in some categories, exceeded the requirements set forth in the settlement agreement. Details of the independently-conducted program review by Dr. Joel Dvoskin are available as part of PSD's report to the 2019 Legislature, "Mental Health Services for Committed Persons," made in response to Act 144, SLH 2007.
- 7) The completion of the planning phases for the jail bed space expansions at HCCC, KCCC, and MCCC. All projects are currently in the design phase and are funded through the construction phase.

The MCCC project was funded at only 50% of the funding allocated for HCCC and KCCC. Recent events at MCCC indicate the dire need for bed space relief at that facility, and should additional funding for this project be provided even belatedly, I am sure that the Maui community served by the facility would be most appreciative.

- 8) Certification of all Hawaii Correctional Facilities under the federal Prison Rape Elimination Act (PREA).
- 9) Establishment of a national model for the collection of court-ordered restitution by inmates. Note that \$545,941 was collected in FY 2018.
- 10) Purchase and activation of an interactive, virtual use-of-force continuum training chamber. This state-of-the-art staff development tool places the officers in real-life, real-world Corrections and Law Enforcement scenarios, requiring participants to actively engage in the appropriate use of de-escalation techniques or force, as the details of the scenario dictate.
- 11) Establishment of a memorandum of understanding with the Department of Health for the issuance of birth certificates to exiting inmates, at no cost to the inmate. As part of facilitating the reentry of inmates to the community, the Reentry Coordination Office (RCO), with the support of the Legislature, has been working to ensure that the exiting inmates have proper civil identification, which is a necessity in seeking jobs, securing housing, and other matters.
- 12) Obtained authorization to establish a satellite State ID application station at the Halawa Correctional Facility.
- 13) The Reentry Commission has adopted a Reentry Strategic Plan and accepted the Department's 2018 Comprehension Plan, originally authored in 2012. Inclusive in this leap forward in the Reentry process is the establishment of the 10-person Reentry Coordination Office (RCO), consisting of a Reentry Coordinator, two (2) Inmate Restitution Collection

Specialists, 1 (1) Victim Notification Specialist, three (3) Reentry Coordination Specialists, two (2) Inmate Classification Specialists, and clerical support staff. At present, RCO staff are working diligently to implement the 2018 Comprehension Plan.

14) Re-outfitting the entire Adult Correctional Officer (ACO) workforce with modern and professional quality uniforms.

PSD staff are the source of all these points of pride, many of which have resolved problems that have plagued the Department for years. All credit for these achievements go to our employees, without whom, there would be no such accomplishments.

I will acknowledge, there is still much work to do, not the least of which is earning accreditation for our Sheriffs from the Commission on Accreditation for Law Enforcement Agencies (CALEA). I fully recognize that the progress towards this goal is not up to the desired level that I had committed myself to four years ago. That shortcoming falls to me and to no one else.

I will say, however, that the same dogged persistence that fostered the institutional changes noted earlier, will be required to fulfill the many steps involved in reaching the CALEA accreditation goal, and I am personally committed to refocusing our energy and resources to meeting this goal, within the next two to three years, prior to the completion of this Governor's term.

Many Department old-timers have shared with me that I am the only Director of Public Safety to have served a wire-to-wire, start-to-finish, full four-year term in conjunction with the election or re-election of a Governor. I reflect on that with great appreciation for why that is so. This is a challenging job, leading people who can take on challenges to voluntarily sign on for even more challenging individual jobs in Corrections and Law Enforcement. The stability and consistency we have been

Testimony on GM 543
Senate Committee on Public Safety,
Intergovernmental, and Military Affairs
April 4, 2019
Page 6

blessed to establish over the past four years have set the stage for even greater accomplishments in the next four. The men and women of the Department of Public Safety stand ready and able to meet these challenges.

Thank you for the opportunity to present this testimony.

TESTIMONY OF MARIA COOK

TO THE SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL AND MILITARY AFFAIRS

RE: GM543- For consideration and confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, Nolan Espinda; April 4, 2019 Hearing

Dear Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

I strongly support the nomination of Nolan Espinda as Director of the Department of Public Safety (“PSD”), and urge your favorable consideration.

My name is Maria Cook and I am submitting this supporting testimony in my personal capacity. I am presently the Deputy Director for Administration for PSD. I was appointed in this position on February 1, 2019. Immediately prior to my appointment, I was a Deputy Attorney General with the Department of the Attorney General.

I have known Director Espinda for about 20 years; first in my capacity as a State attorney representing PSD, and currently as an employee of PSD working directly for and with Director Espinda. I am therefore familiar with his qualifications, skills, and abilities as a leader. Director Espinda continues to be the right person for the job and should be confirmed once again. He has the mental fortitude, leadership skills, and correct attitude to lead a complicated department.

PSD is one of the largest departments in the State of Hawaii with three major divisions: Corrections, Law Enforcement, and Administration and approximately 2700 employees. In addition to managing the workforce, the Director is also responsible for overseeing eight (8) correctional facilities and approximately 5000 inmates at a given time.

PSD is one of the most challenging executive departments, because of the multi-faceted challenges relating to public safety and the management of a penal institution. These challenges include decades of overcrowding resulting in disturbances (e.g., MCCC), deteriorating facilities, mental health issues for inmates, recidivism, excessive overtime, understaffing, decreasing budgets, and many more. Because of these challenges, the right person for the job must have significant knowledge of the structure and operations of the department. Director Espinda is that person.

Director Espinda has nearly four (4) decades of experience within PSD and has served in various capacities, more recently as Director and previously as Warden of various facilities. Former PSD Director Ted Sakai referred to Director Espinda as the most effective Warden in Hawaii’s correctional system within the last 20 years (*See*, Ted Sakai’s 2015 written testimony in support of Director Espinda’s confirmation, GM516 (2015)).

Director Espinda's accomplishments in the last four years shows he can take on prison reform recommendations, manage CIP projects to address overcrowding, increase training, reduce overtime, and many more. Continuity in leadership is necessary to ensure that projects and programs are completed. Director Espinda must be given another four years so as not to lose the momentum gained as Director for the last four years.

As the leader of a complex and challenging department, Director Espinda makes difficult decisions every day, and they usually involve change or personnel actions that are unpopular or trigger unfavorable reactions. Thus, I urge you to put in perspective recent criticism and inaccurate media reports regarding Director Espinda and his leadership.

In making your decision, I urge you to consider what is in the best interest of the majority of PSD employees, PSD, and the State of Hawaii, and ignore the noise made by a few disgruntled individuals whose agenda is simply to retaliate against a nominee for making tough decisions.

Thank you for the opportunity to provide testimony. I respectfully request that the committee confirm Director Espinda once again.

Sincerely,

/s/ Maria C Cook

TESTIMONY ON GOVERNOR'S MESSAGE 543
NOMINATION OF NOLAN P. ESPINDA AS
DIRECTOR, DEPARTMENT OF PUBLIC SAFETY

By
Colleen Miyasato

Senate Committee on Public Safety, Intergovernmental and Military Affairs
Senator Clarence K. Nishihara Chair
Senator Glenn Wakai, Vice Chair

The Honorable Senator Nishihara and Members of the Committee

I strongly support the consideration and confirmation of Gubernatorial Nominee, Nolan P. Espinda to serve as Director for the Department of Public Safety, for a term to expire on December 5, 2022.

I have worked with Nolan in my daily dealings for the past 20+ years and have found him to be very fair in his decisions. He strives to achieve established goals and prides himself on his accomplishments. He weighs the impact of his decisions before taking action and has had to make some tough decisions for the betterment of the department. His no nonsense style of management may be perceived by some as arrogant however he has a job to accomplish. There is no one more knowledgeable about the department's history and operations than Nolan.

Despite all of the controversy and recent incidents being raised to discredit Nolan, this process will only make him stronger and prove his ability to correct the problems and criticism. It is easy to criticize when you're on the outside looking in. This man does not just sit behind his desk. He is constantly working tirelessly and his mind is always thinking.

I have serviced 13 different directors throughout my career and I can tell you how difficult it is to start-up with a new director who has no historical knowledge along with the amount of time it takes for a new director to come up to speed. Time wasted which could have been spent on moving the department forward.

Nolan has in my opinion performed exceptionally throughout his career and is committed to the betterment of the department, the community, public service, and to the State of Hawaii. With Nolan, we will have continuity based on his vast and extensive history and knowledge of the department. I believe he possess the vision and ability necessary to continue to move the department forward for the next 4 years.

Thank you for allowing me the opportunity to express my views and opinions and provide written testimony. I strongly urge you to confirm the appointment of Mr. Nolan P. Espinda as the Director of the Department of Public Safety.

GM-543

Submitted on: 4/2/2019 10:49:32 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alex Banks	Testifying for sheriffs	Oppose	No

Comments:

Aloha,

As an employee of the Dept. of Public Safety for the since the year 2003 to present. I have personally worked under Nolan at OCCC for a few years. At OCCC he was not affective there and did not do much to help the jails improve the work conditions and safety of the corrections officers. In 2006 i even helped prevent and esacpe from occurring by tackling an inmate running out of Module five and tackling him outside in the employee parking lot near the main public entrance. Nothing was done to improve the security then and thats exactly what happened again last month when another inmate escape from module five running the same path but this time he ran out further into the neighborhood. Now for the Sheriffs the employees are scared to testify against the boss in case of retaliation. Since Nolan taking the Directors postion he has done anything to improve our division either but get us new guns (Sig Sauer P320) that is not even in our policy that we are alloweed to carry that weapon on duty. The gun is NOT in or gun policy. And how can our Director of Law Enforcement Renee Sonobe HONG our former Sheriff qualify to carry a gun in one day when in the academy the sheriffs take two weeks to learn all the functions of the weapon and learn how to shoot accurately and pass. From my knowledge she has no law enforcement experience and yet she is telling us how things should be done.

Thursday, April 4, 2019 / 1:15 p.m.

Conference Room 229

State Capitol

415 South Beretania Street

GM 543

Status & Testimony

Submitting for consideration and confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, NOLAN P. ESPINDA, for a term to expire at noon on 12-05-2022.

Aloha my name is Brian BRUNN, for the past 34 years I have been employed as a Deputy Sheriff with the Department of Public Safety. On May 3, 2018, I suffered a heart attack while in the performance of my duties. After obtaining a physician's clearance to return to work, I was denied my request to return to full duty with no further explanation given. Subsequently, I was terminated after four months of waiting. The reason given was I did not respond to a letter sent by Public Safety, which I never received.

During my tenure I have pointed out and testified on numerous cover ups and corruption by the department. I believe my termination was retaliation on Espinda's part as payment for filing complaints against the department.

The corruption, nepotism and the "Chronies" cliques brought forth by the department and the Director should be brought to light. The Director has successfully eliminated the whistle blowers. Noland Espinda's misdeeds and extended appointment to remain within his position will promote and create a perfect environment for corruption similar to what the City and County of Honolulu is currently experiencing.

Hopefully this does not turn into another Louis Kealoha incident, costing the tax payers thousands of dollars in litigation.

Therefore, I am not in support of Nolan ESPINDA'S confirmation.

Thank you for the opportunity to testify.



Brian Brunn

(808) 330-1911

Governors Message 543
Confirmation Hearing
Director of the Department of Public Safety
Gubernatorial Nominee, NOLAN P. ESPINDA
Thursday, April 4, 2019
Conference Room 229
Senate Committee on Public Safety,
Intergovernmental, and Military Affairs

My name is Albert Cummings. I am the State Sheriff. I have served the State of Hawaii for 39 years. I am writing in STRONG SUPPORT of G.M. 543 for the Senate confirmation of Nolan Espinda as the Director of the Hawaii State Department of Public Safety (PSD).

Let me begin by stating that I believe in a system of justice where the confirmation process is supposed to be fair and impartial. I humbly ask all the members of this committee to show fairness to the nominee and not judge his record based on inaccurate reports.

I have had a professional working relationship with Director Nolan Espinda for approximately 25 years. In my 39 years, I have never worked under a Director like Director Espinda. In my 39 years of law enforcement, I have never witnessed an administrator who worked so diligently and cared so much about his department. Director Espinda is never reluctant with taking on challenges, tackling issues, or making tough and sometimes unfavorable decisions for the betterment and future of this department and the Sheriffs division, specifically.

Respectfully, I would like to provide the committee with specific examples of his leadership and the positive changes that have been accomplished, thus far, in his 4 years as Director.

Training: Under his leadership and guidance, Director Espinda has been instrumental in transforming our Training and Staff Development (TSD) section, moving it in the right direction. Prior to 2015, training was inadequate and menial. Basic training requirements were limited to first aid/CPR, semi-annual firearms training, PPCT to name a few. Deputies would regularly complain about the need for more training. Since revamping TSD, training is now a mandatory, ongoing requirement. It is not perfect, but a 100% improvement from previous administrations.

Equipment: Prior to 2015, purchasing equipment for the Sheriffs Division was like pulling teeth. In most instances, funding requests were denied. Recognizing and taking the necessary action to fulfill the Sheriff Division's need for adequate equipment, under his leadership, Director Espinda authorized the purchase of new Sig Sauer M400 long guns of the .223 caliber. He also authorized the purchase of new Remington 870 shotguns that can easily be converted to less lethal weapons that can discharge a bean bag or rubber bullet projectiles.

Deploying these weapons, of course, require changes to policy to negate vicarious liability and/or civil litigation. The process also includes union consultation. The misconception that the department is not allowing deputies to deploy these newly purchased weapons is incorrect.

To also be clear, the intent to purchase these weapons was to replace aging non-functional AR-15 Colt firearms and shotguns that have been in existence for over 30 years and still on inventory. *Thirty-years, Senators*. It is imperative to recognize that in 30 years, Director Espinda is the first Director to seek to professionalize and modernize the Sheriffs Division with the training and equipment it has long needed. So much talk about moving this department forward, and yet where is the recognition that is exactly what this administration is doing? Director Espinda did not talk about moving us forward – Director Espinda *acted* on it.

Furthermore, Director Espinda also provided direction and support to purchase Tasers and Body Cameras through the legislative process. Unfortunately, this request has not made it through the executive and legislative budget process, thus far.

Police Packaged Vehicles (PPV): Since 2015, Director Espinda has approached the Sheriff's Divisions need for appropriate vehicles in a comprehensive manner, rather than the piece-meal approach of decades-past. First, Director Espinda approved and fulfilled the need for new custody transport vans to replace used federal government surplus vehicles, and the acquisition of new SUV typed patrol vehicles currently online at the State Capitol. Sheriff's Division will be receiving 10 new vehicles scheduled to replace aging fleet on the neighbor islands and Oahu. Director Espinda also approved replacement vehicles for our K9 narcotics detection and explosive ordinance units.

CALEA Accreditation: As PSD/SD seeks CALEA accreditation, all aspects of law enforcement and training needs to be standardized. Director Espinda has taken the bull by the horns and got the department moving in that direction. Accreditation is a long and tedious endeavor, but it is MOST important that this Senate and the taxpayers of Hawaii give credit to this administration for being the first ever to actually take steps to getting it done, unlike other administrations sitting idle, waiting for someone else to get it started.

Renee Sonobe Hong, Deputy Director for Law Enforcement, provides guidance/opinion, criminal law support/guidance to minimize/eliminate civil litigation. As a team, Director Espinda and Deputy Sonobe Hong have taken this department to another level by infusing something it has NEVER had in its leadership: *Accountability*. That said, several high-ranking Sheriff deputies and former cohorts have not taken kindly to these changes and have naturally resisted. With change there will always be resistance, however, is this resistance to technical changes or resistance to social change? For certain, some have had a difficult time in accepting a woman in a leadership role in this very-male dominated field. They have been vocal, seeking to undermine Deputy Sonobe Hong despite her leadership contributions. Sheriffs must recognize that the old school ways of thinking and even behaving have changed. I have had to learn and accept that myself. Our people, our communities have evolved and they deserve

more. The expectation of accountability, transparency, and professionalism are POSITIVE and the Department of Public Safety and our Sheriffs Division have to change if it wants to be sustainable for future Sheriffs and for Hawaii's future generations.

Under Director Espinda and Deputy Director Sonobe Hong's leadership, the Sheriff's Division has been working collaboratively with the police departments of the various counties. I note that the County of Hawaii Police Department submitted a written testimony in support of the appointment of Director Espinda because of this reason.

Director Espinda has provided PSD with stability, accountability, and direction. I fully support his continuation as PSD Director to maintain the order and constancy which he has sought to establish. Director Espinda cares about the Sheriffs Division in the right way – the way that counts – making the Sheriffs accountable and relevant to the Hawaii communities we serve, professional, trained, equipped, and functioning in a way that will ensure the Sheriffs Divisions sustainability for future years.

After 39 years in services to the people of the State of Hawaii, as a Sheriff who loves and has dedicated his entire life to our communities and to the Sheriffs Division, I humbly ask you to take to heart my reason for proudly standing by and with this administration to foster the change that is needed. I want to be a part of this change and you should too. I don't believe there is anyone else out there who could do a better job. Senators, I urge you to stand with me, behind Director Espinda, for the changes he is making and the work that he has yet to complete for the Sheriffs Division.

Thank you for the opportunity to provide testimony in strong support of the confirmation of Director Nolan Espinda.

Thursday April 4, 2019/1:15p.m.
Conference Room 229
State Capitol
415 South Beretania Street

GM 543

Status & Testimony

Submitting for consideration and confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, **NOLAN P. ESPINDA**, for a term to expire at noon on 12-05-2022.

Aloha, my name is Richard Stevenson and for the past 23 years I've been employed by the Department of Public Safety initially as an Emergency Hire Adult Correctional Officer and eventually a Civil Service Employee as an Adult Correctional Officer at OCCC then as a Deputy Sheriff in 1996 to present.

I have witnessed various instances where Director Espinda and his Axis of Evil leadership group which includes Deputy Director Sonobe Hong and Sheriff Albert Cummings abuse their positions and authority. Director Espinda and his leadership group have demonstrated time and again a pattern of corruption, cover ups and favoritism. I have previously reported these matters to the Attorney General's Office, former Senator Espero, and to various other government agencies and officials.

One perfect example is when I reported an assault by Deputy Norman Demello on a fellow Deputy at work and to date Deputy Demello is still employed with the Sheriff Division. Deputy Demello is a good friend and a drinking buddy of Director Espinda. Another example is the termination of Deputy Brian Brunn after sustaining a heart attack at work. Deputy Brunn had also previously reported instances of misconduct and corruption by the department and I believe his termination is nothing short of retaliation by Director Espinda.

The various promotions within the Sheriff Division at least on the island of Oahu under the command of Director Espinda have been extremely questionable and directly demonstrates A pattern of favoritism. I believe to date, these are the most grieved promotions in the history of the Sheriff Division. It is my humble opinion that the continued command of Director Noland Espinda and his Axis of Evil leadership is detrimental to the Sheriff Division and to the people of Hawaii.

I strongly and absolutely do not support the Director Nolan Espinda's confirmation.

Thank You for this opportunity,



Deputy Sheriff Richard Stevenson
808 372-6412 (c)
808 836-6606

TESTIMONY ON GM 543
Submitting for confirmation
Gubernatorial Nominee, NOLAN P.
ESPINDA

By
Shawn H. Tsuha

Senate Committee on Public Safety, Intergovernmental Affairs, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2017; 1:15 p.m.
State Capitol, Conference Room 229

Chair Inouye Nishihara, Vice Chair Wakai, and Members of the Committee:

I oppose the confirmation of Nolan P. Espinda as the Director of the Department of Public Safety. Although Director Espinda has extensive experience in Corrections he has no significant Law Enforcement experience and this lack of experience has negatively affected the Law Enforcement Division. In particular, his appointees, and their programmatic errors, have deprived the Sheriff Division of the strategic direction and the resources needed to do their jobs safely and efficiently.

First, the lack of any justifiable reasons to explain away the challenges faced by the men, and women, of the Sheriff Division, clearly indicates that the current leadership is inadequate to accomplish the mission. The misguided efforts to explain why PSD has not prioritized the certification of the Sheriff Division, as mandated by the Legislature, is factual enough to indicate a lack of proper focus, prioritization and direction.

Second, no effort has been made by Director Espinda, or his current appointees, to communicate to the deputies what the focus and priorities are, much less the direction, the division is headed to. The reason for this is because no dissenting opinion is taken into consideration, nor can they explain why the decisions are made, even when, those decisions bring unnecessary risk to the organization and individuals. Furthermore, decisions have been made that were questionable at best and/or actually violated established procedures.

Third, the current leadership has created an operating environment that destroys morale and trust within the division. While professing their dedication to the Law Enforcement mission of the Sheriff Division the deputies are now going on three years without a responsive process to purchase uniforms, have no means to deploy less lethal weapons that have been purchased, are carrying a duty weapon, and duty ammunition, not in policy, and have to deal with a Training and Staff Development direction that is self-serving and clearly are not in the long term interests of the Law Enforcement division amongst other issues.

Testimony on GM 543

April 3, 2019

Page 2

Finally, any evaluation of the many responses given by PSD regarding issues that are before your committee show objectively poor leadership at best and toxic leadership at worst.

Thank you for the opportunity to testify and I am available for your questions.

GM-543

Submitted on: 4/3/2019 10:03:13 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Edward Trevino	Individual	Oppose	No

Comments:

I do not support his reappointment to this position. He truly does not or has shown that he know what to do with his Law Enforcement side of The Public Safety Department. His leadership has been nothing less than a disappointment to his Deputies and Officers under him and his Deputy Director Of Law Enforcement Renee Sonobi Hong does not know what it takes to do the Job of the Law Enforcement professionals in the trenches. You have seen this in the media lately and it has been echoing for a while now in the Law Enforcement Division. Deputies and Officers have been asking for tools and equipment to do their jobs effectively and have been waiting for a long time. The only answer given was none. They have been asking for tools like computers for the outer courts and office equipment with nothing being done. Nolan Espinda and Renee Sonobi Hong have been nothing but detrimental to Law Enforcement and the Sheriffs Division. The Division need better Leadership now!

Thank You

Edward Trevino

GM-543

Submitted on: 4/1/2019 1:16:03 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Yabuta	Individual	Comments	No

Comments:

My name is Gary Yabuta and I am currently a member of the State of Hawaii Reentry Commission since its inception in 2010. During this experience, I have seen the development of an outstanding Reentry Program, albeit under-funded, under Director Espinda. As a retired law enforcement official (Chief of Police for the Maui Police Department) and with 41 years of criminal justice experience, I realize the difficulties the Department of Public Safety faces, especially with the variety of duties and responsibilities for which this department represents for the state. However, the primary importance of DPS is the Corrections and it is imperative that the Director have full knowledge of our Penal System. And so I believe Director Espinda is qualified for the position that he currently holds.

GM-543

Submitted on: 4/2/2019 6:18:41 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Toni Bissen	Individual	Support	No

Comments:

TESTIMONY IN SUPPORT OF GM 543 - Submitted by Toni Bissen

Submitted to Senator Clarence K. Nishihara, Chair, Committee on Public Safety, Intergovernmental and Military Affairs.

Hearing Date: Thursday, April 4, 2019, 1:15 pm; Conf. Rm. 229

To: The Honorable Clarence K Nishihara, Chair and Committee Members -

This testimony is in **support** of GM 543 to confirm Governor Ige's nominee Nolan Espinda for a second term as Director of Public Safety. I am the co-chair of the Reentry Commission and was sworn in Dec. 2015, however, I am writing this in my individual capacity.

It is my experience since 2015 that Director Espinda has demonstrated proven leadership that has resulted in significant strides in the area of reentry. To this end, on 3/21/19, KITV posted a news release, announcing the completion of the Comprehensive Offender Reentry Plan in the established Offender Reentry Office and the Strategic Plan of the Reentry Commission. I am quoted in the news release. "The Reentry Commission was established to work with PSD to monitor and review its reentry programs and to ensure that the comprehensive offender reentry system is implemented; to guide the work, a strategic plan was necessary," reports Toni Bissen, co-chair of the Commission. The key is to work together, only together as State and Community can we bring about reentry success in Hawaii, and the completion of both plans demonstrate the effectiveness of collaboration" Bissen said.(See 3/21/19 KITV news release retrieved at <https://www.kitv.com/story/40176578/department-of-public-safety-and-reentry-commission-complete-plans-to-implement-reentry-system>)

It was under Director Espinda's leadership that the Offender Reentry Office became operational with key staffing positions filled. He has assembled his top management team to operate the Department together effectively. While there are significant challenges in the area of corrections, with his years of experience, methodical and strategic approach to managing financial and human resources and

community partnerships, I believe he will continue to serve the people of Hawaii well in the capacity as the Director of Public Safety.

Mahalo for opportunity to submit this testimony in support of GM 543.

GM-543

Submitted on: 3/29/2019 7:07:33 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Watanabe	Individual	Support	No

Comments:

As the Correction Program Service, Food Service Branch Manager, I am in support of Gubernatorial Nominee, Mr. Nolan Espinda for confirmation as Director of the Department of Public Safety. Mr. Espinda has demonstrated consistent support of this office and initiatives implemented to benefit correctional staff, inmates, and taxpayers of Hawaii.

GM-543

Submitted on: 4/1/2019 11:33:24 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
William Gonsalves	Individual	Support	No

Comments:

March 25, 2019

To Whom It May Concern; my name is William S. Gonsalves I am an Adult Correction Officer IV (Sergeant) with over 25 years of line experience. I am writing you this letter in **support** of confirming Nolan P. Espinda as the new Director of the Public Safety Department.

I was hired as an Adult Corrections Officer in October of 1994. After I completed basic recruit training I was assigned to work at the Oahu Community Correctional Center where Director Espinda was the warden. In 1999 I accepted a position as a sergeant at the Halawa Correctional Facility where Director Espinda was the warden.

Director Espinda worked his way up the chain he was first hired as a recreation specialist and thru hard work and dedication he became the Warden of the biggest most dangerous prison in the State of Hawaii. Director Espinda is a leader who leads by example. He holds himself and all correctional staff to a high standard. He is a no nonsense manger that gets results.

In 1995 Director Espinda was given the task to move the very first group of inmates to Texas. The Director of Public Safety at that time gave Director Espinda the authority to temporally take over control of Halawa Prison and move approx 300 inmates to Texas. The move was complete with out any incident thanks to Director Espinda's leadership skills.

In 1998 Director Espinda accepted a position as the Warden of Halawa Correction Facility. He was task with the job of cleaning up a facility that was plagued with corruption (over time abuse, Inmates civil right being violated etc.). The decisions and choices that Director Espinda had to make in order to clean up the corruption at Halawa Prison made him very unpopular with both security and non-security staff. He cut overtime by at least 75% compared to how it was before 1998. All staff are now held accountable for there actions there is no favoritism with Director Espinda right is right and wrong is wrong no matter who you are. If you do a good job he would be the first to

thank you or congratulate you for a job well done. If you did wrong then he would have you disciplined and ensured that the same mistake wasn't made twice.

I can honestly tell you that Halawa Prison is a whole lot better facility then it was 20 years ago. The moral is still not where it should be, Officers are still abusing the leave but instead of calling in sick they are taking Family Leave which Director Espinda is trying his best to address. Being a Correctional Officer is not an easy job. Some in the general public including possibly a few state senators perceives us as drug smuggling, overtime abusing, out of shape, Inmate abusing workers. The media crucify us every time there is an incident involving a Correction Officer. I am a proud Correctional Officer that is willing to give my life in the line of duty because I choose this profession and I believe in the people I work for like Director Espinda.

In closing you senators will have to make a decision you will have to choose weather to confirm or Deny Nolan P. Espinda as the Director of Public Safety I am sure you will hear a lot of good things as well as bad thing about Director Espinda. I ask you to look at all of the accomplishments that Director Espinda made thru out his career and take to heart what I have shared with you because all that I have stated is factual and from my heart. If you have any questions and or concerns please feel free to contact me on my work phone # 485-1803 or cell # 489-1337

ACO IV William S. Gonsalves

CONSIDERATION AND CONFIRMATION OF
NOLAN P. ESPINDA AS THE DIRECTOR
OF THE DEPARTMENT OF PUBLIC SAFETY

By
Scott Harrington

Senate Committee on Public Safety, Intergovernmental
and Military Affairs

Senator, Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2019 at 1:15 pm
State Capitol, Conference Room 229

My name is Scott Harrington and I am the Warden of the Halawa Correctional Facility (HCF). I wish to express my support for the reconfirmation of Nolan P. Espinda as the Director of the Department of Public Safety (PSD).

Before I express my reason for supporting Director Espinda, I feel compelled to address the horrible issue of fake news and false allegations. In the last few years PSD, including myself, have experienced several incidents from this incredible machine driven by social media. Being accused of misconduct, by not taking action or not responding back to a member of the voting public's phone call, letter or email can be the end of one's good reputation. The current times according to social media, the local news and the national news is that one is automatically guilty of any allegation, then you must work hard to prove your innocence. There seems to be an awful amount of this going on as it relates to the confirmation of Director Espinda.

A sad fact of our Department is that there is a very small group of individuals that have always been disgruntled, upset with everything, their status or rank, their supervisor, and even their personal lives. They believe it should be their way and basically everyone else is ignorant. They have never been happy and never will be. Their jealousy of co-workers or others is simply astounding. This group of people has not changed over the last nine years as they undermined Director Maesaka-Hirata, Director Sakai, and are currently trying to undermine Director Espinda. These individuals will continue their goals and will undermine any Director, unless the next Director is one of them.

In 2010, I was the Warden of Waiawa Correctional Facility. I had been accused of false allegations with a Senator harshly questioning me in an accusatory voice without having all the facts. When I was finally given the opportunity to refute the allegation, this Senator acquiesced that he was provided misinformation.

In 2016, as Warden of Halawa Correctional Facility, I was called by a Senator, who accused me of a personal vendetta against an inmate as the reason for transferring the inmate to Arizona. In a harsh and accusatory tone, he demanded to speak to me in person. During our meeting, I provided incident reports and documentation that substantiated the inmate had been assaultive and threatening, which impacted his custody and transfer to Arizona. After reviewing the reports, the Senator acquiesced that he was provided misinformation and left. I hope these examples help you to contextualize the stories currently being told about Director Espinda as nothing more than false information.

I support the reconfirmation of Director Espinda as he is the best person for the position of PSD Director. Director Espinda has always been supportive and he deeply cares about PSD staff and inmates by pushing PSD in the direction of National Standards in Corrections and Law Enforcement.

Director Espinda boosted the morale of line staff in Corrections and Law Enforcement by purchasing modernize equipment such as updated firearms that replaced thirty-year-old firearms. Director Espinda further enhanced the morale of Corrections staff with new Class A uniforms and a new patch design, which exhibits professionalism for our staff. It should be noted that this style of uniform had been requested for the last twenty plus years with no action by previous Directors. He expanded the Class B uniform to be a functional uniform polo shirt and pants that allow staff to perform their duties efficiently. He updated the issued jackets to a cold weather jacket and authorized skull caps/beanies to accommodate a facility's weather.

Director Espinda brought us into the age of technology with a modernized inmate telephone system that allows for monitoring and recording calls to ensure security and a safe environment for our community, staff and inmates. This has benefitted the County Prosecutors and State/County Law Enforcement entities in their criminal cases. Director Espinda has directed all Wardens to ensure that we never canceled visits. In my three years at HCF, I only cancelled visits once in preparation for a hurricane that never materialized and the next day we ran our inmate visits.

Director Espinda attends our Warden's Meetings and reminds us in every staff meeting to run all inmate programs, education, vocation, substance abuse, chapel services, recreation etc. as best we can with minimal or no cancellations, while resourcefully managing our overtime cost. Director Espinda is in discussion with me to revisit the dog program that HCF had managed in the 90's. He also has implemented several trainings and yearly refresher trainings for staff in Security, Law Enforcement, Inmate Records, Re-Entry, Residency, and Case Management.

Director Espinda monitors that all Wardens are complying with the administrative segregation policy by ensuring proper conditions in our Segregation Units and that we are managing the proper and timely release of inmates from segregation. He has set forth a plan of action to bring our aging Facilities in compliance with ADA standards. He has worked with Food Service to guarantee that inmates not only have healthy meals, but meals that taste good and warms the hearts of our local inmate population. This may seem minor, but it is a key avenue to assist with the successful management of inmates.

He has implemented and updated many new and outdated policies, such as our Searches of Visitors and Staff and the Use of Guard Scan to ensure a safer environment for staff, visitors and inmates. He has focused media attention to the needed repairs of our old and antiquated correctional facilities and he has put forth options to address the overcrowded conditions.

His philosophy of "eight hours of work for eight hours of pay" is further managed by ensuring proper administration of the Unit 10 attendance programs and has a management monitoring process for the use of Family Leave to eliminate leave abuses.

Director Espinda is an expert in Corrections and Law Enforcement. He supports all Divisions of PSD as "we are one" by providing clear and firm directives. He is an individual that does not waiver in an emergency or crisis. Director Espinda is what PSD needs now and for the future! Please do not be swayed or manipulated by the misinformation about Director Espinda.

Thank you for allowing me the opportunity to provide written testimony and you should vote "YES" for the confirmation of Nolan P. Espinda as the Director of PSD.

GM-543

Submitted on: 3/29/2019 4:53:43 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Doveline Borges	Individual	Support	Yes

Comments:

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

Senator Clarence Nishihara, Chair / Senator Glenn Aka, Vice-Chair

GM 543 Submitting for consideration and confirmation as the Director of the Department of the Department of Public Safety, Gubernatorial Nominee, **Nolan P. Espinda**, for a term to expire on 12/05/2022.

Senator Nishihara, Senator Wakai, members of the Senate Hearing Committee: Thank you for the opportunity to provide testimony in support of Nolan P. Espinda. I am in my 27th year of service with the Department of Public Safety at Halawa Correctional Facility. I am the Residency Section Administrator at Halawa. Nolan first became my Warden in 1998 when PSD administrators were looking to bolster and improve the operational capabilities at the facility. I worked again for Nolan at the OCCC Laumaka Work Furlough Center in early 2004 as the Unit Manager running the furlough program. Nolan became my Warden again in 2009 when he took over the reigns for the second time at Halawa Correctional Facility.

What I admire most about Espinda: the man is brilliant. He knows and understands the adversities that impact the management of a prison facility. What I admire most about him as a boss: he let me do my job. He instilled in me this desire to be thorough and detailed in researching information that was required to respond to inquiries from the public or private sector. As an organization, PSD is bound by policy not to give the public or private persons any information about an offender in our care.

I do have a Master's Degree in Public Administration with a concentration study in Criminal Justice, so I did receive enough of an education to speak without hesitation about working in a prison environment. I wish I had more time to tell you how much I really like this man as an administrator.. Nolan is a good person, hard working and dedicated to his wife and family. He is also dedicated to the management of the Department of Public Safety.

Director Espinda inherited all of the problems occurring within our facilities when he took the helm in 2016. You cannot expect to make changes in a prison system in a few short

years.. Give us more money and we will be able to do a lot more to save these incorrigibles from themselves and those to whom they do harm. We are dealing with the criminal mind and one of our purposes is to move these offenders to change their criminal thinking. The process is called "change talk" where we actually sit down with the offender and ask him what he wants to do to change his life and make it better. It is a repetitive, arduous process. There are those offenders, we will never be able to change; however, the best work day occurs when the offender is sitting across the desk from me, "gets it" and understands what he needs to do for himself to get out of prison and stay out permanently..

Give Nolan Espinda the opportunity to make the changes that you expect from him and provide the money, corrections staffing and the people you think we need to make our department live up to your expectations.

Thank you for allowing me to speak to the Committee on Public Safety Committee.

Dovie Borges

GM-543

Submitted on: 4/2/2019 3:40:38 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jerald Satake	Individual	Oppose	No

Comments:

On behalf of UPW Adult Correction Officers at Maui Community Correctional Center I wish to submit this testimony against the nomination for Department of Public Safety Director Nolan Espinda.

MCCC Riot 03/11/2019

For far too long the "Political Establishment" of this State and the "Bureaucratic Leadership" of The Department of Public Safety have reaped the rewards of their positions of power while the men in women in Blue have borne the costs. Their austere "Budget Cuts" and "Lack of Funding" that represent the pinnacle of success for their careers have been the root cause of our career failures.

We the Corrections Officers at (M.C.C.C.) believe that it is the right of this righteous Public of Maui County to know the inconvenient truth about the current state of their Jail, which is the epicenter and beating heart of Law and Order here in Maui County.

The recent sets of critical incidents that occurred at (M.C.C.C.) on 3/11/19 and were falsely touted as "Disturbances" were indeed full-blown riots.

These riots occurred in Modules A, B, C & D which encompass a total of (60) cells and are staffed by a minimum of 3 to a maximum of 7 officers on any given shift. Built over 20 years ago and designed for a maximum holding capacity of (120) inmates, these Modules are sadly the most up-to-date housing units in our Jail. The Modules were originally designed with security flaws, are relatively old, outdated and poorly maintained. All of these factors render every single security feature and locking

mechanism within these Modules utterly obsolete; consequently, every single cell and module door can be manipulated, overridden, bypassed and breached by the majority of the inmate population. These are the security conditions in which we operate under and are considered to be “business as usual” or “normal conditions” by our (C.O.S.), Warden and upper echelons of the department. Right before the riots took place there were (214) inmates housed in the Modules, all playing “pretend lockdown”, fully capable of breaching their cell doors at will.

Unsafe operational conditions, inadequate manpower, outdated equipment or lack of proper equipment, a destitute facility in disrepair and decay, incompetent leadership (from the bottom to the top of the Chain of Command) unfit to run the Jail, lack of riot training and constant high in inmate tensions contributed to a toxic environment that boiled over into a full-fledged riot involving (214) inmates.

As riots conditions ensued inmates breached their cell doors, destroyed, damaged and burned everything they could get ahold of. Glass windows, doors, locking mechanisms, thick porcelain sinks and toilets, pipes, and fire sprinklers were all destroyed. They lit numerous class A, B, & C fires throughout the Modules burning mattresses, plastic chairs, wooden tables, linens, blankets, sheets, uniforms, toilet paper, trash and cleaning chemicals were all used as fuel. They even attempted to burn officers alive in the Control Boxes forcing them to evacuate. Inmates were assaulting other inmates while toxic smoke and severe flooding were filling the Modules.

We responded by forming riot teams that were ill-equipped or not equipped at all and not a single officer was issued personal protective equipment before entering the Modules. Due to poorly equipped, outnumbered and knowing the seriousness of the battle ahead we were scared for our lives but still performed our job duties to the best of our abilities. We breached the Modules through the Rear Outdoor Rec Yard Doors. We took down unruly inmates, securing and extracting them one at a time. Officers that attempted to carry out and save injured inmates were being assaulted in the process. Through the use of sheer physical force, less than lethal weapons and teamwork we were able to regain control, quell and finally suppress the riots over a period of 8 hours.

The direct aftermath of these riots have resulted in an inhumane, uninhabitable, life-threatening environment; but, for the Department of Public Safety and our Supervisors it’s “business as usual”. Inmates are being forced to live in these conditions and we’re being forced to work in these conditions with no protective gear. No abatement processes have been carried out and the air in the Modules contain life-threatening

particles due to the burning of hazardous materials and toxic chemicals. To make matters worse the Modules are ventilated by a 20 + year old central air conditioning system that has been completely contaminated and unabated as well.

Since 3/11/19 there have been constant inmate uprisings and rebellions, so much so, that the presence of lethal force has been necessary to maintain control and order. The Modules which are supposed to be the most secure place in Maui is now the most unsecured place on Maui.

The State of Hawaii and The Department of Public Safety are violating human rights and stand guilty in showing contempt for human life. Their failure to fully evacuate, quarantine and abate the Modules in a timely manner just goes to show that this department and the people run it care more about their "BUDGET" than human life.

The inconvenient truth about your Jail is that it's not safe, we're not safe and the Public is not safe.

From the staff at MCCC

GM-543

Submitted on: 3/28/2019 6:20:16 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cramer Mahoe	Individual	Support	No

Comments:

To Whom It May Concern,

My name is Cramer Mahoe, I am currently the Acting Warden at Kulani Correctional Facility on located on the slopes of Mauna Loa in Hilo, Hawaii. I am submitting the following testimony on behalf of Nolan Espinda to be confirmed and continue to be the Director of Public Safety for the State of Hawaii. In the last four years, our department has struggled to stay out of the lime light of the public and social media's.

Overcrowded and inadequate correctional facilities to law enforcement mishaps has continue to overwhelm our Department. Through it all, Director Espinda continue to forge ahead with his agenda to right the ship and make the difference needed to improve the image and conditions of our department. These problems that he had inherited have been here long before him and will continue long after he is gone, unless you the Senate and Representative of the State reconfirm as the Director of Public Safety.

Unfortunately as all you politicians know, you cannot complete fixing all of the departments problems without financial support. Many Capital Improvements for new housing units to ease overcrowding has been long overdue has either been disapproved or approved for a quarter of the cost needed.

I have been in the department for almost 23 years. Like Director Espinda, we the staff of the department are passionate about our job and continue to strive and improve conditions with limited resources. We have the "can do" or "make do" attitude. These attitudes over long periods tend to fade without support. Most of you politicians when first elected had an agenda and attitude that you we make changes and now is the time. Your campaign speeches indicated that change is coming! Only to realize that it's hard then you think! Time runs out! It is hard to fix all of the states problems in four years without the financial resources needed. I ask that you, the elected by the people politicians give Director Espinda another four years to right the ship. Thank you for giving me this opportunity to voice my testimony. Aloha nui!

GM-543

Submitted on: 3/30/2019 2:24:53 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Tanaka	Individual	Support	No

Comments:

I have been employed with the Department of Public Safety(PSD) for 34 years. At present I serve in the capacity of the Warden at the Women's Community Correctional Center(WCCC). My plan is to retire in 4 years at the age of 63. In my tenured career I have worked under at least 12 Directors, inclusive of Interims and Acting. I have experienced the good, the bad and yes, even the ugly. It is my opinion that of the 12 plus Directors that I have served under, Mr. Nolan Espinda has demonstrated that he is the best, most productive and progressive, bar none. My narrative is obviously a submittal that is in support of reconfirming Mr. Espinda as Director for PSD.

Many greaty things have been happening or are slated to happen because of Director Espinda's support, direction and guidance. The following are just some of the highlights that can be attributed to an individual that is committed to the people of Hawaii, the employees therein and the clientele we serve. One of the main issues that we have been battling is a pesky overtime(OT) issue. Under Director Espinda's watch the OT statewide has been reduced as the result of methodical and strategic planning, without threatening the safety of the staff, the public or the inmates. Our well publicized Culinary Arts program, hula classes, Correctional Industries sewing program and the hydroponics and garden programs under the auspices of the Lani-Kailua Outdoor Circle and Garden Club of Honolulu(recently came to completion) continues to flourish and grow. As an offshoot and with the support of the Director WCCC recentl undertook an "out of the box" moment by securing domesticated goats to help maintain our grounds without costing us extra in personnel. We continue to think green and are planning to expand this program. Director Espinda has always been a strong proponent on Community Service as well as community relations since the days when he was a Warden. In line with this WCCC has continued to supply thousands of community service workline hours in the community to schools, the American Diabetes Association, Honolulu Zoo, St. Francis Hospital Walk, Kailua beautification projects, Special Olympics to name a few. Without his undying love for the Kailua community we would not be able to continue to maintain a public/private partnership with our baseball youth programs in our area. This basically entails WCCC and several youth organizations to enter into a partnership so that the community would be able to use WCCC's ball field.

Always thinking to reduce WCCC's overcrowding issues the Director has secured the adjacent Ho'okipa building from DSSH and the necessary start up funding to hopefully house minimum custody women in this building. This is on the horizon and should be a

reality within 2 to 3 years. He has also initiated plans and funding for an additional facility on grounds to hold pre-trial women from OCCC. Administratively, with an aggressive approach to staff misconduct and behavior, and through a firm stance on upholding the standards of the Prison Rape Elimination Act (PREA), WCCC's instances of staff misgivings have dropped to an all time low. Our mental health services from a year ago of having 5 people on staff has rapidly grown to approximately 10 individuals. Using constitutional requirements as well as nationally recognized standards the Director has elevated our practices and thinking with having the welfare of staff, the taxpayers and the inmates in mind.

Public safety, whether it be Corrections or Law Enforcement, the toughest job one could ever love. The dedicated employees as well as its leaders are a testament to that. Director is totally committed to making PSD a better place to work in for staff as well as for the inmates. The taxpayers are always at our forefront. The Director continually reminds us to think of our respective budgets as if your family depended on it. Things happen in our profession. This is the reality when we place people who could not fit in society into a condensed package.

I apologize that I am not able to present myself in person as I have been off of work since February due to a total knee replacement. I humbly submit my strong support for Director Espinda's reconfirmation. Thank you Chairman Clarence Nishihara, Vice Chair, Glenn Wakai and the members of the Committee On Public Safety, Intergovernmental And Military Affairs for allowing me this privilege. I pray that you will be guided in the public's best interest. Mahalo.

Very Respectfully,

Eric Tanaka, Warden

Women's Community Correctional Center

266-9590w, 372-9509c

GM-543

Submitted on: 4/3/2019 11:42:13 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
PATRICK H. SNIFFEN	Testifying for DEPT. OF PUBLIC SAFETY	Support	No

Comments:

My name is Patrick H. Sniffen. Employed by the State of Hawaii for 44 years. ACO for 6 years at Oahu Prison, Deputy Sheriff 4 years on Oahu and 33 years on Maui. My current position is Lt. Commander for the Maui Tri Island Section.

My support is based upon my experiences. I respect him for his leadership and determination to manage a successful organization.

I respectfully ask your support in the confirmation of Director Nolan Espinda, for the term to expire at noon on 12-05-2022.

Sincerely,

LT. PATRICK H. SNIFFEN

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 Alakea Street, First Floor
Honolulu, Hawaii 96813

EDMUND "FRED" HYUN
Chair

JOYCE K. MATSUMORI-HOSHIJO
MICHAEL A. TOWN
ANNELLE C. AMARAL
FITUINA F. TUA
MEMBERS

TOMMY JOHNSON
ADMINISTRATOR

No. _____

Testimony on Governor's Message 543
Consideration and Confirmation as the Director of the Department of Public Safety
Nolan P. Espinda

BY
Hawaii Paroling Authority Chairman
Edmund "Fred" Hyun

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2019, 1:15 p.m.
State Capitol, Conference Room 229

My name is Edmund "Fred" Hyun, Chairman of the Hawaii Paroling Authority, in support for Mr. Nolan Espinda to continue as Director of Public Safety. My support is based on the Authority's statutory responsibilities to conduct parole hearings that directly impact the correctional facilities population throughout the State of Hawaii by determining the minimum length of time an offender must remain incarcerated before being eligible for parole, as well as the granting of parole, both which impact prison facility population movement, as well as concerns for the safety of the community and beyond. Working with Director Espinda and his staff, the Hawaii Paroling Authority sees first-hand the improvements in programs as well as enhancing the population movement between facilities. Under Director Espinda's administration and guidance, the Hawaii Paroling Authority has experienced the following:

- In March 2018, conducted in-person hearings at Saguaro Correctional Center, the first in 11 years, as well as touring the entire facility, speaking with inmates and visiting all programs to include educational and greyhound (dog) programs.
- Conduct regular parole hearings at Kulani Correctional Facility where there were none in recent memory.
- Benefits of Hawaiian cultural classes and inmates finding and identifying their roots for improved confidence along with their self-esteem.
- Reduce wait time at Maui Community Correctional Center for job seeking in the work furlough program.

- Increase in paroles from Saguaro Correctional Center, Halawa Correctional Facility, Waiawa Correctional Facility, Maui Community Correctional Center, Oahu Community Correctional Center, Women's Community Correctional Center, by short setting future hearings resulting in less idle time and increasing opportunities for parole.
- Increased direct paroles from Women's Correctional Center and Oahu Community Correctional Center.
- Medical (Compassionate) Releases
- Improved mental health care and follow-up at Women's Correctional Center.
- Streamlining the Pardon system.
- Increasing the amount of collected restitution payments in conjunction with Department of Public Safety and Crime Victims Compensation.
- Conducting Program Determination Hearings (previously Sex Offender hearings).

Members of the Committee, I want to take this time to thank you for this opportunity to testify on behalf of Mr. Nolan Espinda, Director of Public Safety.

WRITTEN TESTIMONY ONLY

**TESTIMONY ON GOVERNOR'S MESSAGE 543
Consideration and Confirmation as the Director of the Department of Public Safety,
Nolan P. Espinda**

BY

Tommy Johnson

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

**Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair**

**Thursday, April 4, 2019, 1:15 p.m.
State Capitol, Conference Room 229**

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

I am providing written testimony today as a private citizen in support of the nomination and confirmation of Nolan P. Espinda to be appointed as the Director of the Department of Public Safety for a term to expire at noon on December 5, 2022.

Director Espinda has the in-depth knowledge, experience, and adept skills at getting to the core challenges facing the Department of Public Safety. His calm demeanor, keen insight, and thoughtful approach to decision making are tremendous assets required of the Director. Over the course of his 34 plus year career with the Department, Director Espinda has served in several positions of increasing responsibility and gained the prerequisite skills, well-honed leadership abilities, vast knowledge of the criminal justice system, and the operations of the Department. I urge you to advise and consent this highly qualified nominee.

Thank you for the opportunity to provide testimony in support of Director Espinda.

April 2, 2019

Dear Chair Mr. Nishihara, Vice Chair Wakai and Members of the Committee:

I am writing this testimonial in support of Director Nolan Espinda. My name is Kuuleipulama Dyer, I am a Mental Health Recreation Specialist at the Oahu Community Correctional Center. I have been working with the Department of Public Safety (PSD) for twenty-two (22) years.

Mr. Espinda has made positive changes within our department over the past few years as our Director. Since taking office as the director there hasn't been a single cancellation of inmate family visits. There is a new system that the family members can call ahead of time and schedule a visit seven days a week at the Oahu Community Correctional Center. The old process family members were not able to schedule a visit and had to show up to the facility, it was a first come first serve type of process where they showed up hours before the 7:00 am start time on Saturday and Sunday to stand in line with the children. While their holding their place in line that's when they would be told the visits are cancelled. It was a repeated process every weekend for many years which created a very stressful situation for the inmates and family members. This all changed when Mr. Espinda became the director.

Prior to him becoming the director for PSD the department was already under a consent decree with the Department of Justice (mental health), with his support and leadership we were able to provide the mental health inmates with more programs, services, discharge plans and linking the mental health inmates with outside services/ shelters and leaving with their medications in hand. An audit was completed and found that the services had improved and the department of justice was satisfied and the department is no longer under a consent decree.

I believe that it is critical that Director Espinda is allowed to spearhead the relocation of the Oahu Community Correctional Center. His hard work and vision on this crucial project have brought this important issue to the forefront of our communities' conscientiousness

Mr. Espinda is a dedicated administrator, very knowledgeable, he is always supportive with staff and always professional. Confirming reappointment of Mr. Espinda will ensure that the quality of care will continue and the department and community will benefit.

Sincerely yours,

Kuuleipulama D. Dyer

TESTIMONY OF
Gavin K. Takenaka, Psy.D.

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY
AFFAIRS

Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2019
1:15 p.m.
State Capitol, Conference Room 229

TESTIMONY ON GOVERNOR'S MESSAGE 543 RELATING TO
GUBERNATORIAL NONMINEE NOLAN P. ESPINDA
FOR DIRECTOR OF DEPARTMENT OF PUBLIC SAFETY

Chair Nishihara, Vice Chair Wakai, and members of the committee:

I am the Acting Health Care Division Administrator for the Department of Public Safety, but I am submitting this testimony in my personal, non-official capacity. I am in **STRONG SUPPORT** of the confirmation of Nolan P. Espinda as the Director of the Department of Public Safety. I have known Mr. Espinda professionally since 2005, while he served as the Warden at the Oahu Community Correctional Center, subsequently as the Warden at the Halawa Correctional Facility, and now as the Director of the Department of Public Safety. Based on my experience as a Clinical Psychologist and Mental Health Administrator, I unequivocally believe that the State of Hawaii is extremely fortunate to have Mr. Espinda serve in the position as the Director of the Department of Public Safety.

During his tenure as Director, Mr. Espinda championed the improvements in the provision of mental health services in our correctional facilities statewide. Under his leadership, the Department of Public Safety transformed mental health care from dismal and unconstitutional conditions to a level care that meets, and in many areas exceeds, national standards. His direction has led to significant advancements in mental health screening, evaluation, treatment, diversion, training, quality assurance, suicide prevention, and discharge planning. Due to the unwavering efforts of Mr. Espinda, the Department of Public Safety, for the first time in the history of the State of Hawaii, employs Clinical Psychologists and other mental health professionals at all correctional mental health sections statewide. Our disenfranchised residents with mental health issues finally receive needed mental health care while incarcerated.

Over the course of my 30 year career in the field of mental health, I have worked with many in positions of authority. Mr. Espinda is a genuine and exceptional leader, who is respected for his experience, knowledge, dedication, integrity, decision-making, and results. The Department of Public Safety and the State of Hawaii need his directorship. I respectfully request that you vote favorably on his confirmation.

Thank you for the opportunity to provide testimony.

TESTIMONY FOR CONSIDERATION AND CONFIRMATION OF
NOLAN P. ESPINDA AS THE DIRECTOR
OF THE DEPARTMENT OF PUBLIC SAFETY

By Shelley Harrington

Senate Committee on Public Safety, Intergovernmental
and Military Affairs

Senator, Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2019 at 1:15 pm
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

I offer testimony in strong support of Governor Ige's nomination of Mr. Nolan P. Espinda as the Director of the Department of Public Safety (PSD). Remember, as an elected official, your duty and ethics is to our community and to PSD's staff, offenders, and detainees to ensure a fair process by assessing the true evidence in this confirmation process. It is NOT to seek personal gain in your decision-making or to use it as a tool to attack one you may personally dislike.

My name is Shelley Harrington, I am employed by the State of Hawaii, Department of Public Safety in the position of Intake Service Center Division Administrator. I have worked for PSD for about thirty plus years as a Social Worker, Correctional Supervisor, Employee Disciplinary Hearings Officer, Litigation Coordinator, and currently as the Intake Service Center's Division Administrator. I am a licensed Attorney, who on my personal time volunteer for programs with the Judiciary, the Office of Disciplinary Counsel, and has been contracted as an Arbitrator/Mediator. During my career, I have served with more than eleven (11) Directors. I strongly believe in my professional ethics mandated as a licensed Attorney and PSD's missions, goals, and directives for all divisions in Administration, Corrections, and Law Enforcement.

Director Nolan Espinda made the field of Corrections his career beginning as a Recreation Specialist at the old Hawaii Youth Correctional Facility in Kailua in the 80's, when the Division of Corrections was under the Department of Human Services. Director Espinda's career has seen the transition from a Division of Corrections to the Department of Corrections to finally the Department of Public Safety, when the Law Enforcement Division was incorporated into PSD. He has held various positions from Correctional Supervisor to Warden at Waiawa Correctional Facility, Oahu Community Correctional Center, and Halawa Correctional Facility. He was the key Manager, who garnered the support of facility staff and others to facilitate the end of 1) the 1985 Federal Consent Decree based on Spear vs. Ariyoshi [Cayetano] in 1999 and 2) the 2008 DOJ Settlement Agreement for OCCC's mental health services in 2015. Director Espinda is loyal and devoted to doing the "right thing" for PSD and our community, as evidenced by his performance since the 80's to the present.

Director Espinda began his role as our Director in 2015. Based on his wealth of experience and strong knowledge base, he has led PSD in the direction of national standards, professionalism, fiscal efficiency, and has facilitated more public access to information about PSD. Director Espinda has been forthright about the needs of PSD, including the overcrowded conditions. He has offered viable and concrete options to relieve this problem, but it is important to note that all branches of government: Executive, Legislative, and Judicial has had a hand in controlling the outcomes for PSD. Director Espinda mandates and ensures accountability for all administrators and staff, therefore the days of hidden agendas, favoritism, and overtime abuses have been eliminated under his directorship. Director Espinda is the best person based on his knowledge, skills, and abilities to lead PSD in the next four (4) years.

Since 2015 under Director Espinda's leadership, PSD has seen 1) the fulfillment of the Re-Entry Office, which under three (3) prior Directors was never addressed; 2) actual progress in working towards CALEA, which under three (3) prior Directors and four (4) prior Sheriffs was never addressed; 3) CIP projects reaching fruition to alleviate overcrowded conditions; 4) a new inmate phone system that provides more access to an inmate's support system while providing a security tool; 5) development of a legal based auditing system; 6) CIP projects to attempt to add technology to our outdated correctional facilities; 7) a continuation with the Unit 10 Attendance Program to regular leave abuses; 8) issuance after Union consultation and training of modern firearms; 9) updating the Corrections Uniforms; 10) a focus to ensure ethical and professional applicants for entry level Sheriffs and Corrections Officers by utilizing the CVSA instrument for background checks; 11) expanding the hiring based to fill vacancies in an environment with a low unemployment rate; and 12) purchase of training technology to provide simulated interaction with potential real world events. I could go on and on, but the truth is under Director Espinda's leadership there has been upgrades and benefit for all staff in Administration, Corrections and Law Enforcement.

Considering the media attention created by the Chair and others, I urge you to really consider the true objectives of those who flood you with false information. If you analyze the facts associated with these individuals (which may be protected information) you will see that they are "wrong doers", who foster a dislikes for same sex or transgender individuals, back date or falsifying work experiences to qualify for positions, verbalize statements that blame offender victims, fail to meet performance or suitability requirements, have been disciplined for misconduct, have abused the use of overtime, or they have reaped the rewards of favoritism from the past, which has ceased under Director Espinda. It is important to note that being the Director should not be a popularity contest, rather one should assess his ability to fulfill the values and oaths reiterated in PSD's Standards of Conduct for Corrections and Law Enforcement.

Thank you for allowing me the opportunity to provide written testimony and to ensure the confirmation of PSD's Director Nolan P. Espinda.

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

Senator Clarence Nishihara, Chair

Senator Glenn Wakai, Vice Chair

DATE: Thursday, April 4, 2019

TIME: 1:15 p.m.

PLACE: Conference Room 229

State Capitol

415 South Beretania Street

Senators Nishihara, Wakai, and Members of the Committee,

My name is Alan Asato, Administrator, Inspections and Investigations Office, Department of Public Safety, State of Hawaii. In my 30 years of public service, I have been fortunate to have worked with many highly skilled and committed individuals in the social service, corrections, and law enforcement professions. From my earliest experiences as a Youth Intake Center Worker at the Susannah Wesley Community Center in Kalihi through various positions of increasing responsibility while in service to the State of Hawaii, these individuals helped to shaped my professional growth with their breath of knowledge, keen skills set, savvy "hands-on" style of leadership, and self-less commitment to professional core values of honesty, truth, fairness, and diligence. Among these influential practitioners, managers, and leaders, I am truly fortunate to be able to consider Nolan Espinda, a principled colleague and friend.

I have no doubt the Committee has already received many testimonials and letters that speak to their high regard for the Candidate and detail how far the Department of Public Safety has progressed under his able leadership. He has met every challenge with his usual alacrity and stood steadfast and confident in support of every decision he has ever made in support of this State's Public Safety objectives knowing they were based on disciplined core values; sound and proven professional practice; and years of experience as a savvy manager and administrator with a proven track record of accomplishments. I am wholeheartedly in support of his confirmation and continued service as Director of the Department of Public Safety.

Thank you for allowing me the opportunity to share my views.

Sincerely,



Alan M. Asato

94-1113 Limahana Street

Waipahu, Hawaii 96797

TESTIMONY ON GOVERNOR'S MESSAGE 543
NOMINATION OF NOLAN P. ESPINDA AS
DIRECTOR, DEPARTMENT OF PUBLIC SAFETY

Senate Committee on Public Safety, Intergovernmental and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2019, 1:15 p.m.
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

Thank you for the opportunity to provide testimony in strong support of the nomination of Nolan P. Espinda as the Director of the Department of Public Safety (PSD). I am now the Deputy Deputy of Law Enforcement for PSD.

Director Espinda has over 35 years with the department, most recently as Director and previously as Warden of various facilities. In 2015, when first considered a the gubernatorial nominee for PSD Director, one testifier stated that he was the "change agent" that the department needed to promote leadership and accountability of such a large organization. Now, based upon his accomplishments over the last four years, including increased training, reducing overtime, CIP projects to address deteriorating facilities and overcrowding, among many more, Director Espinda has demonstrated that he in fact does have the leadership skills, vision, and mental fortitude which make him the right person for this job. Through his no-nonsense strong, yet often unseen but caring leadership, Director Espinda has accomplished many of the issues presented he was appointed four years ago, and no doubt can take on prison reform recommendations and complete CALEA accreditation and CIP projects if allowed another four years. There is no doubt that Director Espinda will ensure the constant and consistent improvement that he demands of us employees as public servants to improve public safety and the lives of the residents of our state. A change in leadership will be disruptive to the progress and energy invested to build on his accomplishments thus far.

Thank you for the opportunity to provide testimony. I respectfully request that the committee confirm Director Espinda once again.

Respectfully,

/s/ Renee Sonobe Hong

GM-543

Submitted on: 4/3/2019 12:40:46 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shari Kimoto-Kaauwai	Individual	Support	No

Comments:

Dear Senator Nishihara, Senator Wakai, and Members of the Committee,

My name is Shari Kimoto-Kaauwai and I would like to submit my testimony in SUPPORT of re-confirming Director Nolan P. Espinda to the Department of Public Safety (PSD). I am the Acting Institutions Division Administrator for the PSD but today, I am submitting my testimony as a private citizen.

In the past few months, it has been disappointing to see the negative media press and comments being openly shared about Director Espinda attacking his ability to lead and manage a Department that has been fractured for over two decades. In my 25-year career, I have had approximately 13 Directors come and go; most of them bringing in their special agendas to change the Department for the better, and then leaving after an average of 24 months when change does not happen as they had hoped.

From his first day on the job, I asked Director Espinda what was his vision for our Corrections Division. He quickly said, "There are 3 things that I want to do: 1) Reduce Overcrowding; 2) Fix Facility Infrastructures; and 3) Centralize Systems." Although it is a simple vision, it takes time to get things done. However, Director Espinda has been steadily working behind the scenes to fulfil this vision.

Over the last few years, I have learned more about corrections then under any other Director. He brings 30+ years of experience to the table; as a Warden, he has endured every unfortunate incident/event that happens in a correctional facility. And let me be clear when I say bad things happen in prison/jail no matter who is the Director/Warden/Chief. He has brought stability and accountability to our division by incorporating what the law requires and what the collective bargaining contracts require. When the MCCC disturbance happened, if it weren't for Director Espinda's wisdom and knowledge, that facility would not be where it is today. He was adamant about making sure that the staff were not hurt, crisis intervention teams were deployed from Oahu, counseling was made available to all parties, emergency funding was made available to repair/replace damaged equipment, and the overall health and safety was the priority for all staff and inmates. The sad reality is that the Department has been reporting and documenting all of its overcrowding issues and decreased budgets for years only to have our pleas ignored ... until something bad happened.

Director Espinda's expectations for all of us in the Department is simple; come to work, do your job so you can go home to your family.

Thank you for this opportunity to submit written testimony in SUPPORT of the re-confirmation of Director Espinda.

April 1, 2019

Senate Committee on Public Safety, Intergovernmental and Military Affairs

The Hon. Clarence K. Nishihara, Chair

The Hon. Glenn Wakai, Vice Chair

Written Testimony

**GM 543 Consideration and Confirmation of Gubernatorial Nominee,
NOLAN P.ESPINDA as the Director of Public Safety.**

Dear Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

I am pleased to give my **strong support** and respectfully request your support for the reappointment of Nolan P. Espinda to serve as the Director of Public Safety. I have had the opportunity to work alongside Nolan Espinda in his current capacity as the Director of Public Safety since 2017. We have diligently worked on strengthening Corrections operations through the development of defensible legal-based policies and procedures. Additionally, we are reviewing and revising existing Law Enforcement policies and procedures to comply with accreditation standards. Moreover, we have also begun to establish effective practices and provisions for the adoption, implementation and training on policies and procedures for staff.

During our interactions I have experienced Mr. Espinda as knowledgeable, transparent and dedicated to improving Department outcomes. He has expressively supported the strengthening of administrative and facility operations and fought to establish essential Department functions. Through personal observation and experience I have gained a better understanding of the challenges this Department faces. I believe Mr. Espinda brings the type of principles and dedicated leadership required by this Committee to not only serve in his role as Director of Public Safety, but also to endure the historical roots and challenges Public Safety has faced and usher in positive change.

We can throw stones, complain about them, or build with them. I urge your Committee to confirm the appointment of Nolan P. Espinda as the Director of Public Safety. Thank you for the opportunity to provide testimony on this measure.

Respectfully,

Kona Mann

Program Specialist V

Policy Development, Audit and Compliance,

Litigation and Coordination Office

4/3/19 /GM543/Dear Senator Nishihara and Senators on the PSM Committee:

I am in **complete opposition** to the Senate Committee/Floor confirming Nolan Espinda as the Director of Public Safety.

In the entire State of Hawaii, I refuse to believe that Nolan Espinda is #1 on the list to lead Public Safety. I spoke with other **qualified** individuals who applied to be the Director of Public Safety, but were *never* granted an interview by Governor Ige or his staff.

Nolan Espinda's online resume for his confirmation says he was a "Recreation Specialist" for five (5) years and a Unit Manager for two (2) years---and has been a Warden **thereafter—never** having worked a day as an ACO, State Law Enforcement Officer, etc.?—not even his appointees?—and the public and employees wonder "why" Public Safety is so messed up?

The Governor and Director can appoint whoever they want—but I'm about 99% sure that taxpayers want their monies spent on individuals who provide the biggest bang for their buck—the most qualified appointee, the most knowledgeable appointee, etc. See DHRD's policies and procedures on exempt employees. <https://dhrd.hawaii.gov/policies-procedures/exempt-appointed-employees/>

Nolan Espinda's online resume for his confirmation states: "2003 to 2004 Department of Public Safety, Office of the Institutions Division Administrator." Was Nolan Espinda in the Office of the Institutions Division Administrator around the time of the escape of Inmates Albert Batalona, Warren Elicker, and David Scribner escaped from HCF-high when he was the Warden there? <http://archives.starbulletin.com/2003/04/15/news/story5.html>

Nolan Espinda's online resume for his confirmation states: "2009 to 2015 Halawa Correctional Facility (HCF) Managing ACO IV (Warden). Was Nolan Espinda the Warden when Jonathan Ibane committed suicide at HCF on March 11, 2013? About 7 years later, on March 31, 2019, the news reported that Public Safety settled to pay \$75k to Inmate Jonathan Ibane's family. <https://www.staradvertiser.com/2019/03/31/hawaii-news/state-to-pay-75k-to-family-in-prisoner-suicide/>

<http://www.hawaiinewsnow.com/2019/04/01/hawaii-pay-family-state-prisoner-who-killed-himself/>

It's rather *appalling* that Governor David Ige expressed his support of Nolan Espinda and reappointed him as Public Safety's Director, citing his success in curbing overtime (and sick leave) costs.

It's **evident** that to Governor Ige--the **saving of overtime and sick leave monies** are **more important** to him than **all** the **problems** that have surfaced in regards to **the publics' and employees' safety, the rash of inmate deaths/suicides, the sex abuse/assaults in the jail, violation of civil rights (e.g. excessive prison time, inhumane living conditions for inmates,**

etc.), etc. under his appointee's leadership. The latter **negates** any overtime and sick leave cost savings because the **senseless** loss of one (1) individual's life is **priceless**. ***Please take the time to subpoena the overtime for Public Safety for each correctional facility from January to December of each year for the past five (5) years, to see the overtime before and during Nolan Espinda's leadership.--You will see the truth about overtime.

There has been one (1) too many who have died as a result of the incompetency of Governor Ige's appointee, Nolan Espinda and his appointees. The problems at Public Safety **will** get **worse** with Nolan Espinda as a "lame duck" Director—and the unwavering support of his boss, the "lame duck" Governor Ige.

With **all** the deaths, etc.--Nolan Espinda and his appointees, select administrators/employees who go along with it all, who turn a blind eye, who minimize it all, who know something is wrong but don't speak up, who are part of the "cover-up," who get paid to "spin" the stories--have blood on their hands. It's sad because they, along with his Public Information Officer (PIO), and his other administrators/employees who are part of all this, **do not wince a bit** with the cover-ups, etc. that involves human lives/families, etc. Lies/cover-ups/half-truths are never good because it only exacerbates the problems—and the problems remains unsolved, festers and then oozes out or explodes (e.g. MCCC riot) because it can no longer be contained.

There have been a **few** of Public Safety's internal problems that have festered into the media and public. Needless to say, the problems that have made it to the media are epic and unprecedented. The majority of the problems have clearly **jeopardized the public, Public Safety employees, and inmates' safety—and are a waste of taxpayers' dollars**. For a few examples, please see the following:

1. Sheriff involved shooting:

- a. **Delmar Espejo**: February 18, 2019: Nolan Espinda said the deputy had an "**extreme struggle**" with a *disabled* 28-year old, 5'4", 120 lb. man who allegedly had been loitering with a bottle of alcohol at the State Capitol. Hawaii New Now interviewed Mr. Espejo's mom who said he was born with a severe disability.

<http://www.hawaiinewsnow.com/2019/02/24/heartbreak-tears-family-man-shot-capitol-raises-questions-over-his-death/>

<https://www.staradvertiser.com/2019/02/22/breaking-news/medical-examiner-identifies-man-fatally-shot-by-deputy-sheriff-at-hawaii-state-capitol/>

As a kid, I had many (physical) "extreme struggles" with my (non-disabled and older) sibling who was way bigger than Mr. Espejo, but I **never** had to shoot or stab or kill my sibling to get away. I was able to get away from my sibling without any self-defense training.

What kind of non-lethal self-defense training did this deputy complete? What kind of deputies are protecting the State if they have to kill a *disabled* 28-year old, 5'4", 120 lb. man who allegedly managed to put the deputy in a headlock?

What are these Administrator's (e.g. Nolan Espinda, Deputy Director for Law Enforcement Renee Sonobe Hong, Deputy Director for Administration Cathy Ross and her Training and Staff Development's Training Officer, etc.) credentials (e.g. training, etc.) in all of this? Where is the verification (e.g. hard copies, etc.) of all of these Administrators' college transcripts/diploma, military training, law enforcement (e.g. basic jail, basic law enforcement, etc.) training, etc.? ****Please take the time to subpoena all of these and the actual employees who did the **actual** verification—not any appointee, etc.*

Why didn't Nolan Espinda, Deputy Director for Law Enforcement Renee Sonobe Hong, Deputy Director for Administration Cathy Ross, Sheriff, Training & Staff Development's Training Officer, Sheriff, etc. make any changes to policies & procedures, etc. *immediately* after they **knew** they did not have a non-lethal option (other than pepper spray and baton)--with Mr. Dinney in October 2018?

Any negligence on the part of Public Safety? Vicarious liability?

Mr. Espejo was **most likely killed** because a Public Safety employee did not have a less-lethal option to deal with an "extreme struggle" with a disabled 28-year old, 5'4", 120 lb. man who allegedly had been loitering with a bottle of alcohol at the State Capitol--because Nolan Espinda and his appointees are incompetent (e.g. no policies and procedures, etc.) and mismanaged funds.

- b. **Tison Dinney**: October 7, 2018: Deputies didn't have a less-lethal option and called HPD for back-up.

<https://www.staradvertiser.com/2018/10/07/breaking-news/honolulu-police-report-officer-involved-shooting-near-state-capitol/>

<http://www.hawaiinewsnow.com/2019/03/27/public-safety-admits-it-has-dozens-less-lethal-weapons-none-available-deputies-patrol/>

See above comments about Mr. Espejo. Additionally, it is **NOT** the legislature's fault that funding was not allotted for less lethal weapons for the Sheriff Division. It appears to be **the mismanagement of the allotted monies** by Nolan Espinda and his appointees, Cathy Ross, Renee Sonobe Hong, Jodie Maesaka Hirata and **lack of law enforcement experience/incompetency** of Nolan Espinda, Renee Sonobe Hong, Cathy Ross (e.g. Training and Staff Development, no policies and procedures, no CALEA, etc.), etc. This is evidence of a lack of leadership by Nolan Espinda: mismanagement of taxpayers' monies.

<https://www.civilbeat.org/2019/03/8-years-after-law-required-it-state-deputy-sheriffs-still-arent-accredited/>

<http://www.hawaiinewsnow.com/2019/04/02/s-rifles-bought-deputy-sheriffs-have-never-been-distributed/>

Nolan Espinda needs to **stop blaming** HGEA Randy Perreira, the legislature, etc. for not having the less-lethal weapons, etc. and **own** his and his appointees and his administrators'/employee's failures. **The buck stops with Nolan Espinda.** This is evidence of a lack of leadership by Nolan Espinda: blame, blame, blame.

In the recent years, employees of Nolan Espinda have made **numerous** attempts to report the mismanagement of the funds and lack of law enforcement experience/incompetency in leadership, but have been ignored, stifled, etc.

****Please take the time to subpoena all purchases, contracts, etc. from the Sheriff Division.*

Mr. Dinney was **most likely killed** because a Public Safety employee did not have a less-lethal option to deal with Mr. Dinney because Nolan Espinda and his appointees are incompetent (e.g. no policies and procedures, etc.) and mismanaged funds.

The deaths of Delmar Espejo or Tison Dinney **more than likely could have been prevented** if the State Attorney General, State Procurement Office, Legislators, etc. *took the time* to look into the mismanagement of the funds by Nolan Espinda and his appointees when employees initially reported--and also reported the lack of law enforcement experience/incompetency of the #1 & #2 in command of Public Safety's law enforcement.

2. **Maui Community Correction Center (MCCC) Riot (e.g. "small" fire, "disturbance," etc.):**
March 11, 2019

<http://www.mauinews.com/news/local-news/2019/03/inmate-broken-phones-a-starter-for-riot-at-jail/>

<http://www.mauinews.com/news/local-news/2019/04/mccc-staff-were-scared-for-our-lives/>

Director Espinda's *Memorandum No. 2015-001* defined the riot as a "**Priority 1**" incident where "...the Director shall direct IAO (Internal Affairs Office) and/or AG Investigator as needed..." **yet** according to Public Safety's PIO, Nolan Espinda assigned his Deputy Director for Corrections Jodie Maesaka Hirata and a Security Coordinator Marc Woodward (or Halawa Warden's COS Lyle Antonio) to investigate this "Priority 1" incident. MCCC's riot will reportedly cost taxpayers **\$5.3 million** for emergency repairs. Which one (1) of the above are *investigators*—**not** an "appointee" or a "coordinator" who are *qualified* and *experienced* to investigate the magnitude of the incident?

On April 2, 2019, *The Maui News* reported that they received letters from the MCCC staff who wanted to remain anonymous for “fear of retaliation and losing their jobs” and **blamed** “...the **department and the state, citing poor facilities, lack of manpower, incompetent leadership, insufficient riot training and growing inmate tension** that boiled into the riot...” (<http://www.mauinews.com/news/local-news/2019/04/mccc-staff-were-scared-for-our-lives/>) *The Maui News* reported that “MCCC staff were ‘scared for our lives’ during the recent riot” and reported what probably **truly** happened at MCCC—**not** the Nolan Espinda or Toni Schwartz or Jodie Maesaka Hirata or Shari Kimoto Kaauwai version of the MCCC “disturbance” with a “small” fire and no/minimal reported injuries by staff and inmates (e.g. “business as usual” lies). Retaliation and losing a job is a real consequence for speaking out at Public Safety. A supportive response to the letter in the article was *probably* made by Public Safety because of this confirmation hearing GM543. **When** will the legislators, State Attorney General, etc. listen to the employees who actually do the work—and are **not** political appointees, etc.—the “line” employees?

MCCC is overcrowded by about roughly 100 inmates—but that per se did not cause the riot at MCCC. Reportedly, the inmates’ slum-like/inhumane living conditions (e.g. inmate telephones, etc.) started the riot. Yes, they’re inmates, but they don’t deserve to be treated—or live in pooppy crap. Public Safety employees have to work in the inmate’s slum-like/inhuman living conditions—and that’s so wrong. More so, because of the overcrowding, Nolan Espinda and his Administrators should have **ensured** that the inmates’ living conditions were not slum-like/inhumane.

Who’s managing the inmate telephone contract? Can you request a copy of the contract to see if it’s been properly managed? ****Please subpoena the entire proposal review panel’s training records, etc.*

What did the security coordinator’s most recent MCCC audit reveal prior to the riot? Inmate grievances? What did Administrators do with the tense mood of the inmates prior to the riot? MCCC’s riot did not happen overnight.

On the day of the riot at MCCC, Director Espinda, Deputy Director for Corrections Maesaka Hirata, and Prison & Jail Administrator Shari Kimoto Kaauwai were **nowhere** to be found—but showed up for the media/publicity stint *after* the clean-up started! (<https://mauinow.com/2019/03/19/public-safety-director-travels-to-maui-to-survey-riot-damage-at-mccc/>)

Was Shari Kimoto Kaauwai ever an ACO or Warden—?—or was she a social worker who then managed the CCA Core Civic contract (Saguaro) who then became Director Theodore Sakai’s exempt legal-based contract writer/manager---to become Director Espinda’s “temporary” Jail Administrator in charge of all the jails and prisons and over all the Wardens?

All or most Public Safety civil service employees have to complete a probationary period as mandated by Hawaii Revised Statutes—Nolan Espinda promoted Shari Kimoto Kaauwai over two (2) years ago as Public Safety’s Programs Administrator: Did she complete her probationary period? How is it possible that Nolan Espinda continues to have a temporary Jail Administrator in place with all the deaths, etc.,--and prior reported problems while managing the CCA Core Civic (Saguaro) contract? Are Administrators placed in “certain” key positions for “certain” reasons (e.g. promotion of friends/family, “cover ups”)? ****Please take the time to find these answers.*

<https://www.civilbeat.org/2016/05/hawaii-keeps-secret-what-happens-in-its-private-prison/>

<https://www.civilbeat.org/2017/06/inmate-deaths-leaves-families-advocates-searching-for-answers/>

Is there any liability to Public Safety or the State in KNOWINGLY placing inexperienced or incompetent employees/administrators into certain positions that cause injury or death to individuals in Public Safety’s care, to employees at Public Safety, to the public, etc.? Employees have *tried* to report this to the State Attorney General’s, DHRD, Governor’s Office, Public Safety’s Personnel Office, etc. but have basically been ignored.

Who is the head of Public Safety’s Personnel Office? Who is in charge of Public Safety’s Internal Affairs Office? Who is running Public Safety’s Internal Affairs Office? What is the relationship between the head of the Internal Affairs Office and the Personnel Office? Who’s in charge of PREA? Who decides whether to enforce/not enforce “zero tolerance” in charging employees with *Federal* PREA related charges? What employees has Nolan Espinda approved overtime for? Are there checks and balances—or are there too many friends/family placed into “certain” positions (Hint: The answer is “**yes.**”)? There are more friends/family I could tell you about...Please take the time to get these answers.

Did Nolan Espinda and Public Safety’s Personnel Office allow employees to switch positions at Halawa Correctional Facility in order to make her the temporary Warden at Kulani? What happened to the Kulani Warden’s position that employees interviewed for? Was the filling of the Kulani Warden’s position halted? Who is currently temporarily assigned as the Kulani Warden—did that employee qualify to be a Warden? Is Nolan’s temporary Kulani Warden that came from Halawa Correctional Facility still on “leave pending investigation”--with what appears to be recent additional charges?, etc.?

Under Nolan Espinda—it seems that some employees are exempt from having to apply/interview/resign from positions (e.g. SOMT to RCO) to move into another lateral position—How does Nolan Espinda make this happen? Does civil service or merit principle laws apply to Public Safety? Please take the time to find these answers.

<https://www.khon2.com/news/local-news/hawaii-island-prison-warden-superintendent-charged-with-theft/1379317868>

Nolan Espinda reported the “conditions related to overcrowding” was the cause the inmates rioted. Besides building an unprecedented CIP kingdom (e.g. Clay Shimazu, etc.) at Public Safety who thoroughly enjoy promoting themselves to higher SRs and traveling to conferences (e.g. ACA, Grainger, etc.), **frequent** traveling to the **outer islands** for a site visits, etc. --**what has Nolan Espinda** done to ensure that the inmates living conditions at MCCC were not slum-like/inhumane and staff had the resources, etc. to handle the riot? What did Clay Shimazu’s frequent site visits to the outer island facilities entail?

3. **Excessive Prison Time for Inmates:** “We don’t say, ‘Hey, you were over-detained...If somebody is claiming they feel they were over-detained, they can file a tort claim with (the Department of Accounting and General Services’) risk management, or they can look at getting an attorney and filing litigation...”

<https://www.staradvertiser.com/2019/03/18/hawaii-news/excessive-prison-time-still-a-mess-for-inmates/>

<https://www.khon2.com/news/local-news/inmates-forced-to-stay-in-prison-past-their-release-date-cost-taxpayers/1687451979>

In other words, “**Tough s#%\$** if you were over-detained. Public Safety has no need to notify the Public Defender’s office. Public Safety loves overcrowding.”

4. Escapes

- a. **Maurice Arrisgado Jr.:** March 1, 2019: Nolan Espinda says the “Escape is a ‘major mistake’.”

<https://www.staradvertiser.com/2019/03/02/breaking-news/escape-of-slain-oahu-community-correctional-center-inmate-a-major-mistake-dps-director-says/>

Inmate Arrisgado Jr. should not have fled from Oahu Community Correctional Center; however, employees should **not** have given him the opportunity (e.g. leg/belly chains, escort straight to housing, not propping-open doors that should be closed, etc.) to flee.

Inmate Arrisgado Jr. was most likely killed because of a Public Safety’s employee(s) “major mistake.”

- b. **Walter Mills:** November 4, 2016

<https://www.kitv.com/story/33634392/kauai-escapee-captured-after-going-on-alleged-crime-spree>

Inmate Mills most likely escaped and went a crime spree in the community because of Public Safety allowing Inmate Mills to “roam round” the Kauai Community Correctional Center with a Federal Detainer. ****Please take the time to subpoena the investigation.*

5. **Increase in inmate deaths/suicides:** June 21, 2017: “The deaths of **eight inmates**, including five suicides, at local correction facilities during the **last 18 months** have spurred calls for changes...” <https://www.civilbeat.org/2017/06/inmate-deaths-leaves-families-advocates-searching-for-answers/>

a. **Jessica Fortson:** July 11, 2017

<http://www.hawaiinewsnow.com/story/36282579/recent-prison-suicides-prompt-call-for-more-oversight-of-prisons/>

b. **Jonathan Namauleg:** August 6, 2015: strangled by cellmate/Jason McCormick

<https://www.khon2.com/news/local-news/hawaii-inmate-was-strangled-death-in-arizona-prison-ruled-homicide/1025572222>

I really don't believe Inmate Namauleg belonged in that cell with Inmate McCormick.

c. **Daisy Kasitati:** October 12, 2017

<http://www.mauinews.com/news/local-news/2017/10/suicide-suspected-in-death-of-mccc-inmate/>

d. **There's more...**

****Please take the time to subpoena employees, **not** appointees and **not** appointees' "friends/family" to find "why" and "how" incidents are covered up. Hint: Certain employees/administrators have the job duties of several employees: block, block, block, block, and block.*

6. **Increase in reported sexual abuse/assaults at the women's prison:** March 31, 2017:

10 women file suit claiming abuse at Women's Community Correctional Center

<https://www.staradvertiser.com/2017/03/31/breaking-news/10-women-file-suit-claiming-abuse-at-hawaii-womens-prison/>

****Please take the time to subpoena employees, **not** appointees and **not** appointees' "friends" to find "why" and "how" incidents are covered up. Hint: Certain employees/administrators have the job duties of several employees: block, block, block, block, and block.*

7. **Erroneous releases:** Brian Lee Smith: July 26, 2018

<https://www.hawaiitribune-herald.com/2018/10/07/hawaii-news/hccc-responsible-for-16-of-states-23-mistaken-inmate-releases/>

Erroneous releases are reportedly still happening. Please take the time to subpoena employees, **not** appointees and **not** appointees' "friends/family" to find "what" is really going on.

More recently, on Valentine's Day 2019, Hawaii Community Correctional Center (HCCC) employees reportedly received a call from Hilo Police, and was asked if they were missing an inmate. Inmate Nicholson Taylor was found in the community. He had walked away from Hale Nani (pretrial with needs shouldn't have been at Hale Nani), and HCCC didn't know even know he was missing.

Did Nolan Espinda complete his investigation on the erroneous releases and provide you a copy?

8. **Allegations of rape and blackmail inside Halawa Correctional Facility:** September 14, 2018

Inmate Benjamin Pada was a "medical aid" at HCF who was "...doing mostly janitorial work but also helping care for inmates who are older and frail..."

HCF's Sergeant Pepper committed suicide.

How, when, etc.—was all this going on with the inmate and employee?

<https://www.apnews.com/7f95d77a337d43de94fd180d08399190>

<https://www.kitv.com/story/39095871/allegations-of-rape-and-blackmail-inside-the-halawa-correctional-facility>

There's more...

9. **Nolan Espinda issued a (Criminal) Speeding Ticket:** July 27, 2016/Pali Highway and (non criminal speeding ticket) on March 2017

<http://www.hawaiinewsnow.com/story/33980706/public-safety-director-tagged-by-police-for-excessive-speeding/>

<http://www.hawaiinewsnow.com/story/34977769/states-public-safety-chief-cited-for-speeding-again/>

Director Espinda is supposed to lead by example.

With the above stated (e.g. Nolan Espinda is *supposed* to provide MCCC & Sheriff staff & others the necessary training, equipment, etc., Nolan Espinda is *supposed* to prevent crime—not create a condition for crime to be committed, Nolan Espinda is *supposed* to meet the present &

future needs of persons committed to the correctional facilities, etc.), **Nolan Espinda has NOT fulfilled his duties as listed in the following State laws;**

“Hawaii Revised Statutes §353C-2 Director of public safety; powers and duties. [(a)] The director of public safety shall administer the public safety programs of the department of public safety and shall be responsible for the formulation and implementation of state goals and objectives for correctional and law enforcement programs, **including ensuring that correctional facilities and correctional services meet the present and future needs of persons committed to the correctional facilities.** In the administration of these programs, the director may:

- (1) **Preserve the public peace, prevent crime,** detect and arrest offenders against the law, protect the rights of persons and property, and enforce and prevent violation of all laws and administrative rules of the State as the director deems to be necessary or desirable or upon request, to assist other state officers or agencies that have primary administrative responsibility over specific subject matters or programs;
- (2) **Train, equip, maintain, and supervise the force of public safety officers, including law enforcement and correctional personnel,** and other employees of the department;
- (3) Serve process both in civil and criminal proceedings;
- (4) **Perform other duties as may be required by law;...”**

*****Is there IDENMNIFICATION if Nolan Espinda fails to do his job as mandated by HRS?**

With the above stated, Nolan Espinda has ***failed*** in his duties as the Director of Public Safety. Also, Nolan Espinda does **NOT** uphold Public Safety’s Mission Statement. :

“To uphold justice and public safety by providing correctional and law enforcement services to Hawaii’s communities with professionalism, integrity and fairness...”

Nolan Espinda lacks the leadership competencies. According to the U.S. Department of Justice: National Institute of Corrections (<https://s3.amazonaws.com/static.nicic.gov/Library/020474.pdf>), *“Correctional Leadership Competencies for 21st Century, Executives and Senior-Level Leaders,”* page 138:

Exhibit7-5. Attributes and Characteristics of Successful Leaders	
Attribute	Characteristics
Energy/physical stamina	The ability and willingness to work long and hard.
Focus	Single-minded focus and attention

Sensitivity to others	Social perceptiveness; an understanding of the interests and attitudes of others and the best way to communicate with others.
Flexibility	The willingness to modify one's positions and to remain detached from any one solution to a problem.
Ability to tolerate conflict	The ability to be comfortable with conflict, see the value of it, and be willing to engage in it.
Getting along/submerging one's ego	The ability to change one's behavior to achieve the greater good or long-term objective.

Source: Adapted from Jeffrey Pfeffer, Managing With Power: Politics and Influence in Organizations, Boston: Harvard Business School Press, 1992

Nolan Espinda does **not** have any of the above stated. For certain, he does **not** have the energy/physical stamina because employees see him leaving like clockwork by around 3PM. Nolan Espinda was MIA the day of (and after) the MCCC riot---until it was cleaned up a bit. Nolan Espinda completely lacks sensitivity to others, and does not communicate with employees, only his "select" employees. You can walk right by Nolan Espinda, and he won't even bother acknowledging you or saying "Hello." If the basic communication is lacking, **how** do you expect him to be an effective leader? How does one successfully run a Department **without** communicating with his employees?! Nolan Espinda does **not** have the ability to tolerate conflict because he and his appointees moves the conflict as far away from him as possible. Nolan Espinda sees **no value** in conflict because he and his appointees appear to think that employees who conflict him are "personally" attacking him or sabotaging him. Nolan Espinda's ego is so humungous, that I don't he thinks there's anything wrong with his behavior that needs changing.

Nolan Espinda also lacks the character: trustworthiness, respect, responsibility, fairness, caring, citizenship –as listed in the U.S. Department of Justice: National Institute of Corrections, "*Correctional Leadership Competencies for 21st Century, Executives and Senior-Level Leaders.*" For an example, look at what's coming out with the MCCC "disturbance" (RIOT) that's coming out.

While the concept of an oversight committee is on the right track, an oversight committee made up of cronies (e.g. appointed by the Governor, Director Theodore Sakai, Deputy Director for Administration Martha Torney, etc.) will get you nowhere---the public will continue to scratch their heads with their mouths **wide open** in complete disbelief with the status quo. We need individuals with *true* knowledge, integrity, objectivity, fairness, etc. The previous Directors/Deputy Directors had their "turn" to make Public Safety great (never happened)—and should stay away from Public Safety.

Employees have tried to report all kinds of issues related to Public Safety to legislators, Governor's Office, State Attorney General's Office, etc. but **nothing** happens. Are the

legislators, Governor's Office, State Attorney General's Office, etc. being told by Nolan Espinda that "disgruntled" employees are reporting the issues?! Are there "cover ups" because of too many "close relationships?" For example, what is supposed to be a separation of powers: judicial, executive, and legislative—has become a twisted web with Representative Gregg Takayama chairing the Public Safety, Veterans, & Military Affairs Committee and his wife/Linda Chu Takayama appointed by Governor Ige to DOTAX and his daughter/Teal Takayama working for Governor Ige. How do you expect Representative Takayama to support an audit of another appointee's Department (Public Safety)--who belongs to the same Cabinet as his wife & daughter?

I wonder if contracts have been promised—or if it's a payback for campaign contributions made in lieu of overlooking Nolan Espinda's failures... https://www.followthemoney.org/search-results/SearchForm?Search=hawaii&action_results=Go Public Safety employees teach inmates about budgeting and prioritizing—and I think it best that restitution, fines, child support payments, alimony payments, etc. are paid in full (e.g. no "dead beats"), etc.--before contributions are made to a campaign for the sake of political favor. Appointees have reportedly called/asked employees (and their families) to sign a petition in "support" of Nolan Espinda because his confirmation is really in "trouble." There shouldn't be a need to coerce, intimidate, or make employees feel obligated to sign a petition. The evident desperation to show Nolan Espinda's "likeability" by employees and family member who don't even work with/for Nolan Espinda says a lot. This is **not** a popularity contest for the high school prom king. **The evidence/facts above do not lie in regards to what has/has not transpired under Nolan Espinda's leadership. The proof is in the pudding. The writing is on the wall.**

Those in support of the confirmation of Nolan Espinda will probably be the following:

1. Exempt employees (and their families) whose jobs/pays depend on Nolan Espinda's confirmation: For example, his Private Secretaries such as Joan Yanagihara Mair, his appointees such as Deputy Director for Corrections Jodie Maesaka Hirata, Deputy Director for Administration Maria Cook, etc.
2. Employees/"friends/relatives" who had/have received a position/promotion by Nolan Espinda or employees who don't want things exposed or etc.: For example, Shari Kimoto-Kaauwai, Eric Tanaka, Alan Asato, Sean Ornellas, Wanda Craig, Colleen Miyasato, Scott & Shelley Harrington, Sheriff, Training & Staff Development's Training Office, etc.
3. Vendors (e.g. nonprofits, etc.) who have received funding and want to continue to receive funding or vendors who want future funding.

Heavenly Father knows and sees all. I pray especially for the families who have lost their loved ones at Public Safety. **May the truth come out sooner than later before more lives are taken.** There are employees who want to speak out, but are afraid.

I am *not* a disgruntled employee. There are a bunch of decent, non brown-nosed employees at Public Safety—who see and call things for the way things are and want to do their job—but are

quick to be labeled as “disgruntled” or “sensitive” or “troublemaker” or a “non-team player” as a means to discredit.

Senator Nishihara and Senators on the PSM Committee, please do the right thing. Please remove the current incompetent leadership.

The Staff of P.S.

Respectful members of the senate

I'm writing this letter of opposition against the current director of Public Safety Nolan Espinda for senate confirmation.

I'm currently an employee of the department under Nolan Espinda. I have been through a few changes in administration, and this by far has to be statistically the worst. As a director Nolan has taken part in trying to transfer deputy sheriffs (57) from the department to a non law enforcement agency. Nolan's justifications were recorded in a meeting stating, "it makes sense". Thankfully the legislatures and the public did not believe in their grand plans.

Nolan just blatantly appointed a sergeant whom did not go to a full law enforcement academy-as the first deputy over the many lieutenants applying for the position. Justification was that the appointee met qualifications. Nolan also appointed a non law enforcement officer to lead the sheriffs department. As a result we have come to discover that she is only worried about liability as evidenced in her directions to patrol officers in the Capitol and other sections, to offer services to residentially challenged individuals even though a crime (I.e. simple trespass, criminal trespass, impeding the sidewalks, urinating in public, littering, etc.) has been committed. Deputies are questioned if they come across these individuals and check if they have warrants for their arrest. The vast majority of the time these people have outstanding violations and the deputies are reminded to offer services.

I totally agree with the senators that want total administrative change, as we have seen the revolving door does not only exist in a correction setting but also in the administration world. Directors appoint their next in command and when they are out, the regime of bad choices continue. I am a firm believer in the sheriffs office being a stand alone agency and the people of Hawaii choose the sheriff. This way the governor can NOT have his way by appointing who he wants pas this has always been past practice And consequently referenced to as the old boy system of Hawaii.

Nolan in my opinion, has not shown the proper leadership this state needs for corrections and for the sheriffs as he continues to make bad choices by surrounding himself with specific selections of personnel that have no idea or concern of the men and women who put their lives on the line day in and day out. I have NO Confidence in our current leadership and want to see drastic changes. I want to be able to perform my duties as a law enforcement officer, whether it be making arrests or writing citations as the people of Hawaii and the US entrusted me to do.

GM-543

Submitted on: 4/3/2019 1:22:02 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
MARC WOODWARD	Individual	Support	No

Comments:

I'm writing to express my support for Nolan Espinda for the Director of Public Safety. I have been employed with PSD for 5 years as the Security Coordinator and for the past 4 years worked under Mr. Espinda. There have been numerous positive changes at PSD during his tenure and his confirmation would permit 4 more years of positive change for PSD.

Respectfully,

Marc Woodward

GM-543

Submitted on: 4/3/2019 8:13:09 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Leanne	Individual	Oppose	No

Comments:

I write this in opposition of Nolan Espinda's reappointment to Director of the Department of Public Safety. I have been employed with the Department for approximately 18 years, almost all of which I have served being content and proud. "Train people well enough so that they can leave, treat them well enough so they don't want to." (Sir Richard Branson) Our administration doesn't do either. Hired and promoted staff are often not qualified and have a history of incompetence and inability to do their jobs. Staff are treated unfairly and retaliated against. Rules are followed or not based on administration's convenience. Director Espinda definitely knows Hawaii corrections and has had some positive achievements, but more needs to be done. Our mission states that we will serve the public with professionalism, integrity and fairness. This says it all. This is not a mission to strive for, but should be minimally expected behaviors in order to strive for public services that enhance offender reintegration, community safety, and positive department image. We need a leader(s) who has a high level of emotional intelligence, is an effective and open communicator, and who is a good mentor so that they can affect significant organizational change.

**TESTIMONY FOR CONSIDERATION AND CONFIRMATION OF
NOLAN P. ESPINDA AS THE DIRECTOR
OF THE DEPARTMENT OF PUBLIC SAFETY**

**Senate Committee on Public Safety, Intergovernmental
and Military Affairs**

**Senator, Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair**

**Thursday, April 4, 2019 at 1:15 pm
State Capitol, Conference Room 229**

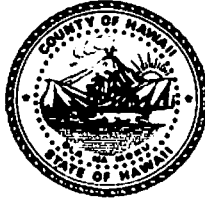
Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

My name is Lyn Waters, I offer testimony in strong support of Governor Ige's nomination of Mr. Nolan P. Espinda as the Director of the Department of Public Safety (PSD).

I am currently employed by the City and County of Honolulu, Office of the Prosecutor. I have known Nolan Espinda personally for twenty-six years and professionally based on my current employment. Nolan Espinda is the best person to have as the Director of the Department of Public Safety, based on his professional attributes and his personal beliefs expounding in integrity, honesty and forthrightness. I am able to formulate this opinion because I have interacted with facilities under his direct management. The media appears to be distorting the true facts, based on someone's goal for personal gain. I believe "you" as elected representatives to the Senate are smarter and above personal vendettas to have it impact your decision making.

Thank you for this opportunity to afford testimony and it is hoped that you will ensure the successful confirmation of Nolan P. Espinda as the Director of the Department of Public Safety.

Harry Kim
Mayor



Paul K. Ferreira
Police Chief

Kenneth Bugado Jr.
Deputy Police Chief

County of Hawai`i

POLICE DEPARTMENT

349 Kapi`olani Street • Hilo, Hawai`i 96720-3998
(808) 935-3311 • Fax (808) 961-2389

April 2, 2019

Senator Clarence K. Nishihara, Chair
Senate Committee On Public Safety, Intergovernmental, And Military Affairs
Chair and Members
State Capitol
415 South Beretania Street, Room 229
Honolulu, Hawai`i 96813

Re: GM 543, Gubernatorial Nominee Nolan P. Espinda, Director of the Department of Public Safety

Dear Senator Nishihara and Members:

The Hawai`i Police Department **supports** the appointment of Gubernatorial Nominee Nolan P. Espinda as the Director of the Department of Public Safety.

We believe that he possesses the knowledge and skills that are necessary for the position and consider him a very valuable asset to the State of Hawai`i. It is through his leadership and that of Deputy Director Renee Sonobe-Hong that a collaborative relationship exists between our department and the State law enforcement agencies.

It is for these reasons that we urge this committee to approve the passage of GM 543, the confirmation of Nolan P. Espinda as the Director of the Department of Public Safety.

Thank you for allowing the Hawai`i Police Department to testify on this bill.

Sincerely,

PAUL K. FERREIRA
POLICE CHIEF

April 1, 2019

TO: Senator Clarence Nishihara, Chair
Senator Glenn Wakai, Vice Chair
Senate Committee on Public Safety, Intergovernmental and Military
Affairs

RE: GM 543, Testimony in Support of the Confirmation of Nolan P.
Espinda as the Director of Public Safety, Gubernatorial Nominee
term to expire at noon on 12-05-2022.

HEARING: Thursday, April 4, 2019, 1:15pm, Conference Room 229

Dear Senator Taniguchi:


I wholeheartedly support the Confirmation of Nolan P. Espinda as the Director of Public Safety. I have known Nolan from childhood as the Espinda and Pacarro families were and are very close to this day. We grew up playing sports in Kalihi as his father and my uncle Harry coached football and basketball at Farrington High School. Nolan and I played football and basketball against each other when he attended Iolani and I attended St. Louis High School.

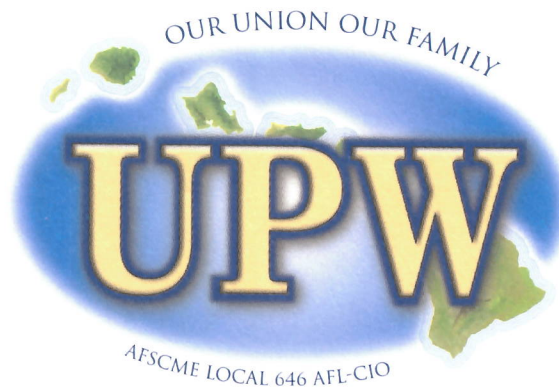
I got to work with Nolan when I was a deputy prosecutor and he was the Warden at the Oahu Correctional Community Center and at the Halawa Correctional Community Center. We didn't always agree on the same issues but were able to work out some of the differences in an amicable manner. I have known a number of Directors in my time and I can tell you from my 33 years of practicing law, it's a thankless job.

The prisons are overcrowded, no one wants to spend money building more prisons for defendants, and no one wants it in their backyard. If ever we need someone of Nolan's experience, integrity and mental toughness, it is now. Unfortunately, I will be out of town on Thursday and unable to testify in person. If you need to contact me please feel free to email me at fdpacarro@gmail.com.

Thank you for allowing me the opportunity to comment on Nolan's confirmation.

Very truly yours,


Franklin Don Pacarro, Jr., Esq.



April 4, 2019

Senator Clarence Nishihara, Chair
Committee on Public Safety, Intergovernmental, and Military Affairs
State Senate, State of Hawaii
State Capitol
Honolulu, HI 96813

**RE: GOVERNOR'S MESSAGE #543, NOMINATION OF NOLAN ESPINDA FOR
DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY**

Dear Chair Nishihara & Members:

My name is Dayton M. Nakanelua and I am the State Director of the United Public Workers (UPW), AFSCME, Local 646, AFL-CIO. The UPW is a labor organization that represents nearly 14,000 government and private sector employees in the State of Hawaii, with nearly 1,300 Adult Corrections Officers, Food Service Workers and Maintenance Workers in 8 correctional facilities statewide.

The purpose of my testimony is to support the nomination and confirmation of Mr. Nolan Espinda for the State of Hawaii's Director of the Department of Public Safety.

The Director of the Department of Public Safety is a difficult job and dealing with our Union has not been easy. The UPW strongly enforces our contract on behalf of our members, especially for Adult Correctional Officers. However, the UPW has high respect for Mr. Espinda as a tough but fair administrator.

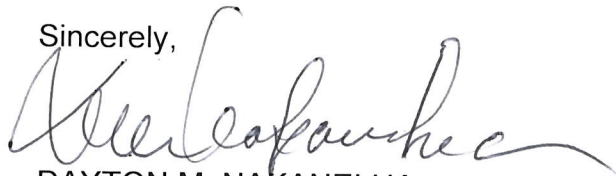
As a former Warden and current Director, Mr. Espinda is well-respected by the members and staff of the UPW. In his capacity as Director, I have worked closely with Mr. Espinda and know him to be knowledgeable and experienced in law enforcement and public safety. Although we may have differences time-to-time on grievances and labor issues, he is the consummate professional.

Senator Clarence Nishihara
Re: UPW Letter in Support of Nolan Espinda
April 4, 2019
Page Two

Mr. Espinda possesses the dedication and commitment to address difficult issues related to public safety and, more importantly, the ability to make sound decisions. He recognizes the necessity that laws, regulations, and governance must be balanced with the needs and interests of government, the public, and employees. Mr. Espinda is a responsible and responsive decision-maker who is careful to study the issues and relevant facts before making judgment.

Based on his educational qualifications, his experience, and his professional working relations with the UPW, I am confident that you will find Mr. Espinda qualified. Therefore, the UPW respectfully supports the nomination and confirmation of Mr. Espinda as the Director of the Department of Public Safety. Please feel free to ask any questions or request further information on the UPW's recommendation of Mr. Espinda.

Sincerely,

A handwritten signature in black ink, appearing to read "Dayton M. Nakanelua", with a long horizontal flourish extending to the right.

DAYTON M. NAKANELUA
State Director



Hawai'i

Committee: Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Hearing Date/Time: Thursday, April 4, 2019, 1:15 p.m.
Place: Conference Room 229
Re: Testimony of the ACLU of Hawai'i with Comments on G.M. 543, Submitting for Consideration and Confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, Nolan P. Espinda, for a Term to Expire at Noon on December 5, 2022

Dear Chair Nishihara, Vice Chair Wakai, and Committee Members:

The American Civil Liberties Union of Hawai'i (“*ACLU of Hawai'i*”) **writes with comments** on G.M. 543, which nominates Nolan P. Espinda as Director of the Department of Public Safety (“*PSD*”) for a term expiring on December 5, 2022. The ACLU of Hawai'i is strictly non-partisan and does not endorse or oppose candidates to elected or appointed office. Accordingly, this testimony does not endorse or oppose this candidate's nomination. In light of the important challenges and opportunities faced by PSD—which the ACLU of Hawai'i has repeatedly raised—this testimony simply recommends your committee pose the following questions to *any* nominee being considered for the position of PSD Director.

Question 1. How does PSD plan to address unconstitutional conditions and overcrowding at the correctional facilities?

Over two years ago, the ACLU of Hawai'i submitted a complaint to the Civil Rights Division of the U.S. Department of Justice (the “*DOJ Complaint*”) describing the persistent unconstitutional conditions and overcrowding affecting the 3,924 people held at the time in the correctional facilities owned and operated by PSD.¹ PSD was also made aware of the DOJ Complaint, which described in detail the insufficient shelter, unsanitary conditions, inadequate medical care and mental health services, food shortages, and chronic understaffing at several of PSD's correctional facilities. In late 2016, seven of the nine facilities operated by PSD operated well above their design capacity. Today, while the number of people held in those facilities has declined to 3,540, the same seven facilities continue to operate above their design capacity and most of the unconstitutional conditions and overcrowding remain.² Overcrowding and unconstitutional

¹ January 6, 2017, Complaint from ACLU of Hawai'i to Vanita Gupta, Principal Deputy Assistant Attorney General, Civil Rights Division, United States Department of Justice, available at <https://acluhi.org/complaint-to-u-s-department-of-justice-against-the-state-of-hawai%CA%BBi-concerning-unconstitutional-prison-conditions-and-overcrowding-2017/>.

² Since submitting the DOJ Complaint, the ACLU of Hawai'i has received hundreds of complaints describing similar and persistent unconstitutional conditions of confinement.

conditions have likely played a role in the recent riot at Maui Community Correctional Center, which reportedly started when detainees demanded better conditions, and the ten deaths ruled as suicides in correctional facilities since 2015.³

Question 2. How does PSD plan to address the high recidivism rate for people under its supervision?

Overcrowding and poor conditions likely contribute to Hawaii’s high recidivism rates.⁴ For the past ten years, the recidivism rate of people released after completing their entire term of incarceration has fluctuated between 62 and 67.5 percent.⁵ During that same time period, the recidivism rate of people released on parole has been somewhere between 45.5 and 56.1 percent. These rates are substantially higher than those for other countries that are part of the Organization for Economic Cooperation and Development (OECD).⁶ They are also higher than the 41.4 to 52.3 percent recidivism rate for people sentenced to probation, who are under the jurisdiction of the Judiciary and who have not necessarily served time in a correctional facility.

Since 2017, PSD has been required to assist people that are about to be released in obtaining identification cards and other government documents necessary to apply and obtain government assistance.⁷ To date, the ACLU of Hawai‘i has continued to receive complaints of people being released from jail and prison without any such form of identification. This too likely contributes to Hawaii’s recidivism rate.

Question 3. What does PSD plan to do to reduce the number of people held pretrial?

In January 2018, the ACLU of Hawai‘i published a report on pretrial practices in Hawai‘i.⁸ The report highlighted how about 50 percent of people in Hawaii’s overcrowded jails are being held pretrial, that is, before they have been convicted of the crime for which they were arrested. While there are many factors contributing to pretrial detention, PSD’s Intake Services Center (“ICS”) plays a crucial role in (a) assessing the risks posed by a person charged with a crime and

³ Garvin McCain, et al., Bureau of Justice Statistics, *Effect of Prison Crowding on Inmate Behavior* (1980), available at <https://www.bjs.gov/content/pub/pdf/epcib.pdf>.

⁴ Michael A. Ruderman, et al., *Does Prison Crowding Predict Higher Rates of Substance Use Related Parole Violations?*, PLoS ONE (2015).

⁵ The Interagency Council on Intermediate Sanctions (“ICIS”) defines recidivism as “criminal arrests (most recent charge after supervision start date), revocations, technical violations, and/or criminal contempt of court” within three years from release. See ICIS, 2017 Recidivism Update, available at <https://icis.hawaii.gov/wp-content/uploads/2018/08/Hawaii-Revidivism-2017.pdf>.

⁶ HCR 85 Task Force, *Creating Better Outcomes, Safer Communities* (Dec. 2018), 11 n. 50. The OECD was established in 1961 as a forum for governments to share experiences and seeks solutions to common economic and social problems.

⁷ Act 56 (2017), available at https://www.capitol.hawaii.gov/session2017/bills/GM1156_PDF.

⁸ ACLU of Hawai‘i, *As Much Justice as You Can Afford* (Jan. 2018), available at <https://acluhi.org/bailstudy/>.

(b) providing pretrial services to supervise people released pretrial. In terms of assessing risk, ICS uses a risk assessment tool that has been shown to have a disparate impact on overpoliced minority groups and that does not provide useful information to judges about the specific risks posed by an individual.⁹ In terms of pretrial services, Hawai‘i currently does not have a court date reminder system and ICS does not appear to focus on managing the needs, as opposed to the risks, that increase the likelihood someone will fail to appear in court.

Question 4. How does PSD plan to address people being detained past their release date?

In *Tapaoan v. Cayetano*, Civ. No. 01-00815 DAE-LEK, the ACLU of Hawai‘i challenged PSD’s unlawful over-detention of pretrial detainees, resulting in a \$1.2 million settlement. The 2004 settlement agreement also created a duty to implement procedural safeguards that would assure proper and timely release of prisoners. There have been a number of recent court cases alleging that the PSD has been detaining people past their release date, sometimes for months.¹⁰

Question 5. How does PSD intend to ensure its officers’ use of force is proportionate and only used when necessary to prevent a clear and present danger to public safety?

The State of Hawai‘i ranked 5th and 7th in the United States for the number of people killed per capita by law enforcement in 2015 and 2016 respectively.¹¹ In 2019 alone, law enforcement officers in Hawai‘i shot 51-year-old Siatuu Tauai, 28-year-old Delmar Espejo, 26-year-old Thomas Kyle, 37-year-old Casey Asato, and 47-year-old Maurice Arrisgado Jr.¹² With the exception of Mr. Asato, they were all unarmed and killed. A sheriff deputy shot and killed Mr. Espejo and a correctional officer shot and killed Mr. Arrisgado. Based on news reports,

⁹ HCR 134 Taskforce, *Hawai‘i Criminal Pretrial Reform* (Dec. 2018), at 2 (“At the heart of Hawai‘i’s pretrial process is the Intake Service Center (ISC), a division of the Department of Public Safety (DPS).”).

¹⁰ *Editorial: Stop violations of inmates’ rights*, Star Advertiser (Mar. 19, 2019), available at <https://www.staradvertiser.com/2019/03/19/editorial/our-view/editorial-stop-violations-of-inmates-rights/>.

¹¹ People killed by police in the U.S., The Guardian, available at <https://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-police-killings-us-database>.

¹² Chelsea Davis, *HPD officers resist firing guns and are injured in 2 separate cases this week*, Hawai‘i News Now (Mar. 1, 2019), available at <http://www.hawaiinewsnow.com/2019/03/01/hpd-is-pressured-avoid-lethal-force-while-officers-are-injured-separate-cases-this-week/>. According to the news report, “Sheriff’s deputies are not equipped with tasers or body cams.”

Mr. Arrisgado did not appear to be a present danger at the time he was shot¹³ and Mr. Espejo was homeless and disabled.¹⁴

Even though in 2011 the Legislature mandated that PSD “pursue and obtain accreditation for the sheriff division from the Commission on Accreditation for Law Enforcement Agencies, Inc.”¹⁵, the sheriff division is yet to be accredited. Additionally, the Law Enforcement Standards Board created last year has yet to adopt any standards for law enforcement officers. Given the lack of uniform standards and accreditation, it is crucial for PSD to take the lead and adopt best law enforcement practices,¹⁶ including policies to ensure use of force is proportionate and only used when necessary to prevent a clear and present danger to public safety.

Question 6. What is PSD’s current policy for controlled substances testing? How many people have had custody status changes as a result of this policy?

The Ombudsman found that PSD had incorrectly copied a federal policy to determine a threshold for controlled substances.¹⁷ The Ombudsman office found that the Department had set a threshold 100 times lower than the federal policy because the Department changed the unit of measure, using deciliter instead of milliliter. Additionally, the Department was also found to have misinterpreted urinalysis test results. Our office receives ongoing complaints about inaccurate controlled substance test results.

Question 7. How does PSD plan to protect transgender inmates?

PSD’s policy on housing transgender inmates in single-sex facilities states that the inmate’s own safety and comfort preferences are to be considered when deciding placement, rather than automatically housing an individual based on the sex assigned to them at birth.¹⁸ Despite this, Civil Beat reported in 2016 that of twenty-nine (29) transgender inmates in the custody of the

¹³ Timothy Hurley, *Escape of slain Oahu Community Correctional Center inmate a ‘major mistake,’ DPS director says*, Star Advertiser (Mar. 2, 2019), available at <https://www.staradvertiser.com/2019/03/02/breaking-news/escape-of-slain-oahu-community-correctional-center-inmate-a-major-mistake-dps-director-says/>.

¹⁴ Casey Lund, *Heartbreak, tears: Family of a man shot at the Capitol raises questions over his death*, Hawai‘i News Now (Feb. 24, 2019), available at <http://www.hawaiinewsnow.com/2019/02/24/heartbreak-tears-family-man-shot-capitol-raises-questions-over-his-death/>.

¹⁵ Haw. Rev. Stat. § 353C-9.

¹⁶ See, e.g., The President’s Task Force on 21st Century Policing, *Final Report* (May 2015), available at https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

¹⁷ Office of the Ombudsman, State of Hawai‘i, *Fiscal Year 2017-2018, Report No. 49*, available at <https://ombudsman.hawaii.gov/wp-content/uploads/2019/02/Annual-Report-49-for-web.pdf>.

¹⁸ Department of Public Safety, State of Hawai‘i, Policy No. ADM.08.08 (effective July 18, 2014, updated August 25, 2017), available at <https://dps.hawaii.gov/wp-content/uploads/2017/09/ADM.08.08.pdf>.

State, *all* were being housed in accordance with the sex assigned to them at birth, rather than their gender identity.¹⁹ This contravenes best practices and PSD's own policy.

Question 8. How does PSD plan to protect inmates against sexual assault in correctional facilities?

Between 2013 and 2017, the reported incidents of "offender-on-offender" sexual assaults have almost doubled.²⁰

* * *

The ACLU of Hawai'i respectfully requests that your Committee pose these questions to the nominee during the confirmation hearings. Thank you for the opportunity to testify.

Sincerely,



Mandy Fernandes
Policy 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 50 years.

¹⁹ Rui Kaneya, *Is Hawaii Doing Enough to Protect Transgender Inmates in Prisons?*, Civil Beat (June 2, 2016), available at <https://www.civilbeat.org/2016/06/is-hawaii-doing-enough-to-protect-transgender-inmates-in-prisons/>.

²⁰ *Compare* Response to Act 194, Sessions Law of Hawaii 2010, Sexual Assaults in Correctional Facilities, Department of Public Safety, State of Hawai'i, Report to the 2016 Legislature (26 reported incidents of offender-on-offender sexual abuse in 2013), available at https://dps.hawaii.gov/wp-content/uploads/2015/02/Act-194_Sexual-Assaults-in-Correctional-Facilities2014_FINAL1.pdf with Response to Act 194, Sessions Law of Hawaii 2010, Sexual Assaults in Correctional Facilities, Department of Public Safety, State of Hawai'i, Report to the 2019 Legislature (45 reported incidents of offender-on-offender sexual abuse in 2017), available at <https://dps.hawaii.gov/wp-content/uploads/2018/12/Sexual-Assaults-in-Correctional-Facilities.pdf>.

April 3, 2019

**Testimony in OPPOSITION to GM543 the reappointment of
Nolan Espinda as Director of the Department of Public Safety**

TO: Chair Clarence Nishihara, Vice Chair and members of the
Senate Committee on Public Safety, Intergovernmental Affairs, and Military Affairs

FROM: Barbara Polk

I have been paying some attention to the Justice system in Hawaii for several years, but more intensively and personally in the past three years, seeking out information from elsewhere, noticing and sometimes protesting negative developments in Hawaii, attending workshops and forums, and even sitting in a semester long seminar at UHM on Criminal Justice Policy. From what I have learned and seen, **I strongly oppose the reappointment of Mr Espinda as Director of Public Safety.**

Although I'm sure you will receive testimony in support of Mr. Espinda from prosecutors, bail bondsmen, and others who benefit from crime, as well as from people who are fearful and have little knowledge of contemporary corrections policy, I hope that you will look at the impact of reappointing a person who is not up to the job and who will make us less safe and waste our money on incarceration rather than rehabilitation. I'm sure Mr. Espinda is a nice man who is doing his best; unfortunately, he does not appear to have the knowledge, willingness to learn, and flexibility to run our jail and prison system and to protect public safety. These are the specific things I have noticed that lead me to that conclusion:

>His testimony to the legislature sometimes is not to be accurate. Last year, when the legislature was considering a bill to limit use of administrative and punitive segregation (solitary confinement) he claimed in testimony that the bill was not necessary, since their rules already were in compliance with the limits set in the bill. That was not accurate, since at the time, the DPS rules only called for observation and reconsideration after 60 days, but did not limit the total length of segregation as the bill had called for. (Internationally, solitary confinement even for that length of time is considered torture.)

>He appears to have stonewalled legislative attempts to reduce incarceration. When the legislature passed a bill requiring review of prisoners and release of those who could safely be released, he missed the original deadline for a report to the legislature the following year, saying they were still working on it. The next year, I don't know whether he provided a written report or not, but he wound up releasing only two or three people who were almost due to be released in any case. More recently, he apparently did not submit the report required by the 2018 legislature prior to the 2019 session.

>When offered the chance to learn about alternative ways of running jails and prisons through a visit to Norway, he did not do it, nor did he appear to learn anything from the person who went in his place. That visit made a major difference in other states, especially North Dakota, where his counterpart came back and made major changes toward rehabilitation. Wherever such changes take place, crime decreases.

>When the Department exited federal oversight of mental health treatment in our corrections system, he immediately fired the professionals who had established the programs that had satisfied the federal conditions and eliminated those programs. When asked what he was doing for inmates who had mental illness, he claimed in an interview that everything was OK, since they were given coloring books to work on. Obviously, this is NOT appropriate mental

illness treatment. I do not know to what extent this has changed, but his comment indicates his utter lack of knowledge or sensitivity to mental health issues.

>He has eliminated in-person visitation in the jails and prisons of the State and the plans for a new jail, despite the fact that in-person visitation is known to be one of the major ways of reducing recidivism.

>He has been responsible for the plans for a new jail, but those plans incorporate ideas developed more than a century ago and found to be inappropriate for the incarceration of people in prison, let alone pre-trial defendants in a jail, including 24 hour central surveillance and no in-person visitation.

>He seems to assume that people who are arrested are guilty until proven innocent, instead of the reverse, as required by the US Constitution. To hold pre-trial defendants in jail without contact with their families, sometimes for months, is intensely and inappropriately punitive when the person may be innocent. Though he is mostly not responsible for how long they are held, he should be responsible for humane treatment while they are there.

>As far as I know, he has done little or nothing to reduce recidivism, which is astoundingly high and indicates the failure of our correctional system. Not only is that cruel to those who are released with little hope of successful reentry, but it makes us less safe by increasing the likelihood that those who are released will reoffend, since they have not been prepared even minimally, for reentry.

Overall, these matters I have observed have the effect of **making the public LESS SAFE**, rather than protecting our safety, something Mr. Espinda does not seem to understand.

The **failure of our incarceration system** is two-fold: very high recidivism rates and one of the highest numbers in the nation of suicides and deaths in prison.

The legislature's Task Force on Effective Incarceration released a preliminary report more than year ago with recommendations. However, Mr Espinda has done little or nothing to deal with the issues identified or implement changes. If we are to have a safer Hawaii, we must have leadership of the Department of Public Safety who is forward looking, responsive to legislative and community concerns, aware of the negative impact on public safety of many of our current policies and procedures, and willing to make changes. That person is not Mr. Espinda.

I urge you NOT to reappoint Mr. Espinda as Director of Public Safety.

Bixby K.G. Ho

Hon. Clarence Nishihara, Chair

Hon. Glenn Wakai, Vice Chair

Hon. Rosalyn Baker, Member

Hon. Breene Harimoto, Member

Hon. Kurt Fevella, Member

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

Hawaii State Capitol

Honolulu, Hawaii 96813

Re: Support of Governor's Message No. 543

April 4, 2019

Aloha Chair Nishihara, Vice Chair Wakai, and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs;

My name is Bixby Ho, I am Chairman Emeritus of the Oahu County Democratic Party. I write today in strong support of Governor's Message No. 543, the reappointment of Department of Public Safety Director, Nolan P. Espinda.

The Department of Public Safety is a multi-faceted Department within the State of Hawaii ranging from keeping guard of our Chief Executive to serving warrants issued by the Courts.

I have nothing but strong praises for Mr. Espinda and his great work that he has provided and will continue to provide in his position as Director.

He has stood fast and acted within the scope of his position in countless situations that involve his department without hesitation or reservation.

Committee members, I urge you to vote in support of GM 543.

Very Respectfully,



Bixby K.G. Ho

GM-543

Submitted on: 3/31/2019 4:27:13 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

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

Comments:

WE STRONGLY OPPOSE THIS NOMINEE TO CONTINUE TO HEAD THE DEPARTMENT OF PUBLIC SAFETY. THERE IS AN ON-GOING CRIMINAL INVESTIGATION WITH THE ATTORNEY GENERAL'S OFFICE REGARDING PROCUREMENT VIOLATIONS, BY NOLAN ESPINDA AND HIS ADMINISTRATION. THE CRIMINAL NUMBER OF THE INVESTIGATION IS 19-0734.

IT MUST ALSO BE REMEMBERED THAT, BACK WHEN NOLAN WAS BEFORE HIS FIRST CONFIRMATION HEARING, WHEN I WAS THE SOLE VOICE OF OPPOSITION, I TOLD THIS LEGISLATIVE BODY, THAT A RED FLAG AS TO MR. ESPINDA'S INTEGRITY, WAS WHEN HE BECAME THE INTERIM DIRECTOR, THE FIRST QUESTIONABLE THING HE DID WAS TO APPOINT SHELLY NOBRIGA AS HIS DEPUTY. WHY THIS ACTION OF MR. ESPINDA IS QUESTIONABLE, CAN ONLY BE SUMMED UP AS MR. ESPINDA DECIDING THAT IT IS THE TAXPAYING PUBLIC WHO SHOULD FOOT THE BILL FOR THE CONSEQUENCES OF HIS MARITAL INFIDELITY WITH ONE OF HIS BIGGEST SUPPORTERS FOR HIS CONFIRMATION THEN AND NOW.

SECONDLY, IT MUST ALSO BE REMEMBERED THAT IT WAS MR. ESPINDA, WHO TESTIFIED PROUDLY, DURING HIS FIRST CONFIRMATION HEARING, THAT HE WOULD BE A NINTH WARDEN. WELL, WE NOW MUST HOLD THE SELF-PROCLAIMED "9th WARDEN" WHOLLY ACCOUNTABLE FOR ALL THE DEATHS BY SUICIDE OF BOTH PRISONERS & PRISON GUARDS, SINCE HE HAS BEEN THE DIRECTOR/9th WARDEN; OF ALL THE SO-CALLED "ACCIDENTAL" RELEASES FROM JAIL OF PRETRIAL DETAINEES AWAITING TRIAL FOR VIOLENT OFFENSES, OF WHICH HILO JAIL HAD TWO SUCH EPISODES WITHIN A RELATIVELY SHORT PERIOD OF TIME.

IT MUST BE REMEMBERED THAT WHILE MR. ESPINDA PROFESSES TO BE FOR "REHABILITATION", IT WAS MR. ESPINDA WHO BROUGHT BACK THE ARCHAIC STRIPPED PRISON UNIFORMS, THAT COMES FROM A TIME WHEN PRISON WARDENS REJECTED EFFORTS TO REHABILITATE, AND INSTEAD SOUGHT TO PUNISH AND HUMILIATE PRISONERS BY PLACING THEM IN THE DRAB &

COUNTER-REHABILITATIVE STRIPED PRISON UNIFORMS. THIS IS THE KIND OF ACTION THAT DEMONSTRATES THAT MR. ESPINDA IDOLIZES & FOLLOWS SUCH ABUSIVE WARDENS LIKE SHERIFF JOE ARPAIO OF ARIZONA, & NOT LIKE THE HONORABLE WARDEN WILLIAM OKU, WHO WILL BE FOREVER REMEMBERED AS THE ONLY WARDEN OF THE STATES MAXIMUM SECURITY FACILITY, CALKED THE HALAWA HIGH SECURITY FACILITY. I WAS THERE WHEN A YOUNG ROOKIE COUNSELOR NAMED NOLAN ESPINDA CAME TO WORK FOR MR. OKU. MR. OKU DID NOT BELIEVE IN PEOPLE COMING TO PRISON “FOR” PUNISHMENT, MR. OKU DEMONSTRATED, BY HIS PRACTICES, THAT HE BELIEVED PEOPLE WERE SENT TO PRISON AS PUNISHMENT! MR. OKU ALLOWED PRISONERS TO HAVE SOME SENSE OF DIGNITY BY HAVING PRISONERS WEAR KHAKI PANTS & SHIRTS. HE ALSO BELIEVED THAT A WELL FED PRISONER, WAS A CONTENT PRISONER WHO WOULD BE LESS LIKELY TO BE DISRUPTIVE OR EVEN RIOT. MR. OKU ALSO BELIEVE IN ALLOWING PRISONERS TO SMOKE CIGARETTES TO HELP THEM RELIEVE STRESS, WHICH TRANSLATES INTO A SAFER ENVIRONMENT. WHAT THIS MEANS IS THAT IN THE TEN YEARS THAT HALAWA HIGH SECURITY FACILITY WAS IN EXISTENCE, FOR WHICH I SPENT SIX OF THOSE TEN YEARS AS AN S-5 MAX CONVICT, THERE WAS NO RIOTS FROM THE BADDEST OF THE BAD, WORST OF THE WORST CONVICTS IN OUR CRIMINAL JUSTICE SYSTEM AT THAT TIME!!! CONTRAST THAT, WITH THE RECENT MCCC RIOT ON MAUI, THEN YOU WILL SEE THAT OUR 9th WARDEN, WHO HAS YET TO TAKE PERSONAL RESPONSIBILITY OF THAT RIOT.

LASTLY, WE NEED A DIRECTOR THAT IS TRULY PRO-REHABILITATION, RESPECTFUL OF THE LAWS OF THIS STATE & WHO VALUES THE INPUT OF THE PUBLIC, CRITICS & DISSENTERS.

FOR THESE REASONS, THIS COMMITTEE SHOULD NOT “ADVISE AND CONSENT”! MAHALO.

GM-543

Submitted on: 3/31/2019 7:51:23 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Courtney Mrowczynski	Testifying for Hawai'i Justice Coalition	Oppose	No

Comments:

Aloha Senators,

My name is Courtney and I am a member of Hawaii Justice Coalition. I would like to express my *sincere* **OPPOSITION** to **GM543**, Nolan Espinda's nomination for a second term.

â€‹â€‹

Espinda has *consistently* shown a pattern of *failed* leadership.

WHAT'S AT STAKE?

- High rates of suicides within our jails and prisons
- Push to build more jails/prison beds in Hawaii and to partner with private prison profiteers
- Frequent use of solitary confinement/administrative segregation, which is inconsistent with best practices
- Recent deaths at the hands of sheriffs
- Further elimination of in-person visitation
- More nepotism
- More overcrowding
- More punishment
- Less transparency and accountability
- Less mental health services, education and programming
- Staff/volunteers/families continue to be afraid to speak out against abuses, inhumane treatment, and conditions of confinement for fear of retaliation

â€‹â€‹

While these issues did not necessarily start with Director Espinda, his lack of understanding of evidence-based practicesâ€‹ â€‹and lack of commitment to criminal justice reform means that we can expect *more* of the status quo.

We **NEED** a NEW director who supports overhauling our criminal justice system, who *actually* believes in rehabilitation, and has the vision and leadership skills to implement cost-effective criminal justice reforms that will reduce our incarcerated population and reduce recidivism ratesâ€‹!â€‹

It is *extremely* disappointing that this administration does not care about research and data. The HCR85 Correctional Reform Task Force recommendations have been **ignored** as the Ige administration moves forward with their goal is to build *more* cages that isolate our incarcerated population. They have *proven* that constructing buildings/cages are more important than rehabilitating people - and I find this quite despicable. *Who are they truly serving?*

Mahalo for your time,
Courtney Mrowczynski

GM-543

Submitted on: 4/3/2019 10:20:25 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald S. Fujiyoshi	Testifying for Ohana Ho`opakele	Oppose	No

Comments:

In any organization the results are highly defined by its leadership. The Department of Public Safety has a very poor record recently. It is time to look for someone with progressive ideas on how to rehabilitate people, not further punishment. By continuing to punish, our State of Hawai'i will continue to waste tax payers money. We strongly oppose the appointment of Mr. Espinda!



State of Hawaii
Department of Public Safety



February 6, 2019

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

Honorable Clarence K. Nishihara, Chair

Honorable Glenn Wakai, Vice Chair

Honorable Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs

February 6, 2019

RE: **SUPPORT OF GM543**

Dear Chair Nishihara, Vice Chair Wakai, and Members of the Committee,

My name is Pane Meatoga III and I am the Community Liaison representing the Hawaii Operating Engineers Industry Stabilization Fund (HOEISF). We are a labor management fund representing 4000 unionized members in the heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction.

Hawaii Operating Engineers Industry Stabilization Fund **supports the confirmation of Nolan P. Espinda as the Director of the Department of Public Safety.**

Mr. Espinda has valuable experience and knowledge in the corrections field, having worked in this industry for 36 years. Among his accomplishments, he has served as Warden at the Waiawa Correctional Facility, Oahu Community Correctional Facility and Halawa Correctional Facility and was named Public Safety Department Manager of the Year in 1994. Mr. Espinda can be identified as a "Change Agent," capable of determining the culture (environment) of an organization, and tailor the organization toward positive outcomes. He is a leader-manager with definitional terms such as honesty, team builder, intelligent, well spoken, honest and "energetic". These notable traits are needed to serve as the next State of Hawaii, Director of Public Safety.

We strongly believe Mr. Espinda will continue to be an excellent Director for the State Department of Public Safety. His experience within the corrections field is invaluable and his willingness to continue to serve the community is commendable.

Sincerely,

A handwritten signature in black ink that reads "Pane Meatoga III".

Pane Meatoga III

Community Liaison

Hawaii Operating Engineers Industry Stabilization Fund

Submitted via online
April 4, 2019



Testimony of the
OAHU ECONOMIC DEVELOPMENT BOARD (OEDB)
In Support of GM 543
Relating to the Appointment of
Nolan Espinda
Director, Department of Public Safety

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Senator Clarence Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2019
1:15 P.M.
Conference Room 229
State Capitol
415 South Beretania Street

Aloha Chair Nishihara, Vice Chair Wakai, and Committee Members,

I support Governor Ige's reappointment of Director Nolan Espinda as the Director of Public Safety. As you and all of our elected officials are well aware, we don't have resources to address all of the infrastructure and social issues needing our attention today. For this very reason we need leaders who are unwavering in accepting the responsibilities of leading under these tenuous circumstances and who also have the technical oversight and knowledge to lead and manage Public Safety.

Mahalo,

Pono Shim
President and CEO
Oahu Economic Development Board





Akamai Cannabis Clinic

3615 Harding Ave, Suite 304
Honolulu, HI 96816

TESTIMONY ON GOVERNOR'S MESSAGE 543
RELATING TO GUBERNATORIAL NOMINEE NOLAN P. ESPINDA

By
Clifton Otto, MD

Senate Committee on Public Safety, Intergovernmental, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2019; 1:15 PM
State Capitol, Conference Room 229

Thank you for the opportunity to provide testimony on this Gubernatorial nomination. Please address the comments below before concluding this confirmation hearing.

Fulfilling the duties of director for our Department of Public Safety (PSD) is undoubtedly a daunting task given the degree of criminal activity and illegal drug trafficking that occurs in Hawaii.

Unfortunately, there is one issue that PSD is failing to address; and that is the impact of the medical use of cannabis in Hawaii upon the controlled substance regulation of cannabis in general.

Comment #1 – A controlled substance that has medical use cannot have the “highest degree of danger”. We do not give our patients substances that have the highest degree of danger. And yet this is exactly what PSD is saying when it tells us that cannabis for medical use should fall under the same controlled substance regulation as non-medical use cannabis.

Recognizing that medical use cannabis does not meet the criteria of a state Schedule I controlled substance is necessary to re-harmonize the medical use of cannabis in Hawaii with our Uniform Controlled Substances Act (UCSA). Doing so will not only legitimize our Medical Use of Cannabis Program in the eyes of law enforcement and the community, but it will also allow limited law enforcement resources to be more effectively applied to illicit cannabis activity.

“An Accepted Medical Use Supporter”

Testimony on GM543

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

April 4, 2019

Page 2

We are not talking about rescheduling cannabis here. We are talking about formally recognizing, by way of simple exception, that cannabis for medical use cannot be regulated as a state Schedule I controlled substance. And one way to recognize this finding is by adopting the following amendment to our UCSA:

Section 329-14, Hawaii Revised Statutes, is amended by adding the following subsection:

(f) The enumeration of cannabis, tetrahydrocannabinols or chemical derivatives of these as Schedule I controlled substances does not apply to the medical use of cannabis pursuant to Section 329, Part IX, and Section 329D, Hawaii Revised Statutes.

There is nothing unusual about this kind of amendment. Guam has already done the same for very similar reasons:

[Exempt from Guam Schedule I:](#)

Section 2. The following *new* subsection (g) is added to Appendix A of Chapter 67 of Title 9 Guam Code Annotated, to read as follows:

“(g) The enumeration of marihuana, tetrahydrocannabinols or chemical derivatives of these as Schedule I controlled substances **does not apply** to the medical use of cannabis pursuant to the Joaquin Concepcion Compassionate Cannabis Use Act of 2013.”

In fact, there already exists a similar exception for a different Schedule I controlled substance at the federal level:

[Exempt from federal Schedule I:](#)

21 CFR 1307.31 - Native American Church.

“The listing of peyote as a controlled substance in Schedule I **does not apply** to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church, and members of the Native American Church so using peyote are exempt from registration.”

Saying that our UCSA must follow changes in federal controlled substance regulation makes sense when we’re talking about making an FDA-approved drug product, such as Epidiolex, available for sale by prescription in our local pharmacies.

However, it makes no sense to say that we cannot address the controlled substance regulation of medical use cannabis until cannabis is rescheduled at the federal level. The situation here is completely reversed.

Testimony on GM543

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

April 4, 2019

Page 3

[State medical use](#) is “currently accepted medical use in treatment in the United States”, which means that the medical use of cannabis in Hawaii directly impacts the federal Controlled Substances Act (CSA), as well as the federal regulation that is still being applied inappropriately to our Medical Use of Cannabis Program.

It is time for PSD to address this issue and make a recommendation to the Legislature to adopt an amendment like the one described above. Please ask the nominee why such a recommendation is not forthcoming.

Comment #2 – The inter-island transportation of cannabis for personal medical use continues to be an issue that is requiring significant amounts of local law enforcement time due to the processing of patients being referred by TSA, which is distracting our officers from other more important duties and threatening the safety of our airports.

Sheriff Division officers, who fall under PSD, are also telling our patients at the Daniel K. Inouye International Airport that they cannot travel with their medicine to other islands because it is against federal law.

Firstly, the idea that the inter-island transportation of cannabis for personal medical use violates federal law is not entirely true because of the federal aviation regulation that specifically exempts the carriage of cannabis aboard aircraft if authorized by state law or state agency:

[Exempt from aircraft carriage restrictions:](#)

14 CFR 91.19 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(b) Paragraph (a) of this section **does not apply** to any carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances authorized by or under any Federal or State statute or by any Federal or State agency.”

And second, our local law enforcement officers do not have the authority to enforce federal law, even if the federal exception above did not exist. This fact has already been expressed by the police spokesman at Los Angeles International Airport (LAX):

[These Airports Say You Can Fly With Legal Marijuana](#)

“We don’t have the power to enforce the federal law,” LAX police spokesman Rob Pedregon told the *Boston Globe*.

Therefore, before conclusion of this confirmation hearing, please have the nominee explain why his officers are placing federal law before state law when it comes to the inter-island transport of cannabis for personal medical use.



April 2, 2019

Senator Clarence K. Nishihara
Chairman, Public Safety, Intergovernmental and Military Affairs Committee
Hawaii State Capitol
Honolulu, Hawaii 96813

Dear Senator Nishihara:

It is with great pleasure that I offer this Letter of Recommendation for Nolan Espinda, currently serving as Director for the Department of Public Safety, State of Hawaii. In addition, I write in steadfast support of Renee Sonobe Hong, Deputy Director for Law Enforcement for the Department of Public Safety, State of Hawaii.

I have known Director Espinda, first in his various roles with the Corrections Division and in his current capacity. Throughout his tenure he has exhibited only the highest level of professionalism in service to the people of Hawaii. Director Espinda exhibits a leadership style that serves the public well; safeguarding our community to maintain a greater sense of public safety throughout the state. Mr. Espinda remains a respected partner in the greater law enforcement community and his confirmation will provide the necessary continuity to continue to serve the public safety interests of the State of Hawaii.

I also write in unwavering support of Renee Sonobe Hong. I have known Deputy Director Hong for many years, first as a deputy prosecutor for the City and County of Honolulu, later as a Deputy Attorney General, and now in her current capacity. Ms. Sonobe Hong is an individual of impeccable character who continues to meet and exceed the expectations of a Sheriff's Department during a time of essential police and policy reform.

The most important quality that Renee brings to any discussion, meeting, or event, is her ability to provide others with critical thinking and solution-based guidance. Her servant-leadership style with all under her command is her greatest asset. Renee's continued service to the people of the State of Hawaii will pay dividends throughout the tenure of Governor David Ige.



HAWAIIAN
— AIRLINES. —

I humbly submit this Letter of Recommendation in full support of Director Nolan Espinda and pray for a quick and steadfast confirmation of an extraordinary individual.

Respectfully,

Thomas K. Aiu, JD
Director
Corporate Security

GM-543

Submitted on: 4/3/2019 11:15:50 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Roger Epstein	Individual	Oppose	No

Comments:

Dear Senators,

Please vote against the nomination of Nolan Espinda for reappointment as director of the Department of Public Safety (PSD).

I am a long time Hawai'i tax and corporate lawyer and retired senior partner with the Cades Schutte law firm in Honolulu.

PSD has a budget of about \$230 Million annually to administer the state prison and jail system, yet our state has a recidivism rate that is over fifty percent for those who serve their entire sentence and those who are relaeased on parole! That means that half of the people incacerated are not being rehabilitated.

Under Mr. Espinda's leadership PSD has aggressively sought funding for new prison and jail construction, but it has failed miserably to rehabilitate the people it has custody of.

Hawai'i should follow the example of other states that are doing good work rehabilitating people in prison including Connecticut that was profiled in this recent 60 Minutes program: <https://www.cbsnews.com/news/german-style-true-program-at-cheshire-correctional-institution-emphasizes-rehab-for-inmates-60-minutes/>

The 60 Minutes show profiles what Connecticut is doing based on a German program. I understand that Mr. Espinda was invited to go to Germany all expenses paid to learn about Germany's successful rehabilitation work, but he declined to go.

Hawai'i's prison and jail costs are not sustainable. We cannot afford to keep incarcerating people without rehabilitating them.

Mr. Espinda has done little to control incarceration costs and nothing notable to rehabilitate people in the state's custody to help reduce our alarming recidivism rate.

There are qualified people in Hawai'i who could help PSD inprove its rehabilitation outcomes including retired Judge Michael Town who currently sits on the paroleboard. I have not spoken to Judge Town about this, and have no idea if he would be interested,

but he is one person who quickly came to mind as a much better candidate than Mr. Espinda for directing PSD.

Pleased feel free to call me at 808-389-0085 if I can provide you with any further information you might want about my strong recommendation that Mr. Espinda not be reappointed director of PSD.

Very Truly Yours,

Roger H. Epstein, esq.

STARN • O'TOOLE • MARCUS & FISHER

A LAW CORPORATION

April 2, 2019

The Honorable Clarence K. Nishihara
Chair, Senate Committee on Public Safety,
Intergovernmental, and Military Affairs
Hawai'i State Capitol, Room 214
415 South Beretania Street
Honolulu, Hawai'i 96813

Re: GM 543 Testimony in Support of Nolan P. Espinda

Dear Chair Nishihara:

I respectfully submit testimony in support of Nolan Espinda's re-confirmation.

Director Espinda accomplished much during the first term of his appointment in an agency traditionally faced with many challenges. When I was the Attorney General, I personally observed the Director serving honorably, professionally and with great integrity in all matters before him.

One of the Director's most meaningful actions was to appoint three female deputy directors in what previously were male-dominated roles – Cathy Ross (Administration), Jodie Maesaka-Hirata (Corrections), and Renee Sonobe Hong (Law Enforcement). Placing three women in these high positions of leadership is unprecedented in the history of the Public Safety Department (PSD). I, therefore, write to the Committee because I am greatly concerned, specifically as to criticisms of the qualifications of his selection for deputy director of law enforcement. Renee Sonobe Hong was one of the top and most accomplished prosecutors for 20 years at the Honolulu prosecutor's office under Peter Carlisle. She successfully took to trial and put in prison for life the notorious, high-profile murderer Raita Fukusaku. She worked very closely with the Honolulu police, state sheriffs and federal law enforcement as a division chief and direct report to the prosecuting attorney for more than five years. Deputy Director Hong has a stellar and exemplary law enforcement background, has been recognized positively by her law enforcement peers, has never been accused of corruption, and is more than qualified for her posting with oversight of the law enforcement division at PSD.

Unfortunately, recent public comments have questioned the Director's judgment in appointing someone "unqualified" to the law enforcement division like Sonobe Hong, because she did not rise through the ranks of typically male-

Honorable Clarence K. Nishihara

April 2, 2019

Page 2 of 2

dominated police or sheriff's agencies. I have watched PSD confirmations for more than 20 years now. No one grumbled about Nolan Espinda, Ted Sakai, Clayton Frank, Rick Bissen, James Propotnick, Keith Kaneshiro, or any other male PSD nominee who did not come up through uniformed ranks, or claimed that these men lacked the law enforcement credentials to oversee the sheriffs, but they did throw the exact same shade towards Iwalani White and Jean Ireton when those two women were nominated to lead PSD. I respectfully encourage the Committee members to disregard comments from the public – on or off the record – regarding the Director's judgment in selecting a seasoned, experienced female prosecutor to supervise the law enforcement division.

At a time, for the first time in history, when the local police ranks are led by a woman, Honolulu Police Chief Susan Ballard, I respectfully urge the Committee members to take into account Director Espinda's many positive accomplishments, to allow him the opportunity to constructively address criticisms, and to decisively move the conversation away from troubling personal attacks on deputy directors that are chauvinistic and hint of gender discrimination.

At a time when there are many important law enforcement priorities facing the State, continuity at the highest levels is key. I have strong admiration for Director Espinda's character and skill in handling well what has traditionally been one of the most difficult directorships in the State.

I respectfully ask the Committee members to consent to Director Espinda and his leadership team.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Doug Chin', written in a cursive style.

Doug Chin

GM-543

Submitted on: 4/2/2019 5:28:18 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
kelli keawe	Individual	Oppose	No

Comments:

Chair Nishihara, Vice Chair Wakai and members of the committee,

I strongly oppose the governor's selection, in reappointing the current Director Espinda another (4) years, to the Department of Public Safety - PSD; due to the numerous complaints by HGEA Members/Employees along the recent written and media coverage.

I don't believe Espinda, can lead the department, with all the recent coverage on firearms, riot, policies, and internal problem just to name a few; as an employee/member, as while as the union stewards bring moral is at it's all times low.

GM-543

Submitted on: 4/2/2019 1:41:26 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tadia Rice	Individual	Oppose	No

Comments:

GM-543

Submitted on: 3/28/2019 11:33:45 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Fukuzawa	Individual	Oppose	No

Comments:

Dear Honorable Legislative Members,

As a concerned citizen of the State of Hawaii, I am opposed to the governor's candidate for director of Public Safety. I think the management of the department seems to have gone down over the last 4 years with Nolan Espinda at the helm. Its time for new leadership and for someone who can manage the department in a more effective manner. With as many escapes, the recent riot, and other mishaps, I believe we need new management of the department. Too many mishaps, injuries, and deaths have occurred on his watch. I believe the Governor can pick a more qualified candidate to run the department. Too many people have gotten hurt while on the job or worse. Its the safety of the public that is at hand.

Thank your for your consideration in this matter.

Sincerely,

David Fukuzawa

GM-543

Submitted on: 4/1/2019 10:07:57 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Monica L Chun	Individual	Support	Yes

Comments:

I am submitting my testimony in favor of my Director, Nolan Espinda. I have worked for and with Nolan Espinda since 1996 when I was hired at OCCC. He was my Warden. I then transferred to Halawa Corr. Facility in 2000 and Nolan was the Warden at HCF. Nolan is a very smart and intelligent individual. He has the gifting to handle the WHOLE department with integrity. He is invested in this department. Anyone who remains in a company or department for many years has a great degree of commitment and love for its vision and employees. Nolan has always placed the public and public safety at the utmost priority level. He is the only person in this season of the department that has the talent, drive, desire and ability to run the whole entity. I am amazed at his ability to oversee and direct the various facets of our department. Many may say they can do the job but many do not have the dedication and aloha for this department as he does. Nolan has had the undaunting courage that it takes to run this department. He already had it when I first met him at OCCC as the Warden. I would like the Committee to realize we are in a difficult department in the sense that the public expects DPS to predict, control and change individuals that most have no desire to change or become a part of a pro-social society. DPS gets a stain when these reprobate individuals commit crimes and enter our system and do not change themselves. We are expected to do miracles with them and their behaviors so they can get released and not return to prison. No one can control another individuals behavior and knowing the odds are not great, Nolan Espinda is still willing to do his best for those individuals and the public. I am grateful to have Nolan Espinda as my Director and hope the Committee will allow him to continue his Directorship. Thank you for your time.

GM-543

Submitted on: 4/1/2019 8:39:07 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Maysana Lopes	Individual	Oppose	Yes

Comments:

I Maysana Lopes will be testifying and sharing my testimony.

thank you

GM-543

Submitted on: 3/31/2019 9:46:37 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Martha Nakajima	Individual	Oppose	No

Comments:

I am opposed to Mr. Espinda continuing in office because the Department of Public Safety under his leadership has been unresponsive to public demands for transparency, especially with respect to suicides by incarcerated persons. Thank you

Martha Nakajima, Secy., District 22 Dems.

GM-543

Submitted on: 3/29/2019 8:09:00 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Hakon Bjerke	Individual	Support	No

Comments:

Having worked for the Department of Public Safety for 31 years I am submitting this testimony on behalf of the sitting Director Noland Espinda. As opposed to previous Directors at PSD I feel the Department have had a good period under Noland. His leadership style is quiet, efficient and listening to the people under his command. His solid record in PSD speaks for itself as Unit Manager and Warden in different facilities he was, in my opinion, always a problem solver and approachable for other people's opinions, and flexible enough to change direction if his point of view turned out wrong. I support his confirmation as PSD Director.

GM-543

Submitted on: 3/31/2019 6:57:46 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Keiron Pratt	Individual	Oppose	Yes

Comments:

I have been with the sheriffs office for 20 years as a Deputy Sheriff and recently as a Parole Officer. My own personal experience with this organization under Nolan Espinda has not been favorable. I have filed three civil rights lawsuits against DPS and the third is still pending before the Federal Court in the district of Hawaii.

As a deputy sheriff I have had some personal issues but I was truthful with the department and took care of what I had to. I was eventually job searched with my credentials taken away and moved into a non sworn position within the Hawaii patrolling authority. I was further informed I was the highest paid state worker in the office assistance position. I spent 16 years as a deputy sheriff and before being job searched I was assigned to the Criminal Investigation Unit as an Investigator conducted investigative means for the department. There have been deputies that have committed crimes and have been arrested however they were reinstated as a deputy and given there police powers back. I committed no crime but was truthful with the department and they treated me differently from others.

Mr. Espinda picks and chooses who he targets and if they are friends of his they get a pass. Example a deputy hit another deputy while on duty with other deputies as witnesses and he received a suspension. According to policy and procedures there is zero tolerance for workplace violence and the deputy should have been terminated.

I personally have had individuals from the internal investigations office (IA) come to me about sensitive internal investigations that IA were instructed to not pursue at the direction of Director Nolan Espinda. But the IA personnel are afraid to come forth due to retaliatory means that the Director can impose.

Due to the lack of leadership and integrity that is required for an at will position is upmost. I further humbly request that this honorable committee please heed to the information and details I have provided.

We need new leadership to correct what has been wronged and the corruption that continues.

GM-543

Submitted on: 3/31/2019 12:29:31 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nolan Uehara	Individual	Support	No

Comments:

I have had the pleasure of being a colleague, subordinate and friend of Director Nolan Espinda for the last 32 years. I have recently retired from Halawa Correctional Facility (HCF) and have seen first hand the quality of his leadership. His ethics and integrity in his approach to his work is unquestionable. Mr. Espinda's understanding of law enforcement and corrections is of a high standard not seen in our department for quite some time. The analytics of his planning are both creative and farsighted. An example of this came when he became the 3rd Warden of HCF. After major restructuring, we became much more efficient both technically and fiscally in our operations. HCF once again became the flagship of the department. Savings in our overhead not only benefited the facility but the overall department. Many of his practices are still in place at HCF. While I was detached to OCCC in 1996, I saw his tenacity and intelligence in dealing with the gross overcrowding and difficult Federal Consent Decree imposed upon that facility. I was proud that I was able to be a part of his team in accomplishing our goals there.

It came as no surprise to me that when he moved up to become our Director, he succeeded. His past history of being the Warden at Waiawa Correctional Facility, OCCC and HCF gave him a broad understanding of the needs and goals of the department. Those times also honed his abilities as a leader. Every facility he left was better then he found it. As our Director, there are no questions as to where he wants our department to go. Great leaders surround themselves with people of great ability. Mr. Espinda's choice of high quality people to be part of his team enhances his ability to bring to fruition his vision for the department. The loyalty and dedication of his key team members drive the department's successes.

Public Safety is truly a thankless job with little recognition for a job well done. I have always thought that for our department, like HPD, no news is good news. I believe that Mr. Espinda has thanklessly accomplished much in his tenure as Director. I also believe that when bad news hits, he mans up and takes responsibility that is his as our Director. He was front and center in the last three unfortunate incidents for PSD, not the top Sheriff, or the OCCC Warden or the MCCC Warden. It was our Director that

stood in front of the cameras to represent the State to the public. It is our Director that will get to the bottom of each incident. The buck stops at his desk. It's easy to lead when your team is winning but it is courageous when things are difficult and trying. That is the type of leadership that I truly believe my Department deserves. I with no reservations fully support Nolan Espinda's re-appointment as Director of Public Safety.

April 1, 2019

Senator Clarence Nishihara, Chair
Senator Glenn Wakai, Vice Chair
Committee on Public Safety

RE: Testimony in Support of the Confirmation
of Nolan Espinda - GM 543

Dear Chair Nishihara and Vice Chair Wakai:

I would like to take this opportunity to testify in support of this confirmation. As the retired PSD Health Care Administrator for the last 18 years, I have seen the positive growth and professional development of Mr. Espinda, from the days of his previous positions of Warden to that of the present Director. As a nationally recognized Correctional Industry management expert, he has the experience, on the job training, and "on the ground acumen" that only 34 years of service brings about.

I have witnessed good and bad Directors during my career with the State. As a successful student and practitioner of Organization Development and Management Theory, I was pleasantly surprised at Mr. Espinda's MBWA and proactive leadership skills while at the HCF. I consider him to be one of the best Directors I have worked with. His "management by walking around" style showed the staff and inmates, that this warden cares, is approachable, and wants to work with and support all of them.

Director Espinda understood the importance of providing mental health care services to all inmates and has been the driving force in the Correctional Mental Health Care Reform Program. I fear that the Program which is in the last phase, developing services on the neighbor islands, will not be completed without Director Espinda's support. Many of the programs, initiatives, and cost savings ideas implemented by Director Espinda need additional time to come to fruition. Confirming Director Espinda will ensure that as the longest sitting PSD Director, his plans and vision for PSD would not be discarded as seen in other State Government Department leadership changes.

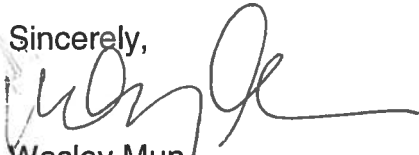
The recent critical events involving PSD has many of your colleagues putting the blame on Mr. Espinda. These negative critics fail to realize that the blame for whatever happens is a result of the Legislature's failure to take action on the resource requests Mr. Espinda has made throughout his tenure as Director. To provide a safe work and correctional environment, more staff and better facilities with more bed space is essential. Present staff shortages hamper PSD's efforts to provide quality re-entry and rehabilitate services. Plain and simple, more money is needed to keep the system

functioning, and much, much more to make the quality changes championed by the many critics who have no correctional experience.

Mr. Espinda is from a long time-time kamaaina family with family roots and relationships deep in the community. There are many who view this familiar "local" connection as a weakness, but in this case, this community membership provides him with an insight and advantage in dealing with both the staff and inmates alike. Many of the staff changes I have witnessed were a result of Mr. Espinda doing what was necessary in the best interest of the State, to achieve positive outcomes by utilizing the known skills and capabilities of others, putting the right persons into essential and critical positions.

In closing, by not confirming Mr. Espinda would be a disservice to the people of Hawaii, the PSD staff and inmates, and to State Government.

Sincerely,



Wesley Mun
1251 Ekaha Ave
Honolulu, HI 96816

GM-543

Submitted on: 4/2/2019 1:56:31 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Audrey Barber	Individual	Oppose	No

Comments:

I would like to use my husband's words:

During my first days of incarceration and still at OCCC, I was lying on my bunk when I was assaulted so violently by another inmate that the bones of the left eye socket were crushed inwards and would require \$50,000 worth of surgery at Pali Momi.

Before I was taken to the hospital, the Module was emptied of inmates and Nolan Espinda came in. He asked if I intended to file a lawsuit against the State.

He told me he could not release me, but he could make the time easy--or make it really hard. He promised that I would be out in 6 years and asked if I would file a suit. I assured him that I would not, fearing for my safety.

He made the comment that this was the 'old school' way of handling the assault.

I had the surgery, which was well done, and did not sue because I feared for my life. I actually served 17 years of the 20-year sentence.

I hope that this will help change the 'old school' way of dealing with prisoners. Nolan Espinda is definitely old school and has been in this position for too long.

Sincerely, Thomas Barber

GM-543

Submitted on: 3/29/2019 8:48:21 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lawrence Kiyabu	Individual	Support	No

Comments:

I support Mr Espinda for this position, He has demonstrated outstanding proficiency and High standards in his past performance. He has implemented long deficient Policies and Procedures neglected by his predecessors, Pleas also consider in PSD, Sherff section is less than 10% of the responsibilities and that Corrections is in the majority

GM-543

Submitted on: 3/29/2019 11:01:34 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Allen Espinda	Individual	Support	No

Comments:

You will find that Nolan Espinda is more than qualified to fill the position of Director of the Department of Public Safety. He's been through the system from the ground up, knows it like the back of his hand. He knows which direction the department should be headed, and will do whatever it takes to get there. He's honest, hard working, demands alot of the people that work with him, as he does even more of himself. If the Governor has confidence in Nolan so should you. You would be doing a disservice to the people of Hawaii if this man is not considered.

GM-543

Submitted on: 3/29/2019 11:25:41 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lambert Lui-Kwan	Individual	Support	No

Comments:

The current Director has had a very challenging job in that he has come under constant public scrutiny for many situations that are not under his direct jurisdiction. IE. Prison over crowding. He has no power in building a new prison. He gets criticized for moving inmates to mainland facilities for safety. Incarceration vs rehabilitation. His work furlough program get negative reviews when an inmate doesn't return. But is criticized for not having more work programs for inmates to get back into the mainstream of life. There are many examples of his great work and decisions while heading the Public safety department.

GM-543

Submitted on: 3/29/2019 1:09:01 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Raymond Egami	Individual	Support	No

Comments:

Mr. Espinda has been doing a exemplary and open in many decisions made during his position.

He is well versed in many operations of his directorshipTo not be confirmed would be a set back of many progressive and intense follow ups of department.

I Have seen our system decline prior to Mr. Espinda directorship.. It would be a hugh mistake not to confirm nomination..

GM-543

Submitted on: 3/29/2019 11:08:01 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Healii Heine	Individual	Support	No

Comments:

GM-543

Submitted on: 3/29/2019 11:31:43 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Frances Lui-Kwan	Individual	Support	No

Comments:

GM-543

Submitted on: 3/29/2019 10:58:59 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tonilynn Brazile	Individual	Support	No

Comments:

GM-543

Submitted on: 3/29/2019 10:12:44 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Arakaki	Individual	Support	No

Comments:

GM-543

Submitted on: 3/29/2019 10:33:03 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
KAILY PREZA	Individual	Support	No

Comments:

GM-543

Submitted on: 3/29/2019 9:46:33 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
CHRISTINE PREZA	Individual	Support	No

Comments:

GM-543

Submitted on: 3/29/2019 9:01:55 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jason Kim	Individual	Support	No

Comments:

GM-543

Submitted on: 3/28/2019 3:03:02 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Victor K. Ramos	Individual	Support	No

Comments:

GM-543

Submitted on: 3/29/2019 1:05:23 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mackenzie Martines	Individual	Support	No

Comments:

GM-543

Submitted on: 3/29/2019 8:01:23 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lia Lui-Kwan	Individual	Support	No

Comments:

GM-543

Submitted on: 3/30/2019 2:59:11 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Edwin Kim	Individual	Support	No

Comments:

Mr. Espinda has been doing an outstanding job as Director of the Department of Public Safety. I support him 100% and would like see him reconfirmed. Thank you.

TESTIMONY FOR CONSIDERATION AND CONFIRMATION OF
NOLAN P. ESPINDA AS THE DIRECTOR
OF THE DEPARTMENT OF PUBLIC SAFETY

Senate Committee on Public Safety, Intergovernmental
and Military Affairs

Senator, Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday, April 4, 2019 at 1:15 pm
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

My name is Paulette Abe, I offer testimony in strong support of Governor Ige's nomination of Mr. Nolan P. Espinda as the Director of the Department of Public Safety (PSD).

I recently retired from the State House of Representatives' Sergeant at Arms Office, where I have worked for over twenty years and in other areas of State government. I have known Director Nolan Espinda personally for about thirty years and professionally based on working at the Capitol in various offices.

It is important to consider that Director Nolan Espinda took the helm of PSD, when it was in disrepair, overcrowded, negatively impacting inmates and their family visits, chronic leave abuses, and under DOJ Settlement etc. He was approach for the position of Director back in 2014 and he willingly accepted the responsibility not for personal gain, but because he cared deeply for all of PSD including the community, the staff in all Divisions, and the inmates/detainees. In his initial four years, he has made significant accomplishments, therefore he should be retained to complete his objectives for PSD.

During this challenge he received support from the House of Representatives, but clearly the complete Legislature did not fully comprehend or assess the actual needs of PSD. Perhaps, they were guided by the small group of lobbyists, who spent their days at the Capitol or other entities were a priority. I feel compelled to attest to the fact that while working with the Sheriffs at the Capitol, they have reiterated to me personally, their respect for him and how he has supported them in the initial four years.

It is hoped that you will focus on the needs of our community and PSD by confirming Nolan P. Espinda as the Director of the Department of Public Safety.

GM-543

Submitted on: 4/1/2019 8:00:29 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Phyllis M. Aki	Individual	Support	No

Comments:

I fully support the confirmation of Nolan Espinda as Director of Public Safety. I feel he has proven his worth as an example of the type of government servant who has done an excellent job & hopeful to see him continue as Director. I have known Mr. Espinda over the years as one who has moved through the Corrections system and gained much needed knowledge over his tenure. He knows how workers operate and knows the system better than anyone in his field. I hope you will consider this man for his continued management of this department. Thank you for allowing me to submit testimony on his behalf.

March 15, 2019

To: Committee on Public safety, Intergovernmental, and Military Affairs

From: Bryan K. Mick

Re: GM 543

Aloha Chair Nishihara and members,

I write to you today in my personal capacity in support of the nomination of Nolan P. Espinda to be reappointed as the Director of the Department of Public Safety (PSD).

I think most of us would agree that PSD is one of the most important departments in the State. And we also agree that PSD has room to improve. But I think that all the issues arose before Mr. Espinda became Director, and he has made steady progress on solving many of them. The truth is our prisons are overcrowded and in need of repairs, complete rebuilds, and modernization. That takes not just the departments willingness, which I sense is there, but a proactive lead by the State Legislature and the Governor. The departments can only do so much when it is provided with limited resources. Mr. Espinda is a thoughtful, transparent, and committed director. Those are qualities we want in any departmental director, especially for one that is so important to our quality of life. I hope you confirm Mr. Espinda and continue to work on prison reforms collaboratively.

Mahalo,

A handwritten signature in blue ink that reads "Bryan K. Mick". The signature is written in a cursive, slightly slanted style.

Bryan K. Mick

GM-543

Submitted on: 4/1/2019 10:47:06 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Elmer Kaai	Individual	Support	No

Comments:

Thank you for the opportunity to provide written testimony in support of Nolan Espinda as Director of the Department of Public Safety (DPS). Nolan has a thankless job, impacting with people's lives while balancing his responsibility at the department and to his ohana. Nolan is a nononsense leader that will take on the issues and accept all responsibilities under his watch.

GM-543

Submitted on: 4/1/2019 10:48:42 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Catherine M Krueger	Individual	Support	No

Comments:

I humbly ask for the confirmation of Gubernatorial Nominee Nolan P. Espinda for the position of Director, Department of Public Safety. He has always led our department with much integrity, respect for each and every one of us and professionalism.

GM-543

Submitted on: 4/1/2019 4:20:08 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
keone morreira	Individual	Support	No

Comments:

Mr. Espinda is the best person for the job. We want to have a Director that is from Hawaii and has dedicated their public service to the department for over 30 years. Someone that knows the job, who has been on the front lines with the inmates we serve. A few stories in the news does not reflect on the performance of all. I support Director Espinda

Mahalo Keone Morreira

GM-543

Submitted on: 4/1/2019 4:53:55 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tricia Arakaki	Individual	Support	No

Comments:

GM-543

Submitted on: 4/1/2019 5:26:28 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shauna Kamaka	Individual	Support	No

Comments:

I fully support nominee Nolan Espinda for Director of Department of Public Safety.

GM-543

Submitted on: 4/1/2019 9:28:59 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Luke Kim	Individual	Support	No

Comments:

GM-543

Submitted on: 4/2/2019 12:11:20 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Warren F Wegesend Jr,	Individual	Support	No

Comments:

I support the nomination of Nolan Espinda as the Director of Public Safety. There is no other person I know of that has the experience, knowledge and ability to manage the Department of Public Safety. For the past four years Nolan has done an extraordinary job. Considering he has not gotten the support of this Legislature. He has done the best job he can with the limited resources available to him. Why blame him for the recent problems that have occurred. He did not create the overcrowded conditions of the facilities. Inmates are brought to the facilities and basically left on his doorstep to deal with. I don't see anyone from the legislature running up to the Department with funding necessary to deal with the problems. Society as a whole is responsible for the conditions today but it is the responsibility of you, the legislature to fix it. It's the cowards way out to put the blame on others that really do not have the responsibility or authority to do what is really necessary.

Provide the tools and resources and let him to what is necessary so that he does not have to try to do the job with his hands tied behind his back.

Thank you,
Warren F. Wegesend Jr.

GM-543

Submitted on: 4/2/2019 12:17:47 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bruce Kam	Individual	Support	No

Comments:

GM-543

Submitted on: 4/2/2019 8:37:53 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Patti Aguilar	Individual	Support	No

Comments:

I strongly support the nomination and confirmation of Nolan P. Espinda as the Director for the Department of Public Safety (PSD).

Director Espinda's dedication to public service and decades of experience working at PSD are assets to PSD and to the State.

Thank you for allowing me to submit this testimony.

Governors Message 543
Thursday, April 4, 2019
Conference Room 229
Senate Committee on Public Safety,
Intergovernmental, and Military Affairs

Chair Nishihara and Members of the Committee:

My name is Sergeant Darryl Castillo. I am writing in strong support of G.M. 543 for the Senate confirmation of Nolan Espinda as the Director of the Hawaii State Department of Public Safety (PSD). I urge you to confirm Nolan Espinda for continued service as the Public Safety Director.

As a retired HPD Sergeant with 32 years of service, I have worked closely with the Department of Public Safety. I have experienced vast improvements in Public Safety under the leadership of Director Nolan Espinda.

One of the accomplishments that I saw first hand is the improved professionalism exemplified by Adult Correction Officers (ACO) and Law Enforcement Officers (LEO) as a result of the year round In-Service Training developed and implemented under Director Espinda. By establishing this program, Director Espinda ensured that all employees in PSD were on the same page in regards to proper protocol and service to the public.

Under Director Espinda's leadership, overtime (OT) and the abuse of OT has been decreased substantially. This demonstrates Director Espinda's pledge and dedication to cutting down on the operations budget and thus saving money for the tax payers of the state.

I know from personal knowledge that you will not find someone with more moral fiber, concern, and ability for public safety. I have never seen Nolan Espinda deny, minimize or shrug off responsibility to any incident (as many in his professional position have done). He has taken unneeded public criticism of current incidents stoically and ensured proper investigations to rectify any shortfall. If you know Law Enforcement and Public Safety as I (and anyone in the same field do) you know that incidents such as those that currently plague PSD are cyclical.

Simply stated, NOT confirming Director Nolan Espinda would be a grave mistake. The accomplishments he has made the past 4 years show his excellent ability to lead and serve PSD. I urge all of you to confirm Nolan Espinda.

Aloha-Darryl CASTILLO

March 31, 2019

The Honorable Clarence K. Nishihara, Chair
Senate Committee on Public Safety and Intergovernmental, and Military Affairs
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: Governor's Message 543 - Consideration and Confirmation as the Director of the
Department of Public Safety, Gubernatorial Nominee, Nolan P. Espinda

Dear Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

I am respectfully submitting testimony in support for Mr. Nolan Espinda's appointment as the
Director of the Department of Public Safety.

I am presently a Private Secretary and have been employed by the State of Hawai'i for the past
34+ years. Since the beginning of my career in 1984, I have known Director Espinda and
witnessed his growth in the administration demonstrating his strong leadership and successful
management skills. As the Director, he has proven his leadership by making difficult decisions
for the best interest of the department. His integrity and fairness make him a valued asset to
the State of Hawai'i.

Thank you for this opportunity to testify, and I humbly ask that you confirm Ms. Nolan Espinda's
nomination as the Director of the Department of Public Safety.

Respectfully,

Natalie Wagatsuma

THE SENATE
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2019

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

Thursday April 14, 2019, 1:15PM, State Capitol Room 229

Testimony in **Strong Support** of GM543,
the Confirmation of NOLAN P. ESPINDA for
the Director of the Department of Public Safety

Dear Chair Nishihara and members of the Senate Committee on Public Safety,
Intergovernmental, and Military Affairs:

I am testifying in strong support of the confirmation of Nolan P. Espinda for the Department of Public Safety (PSD) Director. In March 2014 the University of Hawai'i at Manoa (UHM) entered into an Memorandum of Agreement (MOA) with the PSD for the Research and Evaluation in Public Safety (REPS) project. I joined REPS in November 2016 and served as Associate Director of the program until the end of the contract in January 2019. Prior to this position I worked on several large research grant projects at UHM and have served rural communities in community health centers and primary care clinics across our state providing behavioral health care. During my time with REPS I had the opportunity to interact with Director Espinda, who was a supporter of our work.

REPS was a unique and important university-state agency partnership that was developed to provide PSD with third-party program evaluation and quality/performance improvement studies as well as consultation, technical assistance, and training on data-driven decision-making and evidence-based correctional practices. Director Espinda provided REPS with unprecedented access to PSD facilities, programs, and data. This provided our project with the rare opportunity to conduct research inside the department and cultivate extraordinary insight regarding public safety operations and issues. Although this placed PSD in a potentially vulnerable position, Director Espinda supported the contract and the research that came out of this contract.

Since 2014 REPS has successfully completed many notable research initiatives for PSD, including multiple evaluations of PSD correctional programs; ongoing continuous quality improvement studies for PSD's Health Care Division; several focused statistical analyses of PSD's Level of Services Inventory – Revised data; training and technical assistance for PSD staff to develop pilot projects that expand and improve inmate services; and assisting PSD in a strategic planning process, to name a few. The REPS contract also included a qualitative and quantitative assessment of PSD's inmate tracking and data management system, as well as peer specialist reentry planning and support services administered by United Self Help (USH) for inmates who served maximum sentences.

These initiatives have had a significant impact on PSD's operations and inmates affected by those services. For example, preliminary analyses conducted by REPS suggested that USH

services are associated with a reduction of recidivism rates. The REPS Project was instrumental in the successful resolution on June 30, 2015 of case CV08 00585 JMS KSC filed on December 28, 2008 pertaining to mental health care at a PSD facility, and compliance with the settlement agreement between the State of Hawaii'i and the Federal Department of Justice. REPS has provided research training and academic funding for dozens of local graduate students, many of whom have gone on to serve our communities. Director Espinda's support was essential to the success of all of these initiatives.

Mr. Espinda has had a truly positive impact on PSD during his tenure as Director. Among other accomplishments, he addressed longtime correctional officer overtime problems and improved access to weekend visitation that is important to the well-being of inmates and their families. Of particular note, Mr. Espinda has consistently supported and promoted women in his administration – action that is particularly impressive in the context of a historically male-dominated field. He would clearly continue to be a tremendous asset to PSD as Director and his confirmation will benefit our State.

I respectfully urge you to confirm Mr. Espinda to continue to serve as PSD Director.

Respectfully submitted,

Julie Takishima-Lacasa, PhD
Research Specialist
Licensed Clinical Psychologist

GM-543

Submitted on: 4/3/2019 12:16:24 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
stacey	Individual	Oppose	No

Comments:

Regarding MCCC it wasn't just over crowded, it's a lot of things are happening. How can inmates test dirty, when they're behind bars. Only guards are not searched when entering and exiting through those gates. Guards should be drug tested also. You have some good guards and some dirty guards. They take inmates' personal things and either burn it or throw it away. Of course inmates will be pissed off. Guards are at fault for the riot. Why were the 5 inmates transported to Halawa when they had no involvement because they were locked in the hole. It's giving these 5 inmates bad reputations, which is not fair to them. Wasting tax payers' money. So who is to blame for that. Guards again should be tested. The modules at MCCC were full with drugs. Don't want to be named, fear of retaliation due to my son is at MCCC. Take a good look at the guards first before putting all the blame on the inmates. Using over crowded as an excuse to cover what's really going on in there.

GM-543

Submitted on: 4/3/2019 5:04:00 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
T.V.Fernandez	Individual	Support	No

Comments:

Director Espinda's career in public service attests to his commitment to the mission of the Department of Public Safety. I believe that he is the most qualified individual to lead the Department successfully for another 4 years.

Joan K. Yanagihara
51-176 Kaaawa Park Lane
Kaaawa, HI 96730

April 2, 2019

Honorable Clarence K. Nishihara, Chair
Honorable Glenn Wakai, Vice Chair
Senate Committee on Public Safety,
Intergovernmental, and Military Affairs

RE: GM 543 – Nomination of Nolan P. Espinda as Director of the Department of
Public Safety

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

I have had the pleasure of serving as Private Secretary to Director Espinda since he assumed the position in January 2015, and served previously as Private Secretary to former Director Ted Sakai from August 2012 until the end of 2014. I believe I can speak with authority on the qualities of Director Espinda which make him the ideal candidate to continue in the position as Director.

It has always amazed me how different my two bosses are and yet, how similar. The differences are quite obvious, but it is the similarities that are of utmost importance.

Intelligence and knowledge about public safety, and in particular, Hawaii's correctional system.
There is no one I can think of who has the depth of knowledge of these two gentlemen and the intelligence to apply this knowledge to bettering our correctional system for the benefit of inmates, staff, and our communities.

Public Safety is one of the most difficult positions in the Governor's Cabinet; it is an extremely complex area, and specific knowledge and expertise are crucial. The Department is responsible, first and foremost, for the safety and security of thousands of people, every hour of every day – this includes not just offenders, but their families and friends, our staff, and the people of the communities that are host to correctional facilities. The Director must secure the budget to assure that facilities are operational, and staff are trained and able to operate a secure environment, 24/7, that provides for the daily living needs of inmates, according to policies grounded in State and Federal law, mandates of the Courts, and within the bounds of public employee collective bargaining agreements. Director Espinda's over 34 years of experience, much of it in the management of correctional institutions, has prepared him well to successfully lead the Department.

Commitment to Public Safety

My two bosses are as committed as few could be to ensuring the public safety. I believe one must absorb the incredible responsibility of the position; assess the assets and weaknesses, which Senate Committee on Public Safety,

Intergovernmental, and Military Affairs

April 3, 2019

Page 2

are many (think insufficiency of resources compounded over years; staff who desperately need not only training and equipment, but a boost to their morale; and old, neglected, and overcrowded facilities); and then soldiering on to tackle these huge problems as quickly as possible. Director Espinda seems to think constantly about public safety and how to improve the Department. We, who work closely with him, are familiar with the late-night and early morning texts, emails, and phone calls, asking for information and directing certain actions to be taken. If he seems a little pre-occupied, it's a minor concern for me. I know his brain is in problem-solving mode, and I have seen the results – the great improvements to our operations that he has been able to accomplish in four short years.

Compassion for People

This can be demonstrated in many ways. For both Directors I have served, it is an openness to hearing out the concerns of those persons affected by the Department. We all need to be aware, however, that Directors do not have a great deal of time to commiserate. Director Espinda strictly adheres to the “chain of command” and works immediately on finding solutions to real issues and problems. He is fair and honest, and strives, always, to do the best he can to help.

The foregoing illustrates some of Director Espada's outstanding qualities. He has my respect and support, and I respectfully urge the Committee's favorable consideration of his nomination as Director of Public Safety.

Sincerely,

/S/ Joan K. Yanagihara

GM-543

Submitted on: 4/3/2019 7:29:28 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Costa	Individual	Oppose	No

Comments:

GM-543

Submitted on: 4/3/2019 7:47:06 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
sharen	Individual	Oppose	No

Comments:

In regard to Nolan Espinda's reappointment: NO; he has shown little or no respect for his position, backyard politics should never happen. There are reasons for policy, training, knowledge of stewardship. He has been in too long to be making rash decisions, someone with qualifications higher education, self control, experience in difficult situations, needs to be appointed. One whom is readily available & has wisdom, willing to work with all parties involved, should be appointed.. The need to step back and reasses responsibilities of the position is a wake up call for many with self preservation aside, and dedication to reason he is in this arena. Overseeing Deputy Sheriffs as highly trained individuals should be the quest for excellence in his department. At this time and place it is questionable, deliberate choices and refusal to follow policy make for a poor example as a leader. This department needs a fresh start someone whom can listen, and hear. Nolan Espinda has good qualities, that are out number the the opposit. Not personal, the need for him to step down on his own would be credible.

GM-543

Submitted on: 4/3/2019 8:39:04 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
tyler cheff	Individual	Support	No

Comments:

GM-543

Submitted on: 4/3/2019 9:02:49 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shelley	Individual	Oppose	No

Comments:

I am a concerned citizen and am opposed to reappointing Nolan Espinda as Director of the Department of Public Safety. There have been numerous reports on the news of inmates being abused or dying in custody. Reports that the sherriff's are trained in the use of non-lethal equipment but are not using it in the field. If the department has these resources, they should be using them, even if not all officers have them. The recent incident at MCCC has conflicting accounts of what happened. It is clear it wasn't just a "disturbance" as described by the department and is clearly an attempt to cover up the riot with Mr. Espinda's confirmation hearing approaching. It appears the priority is to cover up the incident and not to correct the problem. All of these things point to a lack of discipline and oversight. There are no procedures in place to deal with incidents as they arise. When there are procedures, they are not being followed, such as the incident which allowed Maurice Arrisgado to escape to a residential area where he was shot and killed. Workers do not take pride in their work and are not afraid of repercussions. This all points to a lack of leadership and a lack of organization. There have been too many incidents under Mr. Espinda's first term with no attempts to correct the situation or make it better and he should not be allowed to continue.

GM-543

Submitted on: 4/3/2019 9:07:46 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
L.Ray Borges-Myers	Individual	Support	No

Comments:

GM-543

Submitted on: 4/3/2019 9:19:47 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
gerald pratt	Individual	Oppose	No

Comments:

As a former resident of Kailua (1997-1999) assigned to CinCPAC, Camp Smith, HI as a Dept of Defense civilian, I have noted that the Dept Of Public Safety under the administration of Nolan Espinda has been , over the years, corrupt, practiced discrimination in the workforce and has shown a pattern of retaliation to a number of employees who have complained of Mr. Espinda's supervisory actions.

Mr. Espinda has shown in his years of administration of DPS that he is not worthy to continue in this important public office.

Sincerely,

Gerald E. Pratt

Lt Col, USA (Ret)

Lakewood Ranch, FL

GM-543

Submitted on: 4/3/2019 9:39:40 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
shelley	Individual	Oppose	No

Comments:

Aloha PSM Chair Senator Nishihara and committee,

I am submitting testimony to oppose the re-appointment of Nolan Espinda.

There are too many questions that Mr. Espinda brings up on his lack of ability to properly lead the Department of Public Safety.

1. Does Mr. Espinda have the vision and drive to work towards bringing the Department of Public Safety out of the current and re-occurring problems that have been plaguing the Department?
2. Have the constant problems of poor facility maintenance, overcrowding, inmate escapes/suicides/beatings, bringing down private prison inmate population at Saguaro Arizona, etc. been properly addressed and improved in the last four years?
3. What progressive policies has Mr. Espinda enacted? Has he been a strong and positive influence on staff at PSD?

The events (inmate escape shooting of Arisgado at OCCC, \$5.3 million riot at MCCC, two sheriff shooting at the State Capitol, mistaken release of Mango Murderer on Big Island, late public notification of inmates that have escaped occurring more than a day later, etc) that have transpired over the last year will lead to more public outrage, lawsuits, costly overruns, and lack of oversight. Larger problems are being brought to light such as lack of non-lethal equipment/policies for our Sheriffs, large number of repeat offenders despite spending hundreds of thousands of dollars on treatment such as substance abuse, etc.

His job performance is under question. Please do not grant Mr. Espinda the stamp of approval of how he has run the department by re-appointing him for another four year term. This stamp of approval (re-appointment) would come with Mr. Espinda not offering any significant plans of substantial changes, reflection on actions that have a clear plan of action.

We need a change in leadership, someone who openly shares with staff and the public his vision of where the Department of Public Safety is at, and also where it needs to

be. We need a leader who has compassion towards inmates and staff, and openly communicates working toward positive change.

GM-543

Submitted on: 4/3/2019 9:57:10 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Wilmanette Oskins	Individual	Oppose	No

Comments:

I am writing on behalf of my nephew who is incarcerated and was recently sent to Halawa due to the riot that happened at MCCC in March.

Before all of this happened he mentioned to me about all the incidents happening there such as not enough beds and lost mail and molding among other things.

I do realize that they are in there for a reason and they are not supposed to get special treatment but the conditions they were living in is not humane. It was really only a matter of time that something was going to happen. Unfortunately it reached a boiling point.

I have also spoken with other people who also have loved ones incarcerated and have heard their stories of how the incident happened. Along with my nephew they are all saying that the smoke was so bad and they were all trying to get out because they could not breathe. No medical treatment and news not reporting accurately

I worry that this incident will not solve anything and and after a period of time it will continue to go back to the way it was with the same problems. I also realize that funding is a big issue but something needs to be done to house these inmates properly and hear their voices. We need more programs in the jail to get them help as opposed to just locking them up and ample time on their hands. I feel if we can give them projects to work on this will give them pride in themselves and motivation to get out and become good contributing citizens. A lot of them just need 2nd chances. Unfortunately I know some of them in there already had many chances. But if they are willing to change we should help those

I do believe that we need someone else to look into all these matters. The people incarcerated are human beings with loved ones on the outside waiting for them. We also have not been told anything about what is going on with them. If there could be a website or someone we

could be in contact with where we could go to to get more information on them that would help and put the families at ease a bit.

I really hope something can be done because this problem will not go away on its own. It's been way to long like this.

Thank you for reading this.

To the Honorable Senator Clarence K. Nishihara:

I write this letter anonymously to you to protect myself from retribution from the Department of Public Safety. The safety, security of Oahu Community Correctional Center and the public is at jeopardy. I have submitted to you the Inter-office memo directed to all the Captains about hiring overtime. The facility is severely undermanned and forced to closed post before hiring overtime to meet the minimum requirements to house, feed and clothe the inmates incarcerated. Each watch is running with a minimum of 20 vacant post per watch prior to even hiring overtime, and then we have to close more post before the Captains can hire staff, to run the watch safely for the public, inmates, and the staff inside the jail. These memo's go back as far as 2014. This was put in place to curtail the overtime. The jail runs 24 hours a day and 365 days a year. The budget is always brought up, but no staff has seen what OCCC budget is, the pay of staff goes up but we never here if the budget goes up to meet the pay requirements for staff. The structure of the jail does not change but the amounts of inmates does, and it keeps going up. The jail was structured for 938 inmates but currently it houses 1080 approximately this not including the inmates that currently housed at the Federal Detention Center which the State of Hawaii pays for. Daily operations are hindered due to the restrictions put in place of staff shortage. The only vision that PSD must have is to cut overtime, but at what cost? The cost is safety to the public, to the inmates currently incarcerated and to the staff working inside the jail. The morale inside the OCCC is at it's lowest, when morale is low depression sets in and staff feel that why should they come to work if the Department doesn't care for its workers. The officer's feels that all the department cares for is to minimize and curtail the amount of overtime it pays. Officer's are called to watch some of the most dangerous inmates incarcerated and to make sure that the inmates are also kept safe from each other, while making sure that the safety of the public is kept. The safety of the inmates has been hampered from the lack of staff keeping an eye on them, the gangs are rampant inside the jail. Many inmates have to be sent to the hospitals due to the assault the receive from other gang members. Modules are run short because we cannot hire overtime. Captains are reprimanded for hiring too much overtime even after meeting the requirements set forth (inter-office memos). They are even put on investigation and face disciplinary actions for

hiring overtime staff. Correctional officer does not get the recognition that first responders get we are the forgotten cops. We go to work hoping to make a difference and to go home safely to our families. You can see that the amount of sickness, family leave goes up when morale goes down. When the Department of Public Safety put in place red post and black post it caused a two-tier system for staff. It tells staff some post are more important than others post, this is not true all post are important if they weren't why are the post on the daily schedule. Imagine if that black post was closed on the date of the inmate escaping who was shot by the perimeter officer, which is a black post. We are constantly told about the budget what do officer's see, they see the department spending money to upgrade the modules with new doors and new panel systems. More Officer's are talking about retirement and finding other jobs, we spend so much money on training these officers and then we lose their experience which is so vital to the new officer's and by them leaving it creates more vacancies. Which isn't filled in a timely manner to replace them. We hear and see lawmakers on television speaking badly about us constantly, but we never hear them willing to sit with us for a shift to see what we have to do on a daily basis, we invite any lawmaker to walk in our shoes. Are supervisors are put into sever stress syndrome trying to meet the post closure and trying to keep the staff safe, the inmates safe and the public safe. We are also registered voters and when will our voices be heard!

Sincerely,

Officer Anonymous

May 6, 2014

TO: CAPTAINS

THROUGH: Francis Sequeira, OCW

FROM: Major Denise J. Johnston, COS

SUBJECT: Managing Overtime

Effective immediately, the following will be utilized to control the overtime. The formula below is what some of you are already grasping and utilizing. However, we need to be more consistent. So hire overtime according to the following:

When counting closed posts, this DOES NOT include Lieutenant and Warden Select posts. They are to be counted in addition to:

WEEKDAYS:

1st Watch:

- a) Over 5 Overtime - Close non-essential two (2) posts

2nd Watch:

- a) 6-10 Overtime - Close non-essential eight (8) posts
- b) Over 10 Overtime - Close at least 10 non-essential post, which may include Locking down up to two (2) modules.

3rd Watch:

- a) 6-10 Overtime - Close non-essential 10 posts
- b) Over 10 Overtime - Close at least 12 non-essential post, which may include locking down up to two (2) modules.

WEEKENDS:

1st Watch:

- a) Over 5 overtime - Close two (2) non-essential posts

2nd Watch:

- a) 6-10 Overtime - Close eight (8) non-essential posts
- b) Over 10 Overtime - Close at least 13 non-essential posts, which may include locking down up to two (2) modules.

3rd Watch:

- a) 6-10 Overtime - Close 10 non-essential posts
- b) Over 10 Overtime - Close at least 12 posts, which may include locking down up to Two (2) modules minimum.

- ❖ If there are circumstances that necessitates putting on overtime without closing posts and utilizing the above hiring practices it must be authorized by the Chief of Security.
- ❖ Creating Special Assignment positions (with the exception of hiring for Suicide or Hospital) is to be authorized by the Chief of Security.

Unscheduled leave will be authorized by the Chief of Security. In the event that emergency vacation is requested, Captains can authorize verifiable emergencies.

Noted:  5-7-14
Francis Sequeira, OCW Date

Acknowledge Receipt:

c.c: OCW, DW, Capts, COS, File

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard 4th Floor
Honolulu, Hawaii 96814

CONFIDENTIAL

NOELAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Deputy Director
Corrections

Shawn H. Tsuiha
Deputy Director
Law Enforcement

August 16, 2016

TO: Watch Commanders

THROUGH: Major Denise J. Johnston, COS

FROM: Francis Sequeira, OCW

SUBJECT: Overtime

Effective immediately, you will implement this directive prior to hiring overtime on your watches. Prior to any overtime being utilized **ALL** of the following steps **Must** be taken.

1. Utilize SA's to fill red posts
2. Close the designated # posts.
3. Priority will be to keep housing units open.

FIRST WATCH:

Close 5 posts prior to hiring for overtime

SECOND WATCH:

Close 12 posts prior to hiring for overtime (this is **WITHOUT** cancelling visits)

THIRD WATCH:

Close 14 posts prior to hiring for overtime

With this being done, man the Utility Search position to assist with the searching of bags at Station 2 until October 9, 2016 when the position moves to the Main Entrance. On that date there will be a 100% search of ALL belongings entering the facility.

Captains continue to have the authority to give their subordinates one day of unscheduled leave. With the decrease in closures, please keep the unscheduled leaves down to ensure overtime is does not get out of hand. Captains **WILL NOT** give leave for another Captains shift unless there is a verifiable **DOCUMENTED EMERGENCY**. Anything over one day must be forwarded to the Chief of Security with your recommendation. When allowing unscheduled leave, please be reminded of the closures that must be done before hiring for overtime and how will it affect your schedule.


Failure to adhere to this Directive will result in possible disciplinary action.


Date

Witness Date
CC: OCW, DW, COS, Captains, File

January 18, 2017

TO: CAPTAINS

THROUGH: Major Denise J. Johnston, COS 

FROM: Francis X. Sequeira, OCW 

SUBJECT: OVERTIME

Effective immediately, you will implement this directive prior to hiring overtime on your watches. Prior to any overtime being utilized **ALL** of the following steps **Must** be taken.

1. Utilize SA's to fill red posts
2. Close the designated # posts.
3. Priority will be to keep housing units open.
4. Rotate the lockdowns ensure ALL modules are locked down equally.

FIRST WATCH: 7 DAYS A WEEK

Close 5 posts prior to hiring for overtime

SECOND WATCH: MONDAY THROUGH FRIDAY (EXCEPT HOLIDAYS)

Close 12 posts prior to hiring for overtime (this is **WITHOUT** cancelling visits)

THIRD WATCH: MONDAY THROUGH FRIDAY (EXCEPT HOLIDAYS)

Close 14 posts prior to hiring for overtime

SECOND WATCH: WEEKENDS AND HOLIDAYS

Close 17 posts prior to hiring for overtime (this is **WITHOUT** cancelling visits)

THIRD WATCH: WEEKENDS AND HOLIDAYS

Close 18 posts prior to hiring for overtime

With this being done, man the Utility Search position to assist with the searching of bags at Station 2 until October 9, 2016 when the position moves to the Main Entrance. On that date there will be a 100% search of ALL belongings entering the facility.

Please keep the unscheduled leaves down to verifiable emergencies to ensure overtime does not get out of hand. Captains WILL NOT give leave for another Captains shift unless there is a verifiable DOCUMENTED EMERGENCY. Anything over one day must be forwarded to the Chief of Security with your recommendation. Failure to adhere to this Directive may result in possible disciplinary action being taken.

Date



Witness

1-18-17

Date

CC: OCW, DW, COS, Captains, File

November 29, 2017

TO: CAPTAINS

THROUGH: Major Constance Van Winkle, COS 

FROM: Francis X. Sequeira, OCW 

SUBJECT: OVERTIME

Effective immediately, you will implement this directive prior to hiring overtime on your watches. Prior to any overtime being utilized ALL of the following steps Must be taken.

1. Utilize SA's to fill red posts.
2. Close the designated # posts.
3. Priority will be to keep housing units open.
4. Rotate the lockdowns ensure ALL modules are locked down equally.

FIRST WATCH: 7 DAYS A WEEK

Close 5 posts prior to hiring for overtime

SECOND WATCH: MONDAY THROUGH FRIDAY (EXCEPT HOLIDAYS)

Close 12 posts prior to hiring for overtime (this is **WITHOUT** cancelling visits)

THIRD WATCH: MONDAY THROUGH FRIDAY (EXCEPT HOLIDAYS)

Close 14 posts prior to hiring for overtime

SECOND WATCH: WEEKENDS AND HOLIDAYS

Close 17 posts prior to hiring for overtime (this is **WITHOUT** cancelling visits)

THIRD WATCH: WEEKENDS AND HOLIDAYS

Close 18 posts prior to hiring for overtime

On November 22, 2017 there will be a 100% search of ALL clear bags entering the facility from the Main Entrance (Gate House) as per Searches of Visitors and Staff Policy 07.08.02.

Please keep the unscheduled leaves down to *verifiable* emergencies to ensure overtime does not get out of hand. Captains WILL NOT give leave for another Captain's shift unless there is a verifiable DOCUMENTED EMERGENCY. Anything over one day must be forwarded to the Chief of Security with your recommendation. Failure to adhere to this Directive may result in possible disciplinary action being taken.

Date

Witness

Date

CC: OCW, DW, COS, Captains, File

Inter-Office
MEMORANDUM

DEPARTMENT OF PUBLIC SAFETY

No. _____

Suspense: _____

November 21, 2018

TO: ALL WATCH CAPTAINS
THROUGH: Major Thomas Evans, COS *TE 11/21/18*
FROM: Francis Sequeira, OCW *FS abc*
SUBJECT: **MANDATORY POST CLOSURES BEFORE HIRING OVERTIME**

Effective immediately, you are being directed to implement the following procedures prior to hiring overtime on your watches:

1. Utilize SA's to fill Red Posts
2. Close the designated number of posts
3. Priority will be to keep housing units open whenever possible
4. Rotate the lockdowns to ensure ALL modules are locked down equally

FIRST WATCH 7 DAYS A WEEK:

Close Five (5) posts prior to hiring any overtime

SECOND WATCH MONDAY THROUGH FRIDAY (EXCEPT HOLIDAYS):

Close Seventeen (17) posts prior to hiring any overtime **WITHOUT** cancelling visits

SECOND WATCH WEEKENDS AND HOLIDAYS:

Close Twenty-Two (22) posts prior to hiring any overtime **WITHOUT** cancelling visits

THIRD WATCH MONDAY THROUGH FRIDAY (EXCEPT HOLIDAYS):

Close Nineteen (19) posts prior to hiring any overtime

THIRD WATCH WEEKENDS AND HOLIDAYS:

Close Twenty-Three (23) posts prior to hiring any overtime

Please keep unscheduled leaves down to *verifiable* emergencies to ensure overtime is kept under control. Captains **WILL NOT** give leave for another Captain's shift unless there is a verifiable DOCUMENTED EMERGENCY. Any leave request over One (1) day must be forwarded to the Chief of Security with your recommendation.

Failure to adhere to this directive **will** result in disciplinary action.

W/C 11/21/18

Witness Date

C: OCW, OCDW, COS, File

GM-543

Submitted on: 4/3/2019 10:27:48 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Lee	Individual	Oppose	No

Comments:

GM-543

Submitted on: 4/3/2019 12:05:14 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gordon B. Lindsey	Individual	Oppose	No

Comments:

Director Espinda, has mismanaged Public Safety when allowing inmate cells to be overpopulated. The public, staff and first responders to any disturbance, has been seen in recent riots. The Director- Espinda, is known to shut down manpower and lock inmates in a crowded cell for many hours, to save on paying overtime, causing high tension for those involved. Director Espinda, has also been known not to implement, needed repairs to keep within his budget. He also plays favoritism in the hiring process of staffing, with total disregard to the most qualified individuals, applying for the positions.

Please keep my identity anonymous, thankyou!

GM-543

Submitted on: 4/3/2019 12:30:10 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ballard Kashinoki	Individual	Support	No

Comments:

I Ballard Kashinoki,

Support the nomination of Nolan Espinda as the Director of Public Safety for the State of Hawaii.

Nolan is one of the few people in the State of Hawaii who has the knowledge and experience to head the Department of Public Safety. Nolan has 30 years of experience in the area of Public safety starting from Adult probation office to Warden of OCC and Halwa Jail to the Director of Public Safety for the last 4 years. Nolans integrity as a public servent has never been in question.

That being said I strongly support Nolan Espindas Nomination to Girector of Public Safety for the State of Hawaii

Mahalo,

Ballard Kashinoki

GM-543

Submitted on: 4/3/2019 12:38:40 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cherrae Bascar	Individual	Support	No

Comments:

My spouse was incarcerated at Maui Community Correctional Facility at the time what Maui News called a disturbance broke out! He has been incarcerated in MCCC for nearly a year prior to this so called disturbance. He has been flown to Halawa. During his stay at MCCC my spouse made numerous complaints to myself about the atmosphere of MCCC as well as the ACOs. Being that he couldnt get in contact with the Ombudsmen because no number was put on display! During the riot my spouse broke his room windows due to the fact that he was one of many that were left locked in their cells. I last spoke with my spouse on March 13 the day before he was flown to Halawa. In our conversation he stated that he did NOT receive medical attention even though the news articles stated that each individual were seen. After the riot was partially calmed, ACO's entered my spouses cell went through his personal mail and disposed all of our family pictures into the toilet. The officers then removed his commissary and threw it into the rubbish pile as well as his clothing and beddings twchich were tossed into the water that accumulated on the Module floors. My spouse also stated on our last phone call that he was still in wet clothes sleeping on wet a wet matress.They are currently under investigation which may possibly lead to additional charges added on to his recored due to the fact that the guards at MCCC failed to follow portocal! My spouse has made numerous complaints on many phone calls about mail being tampered with how the overcrowding was so bad there were 5 inmates to a cell leaving 3 of them on the floor. He also complained that his hasnt been able to make calls to his lawyer as well. When I spoke to his lawyer in March to let her know that he was flown out she also stated that when she would call the ACOs wouldnt let her call go through. I feel as if the PSD should be held accountable for the full blown riot that has happened due to that fact that this has been an ongoing issues that was never addressed. It was constantly pushed under the bus with the motto of "They did their crime they do their time they shouldnt live comfortable." In my opinion they are all well most incarcerated at MCCC are pretrial detainees.Innocent until proven guilty! I havent spoken to my spouse in over a month and I have no idea if he is okay... He attended college courses while in MCCC for graphic designs he had every visit every commissary every phone call. Even though our visits were between a partition for Modules in MCCC and dorm 1 & 2 as to where the remainder of inmates had contact visits. We were supposed to be married on March 27th 2018. But he was flown out. The PSD should be charged with negelicence to their workers as well as the inmates. It was an out reach that was pushed to the limit because no one listened!

GM-543

Submitted on: 4/3/2019 12:58:22 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Stacey	Individual	Support	No

Comments:

Dear Chair Nishihara and Members of the Committee,

I am writing in my personal capacity in strong support of the confirmation of Nolan Espinda as Director of the Department of Public Safety. In my former position as a deputy attorney general providing advice and counsel as well as litigation support to PSD, I worked with him on several matters since he was first appointed. I found him to be well-informed, thoughtful and very experienced. He was reasonable to deal with and made decisions based on appropriate facts. His staff was also very helpful, even when the time was short and the urgency high. Given his intelligence, decades of experience, decision-making ability and diligence, I believe he remains the most appropriate person to head such a challenging yet important department.

Mahalo,

Rich Stacey

Email: LEGRWS2019.20@gmail.com

THE SENATE
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2019

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair

NOTICE OF HEARING

DATE: Thursday, April 4, 2019
TIME: 1:15 p.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

A G E N D A

GM 543

Status &
Testimony

Submitting for consideration and confirmation as the Director of PSM
the Department of Public Safety, Gubernatorial Nominee,
NOLAN P. ESPINDA, for a term to expire at noon on 12-05-
2022.

Testimony in support GM 543.

My name is James Waldron Lindblad, and I have worked in and around corrections, the courts, law enforcement, OCCC, MCCC, HCCC and KCCC since 1980. I support Governor David Y. Ige, and the Nomination of Mr. Nolan P. Espinda, Director, Department of Public Safety.

I work up close and personal and on the front lines every day with corrections staff & sheriff deputies. I am able to share my views from a historical perspective beginning in 1980, as that is when I began my career as a bail agent in Hawaii. I know first hand that Mr. Espinda is the right person for this position. My opinion is based on my experience of having worked with all past Directors since the Department of Public Safety was created and before that when I observed the Directors of Corrections and their predecessors in Hawaii, including the Sheriff Division, when under the Judiciary.

Historically corrections management is the most difficult of any department I know of, and I think Mr. Espinda has brought about a unity among divisions and has done so on a limited budget and Mr. Espinda has made due with a physical plant in need of updating and repairs and the need for new and expanded facilities is well known and even if only based on our general state population growth

and the 1500 people serving sentences on the mainland we all know present sizing and bed space for the Correction Division needs to increase along with the required new and improved technology.

I think Mr. Espinda is the most qualified and best-equipped person to lead our Department of Public Safety due to his experience and track record and I believe Mr. Espinda will move us forward in a manner that will make us all very proud.

Please support Governor Ige and the nomination of Mr. Nolan P. Espinda for the position of Director of Public Safety.

Thank you.

James Waldron Lindblad
808-780-8887
James.Lindblad@gmail.com
REV 04.03.2019

April 3, 2019

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

Hearing Date: April 4, 2019, 1:15 p.m., Room 229

Re: GM 543 - Submitting for consideration and confirmation as the Director of the Department of Department of Public Safety, Gubernatorial Nominee, NOLAN P. ESPINDA, for a term to expire on 12-05-2022.

Dear Chair Nishimura, Vice Chair Wakai, and Members of the Committee:

I am submitting testimony in strong support for the confirmation of Director of the Department of Public Safety, Nolan Espinda. I have been impacted and impressed by his long commitment to public safety and compliance with federal and state laws, especially pertaining to consent decrees over tragic circumstances. I was a friend of Agnes Spears when she was violently murdered in the women's facility decades ago. She had testified in front of the legislature about the unsafe conditions at the women's facility and unfortunately, it took her death to make the necessary changes. Ultimately, Mr. Espinda was a major force in the implementation of these changes. He also had a strong leadership role in implementing the mental health consent decree order, years later.

It is also fitting to recognize his empowerment, respect, and pioneering of women within his time as the Director at DPS. It's ironic to read of Mr. Espinda being part of the "good 'ol boys network" when his actions reveal quite the opposite. The Department of Public Safety is a complex department and employs many people from various backgrounds and opinions regarding incarceration and public safety. My years as a deputy public defender exposed me to the spectrum of personalities within the judicial system and correctional facilities. There had been a palpable undertone of sexism and favoritism that permeated and lingered in the attitudes and actions of some DPS employees. It was quite difficult to perform at highest potentials when supervisors and co-workers kept the glass ceiling strong and impenetrable. The male rein of power and politics crippled many women's opportunities to advance and excel within DPS.

Mr. Espinda changed that culture and environment with his hiring of women in positions of power and delegated authority and decisions to each in their respective roles. One of these hires and support of is Renee Sonobe Hong. She was a deputy prosecuting attorney during the same time I was working as a deputy public defender. She was extraordinarily fair, extremely sharp, even-tempered, decisive, and a great litigator. I was surprised and delighted when Mr. Espinda appointed her as his Deputy in charge of Law Enforcement within DPS. It is a non-traditional job for a woman, but I knew Ms. Sonobe Hong was highly capable and definitely worthy of this position. Unfortunately, the male dominance and culture made the working conditions extremely difficult in the transition from good ol boy network to fair and equal treatment within the preview of law enforcement. Mr. Espinda empowered and supported Ms. Sonobe Hong's hard road to new beginnings with razor sharpness and steeped in the spirit and letter of the laws pertaining to Title IX and Title VI. Mr. Espinda's actions embody Dr. Martin Luther King Jr's quote, "the arc of the moral universe is long, but it bends toward justice."

He has also hired women as Deputy Directors to oversee corrections and administration. Rarely, in a male dominated work force environment do we witness the type of commitment to female empowerment and fairness that Mr. Espinda has created and supported within DPS. Notwithstanding the criticism of the few, the majority of our state is best served with a competent leader and a committed public servant who respects and retains the best and brightest regardless of their gender or pressure from rank and file.

For these reasons and more, I am in full support of Mr. Espinda's confirmation as the Director of DPS and I urge this committee and Senate process to confirm him for another four years in this critical leadership role.

Mahalo Piha,

Jill L. Nunokawa, Esq.

GM-543

Submitted on: 4/3/2019 1:07:38 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Clifford Asato	Individual	Support	No

Comments:

I recently retired from the Dept of Public Safety after being there since the inception of the Department back in 1988. I have worked with Nolan Espinda as Director for the past four years and he has proven to be an excellent leader. I fully support his appointment as the Director of Public Safety. He has the experience, ability, and respect of the department staff.

GM-543

Submitted on: 4/3/2019 2:50:08 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Toguchi	Individual	Support	No

Comments:

Senate Committee on Public Safety, Intergovernmental and Military Affairs

Senator Clarence K. Nishihara, Chair Senator Glenn Wakai, Vice-Chair

Thursday, April 4, 2019 1:15 PM Conference Room 229

GM543

Testimony in strong support of Gubernatorial Nominee Nolan P. Espinda to serve as the Director of Public Safety.

Aloha Chair Nishihara, Vice Chair Wakai and members of the Committee. My name is Charles Toguchi and I am providing written testimony in support of Nolan Espinda, gubernatorial nominee, to serve as the Director of the Department of Public Safety.

I have had the privilege and pleasure of knowing Nolan Espinda for more than 20 years. With his present role as Director of Public Safety and his 36 years of experience with the Department of Public Safety, Nolan Espinda is uniquely qualified to continue serving as the Director of Public Safety.

Mr Espinda has demonstrated his strong commitment and unwavering support for the Department of Public Safety. Among his achievements: he has established a year-round in-service training program for Public Safety's law enforcement officers...achieved a 100% success rate in improving weekend visitation at all facilities...and has helped to facilitate the vision of bringing a relocated OCCC to reality.

Nolan Espinda is a tireless worker and he has impressed me with his genuine commitment and dedication to his job. Leadership is action...and Nolan Espinda has proven with his energy...forward thinking vision...and positive action...that he can get the job done...and done well. Nolan Espinda will continue to provide the necessary skills and foundation to guide and support the Department of Public Safety in achieving its mission.

I strongly support the nomination of Nolan Espinda to the position of Director, Department of Public Safety.

Mahalo for the opportunity to present this written testimony.

Mahalo,
Charles T. Toguchi

GM-543

Submitted on: 4/3/2019 3:09:23 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
William Kaneko	Individual	Support	No

Comments:

Dear Chair Nishihara and members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs:

I am writing in support of the nomination of Nolan Espinda as Director of the Department of Public Safety. Mr. Espinda has a long and distinguished career as a corrections executive with the State. During the past four years, I have observed the efforts and activities he has made to address the difficult and complex problems of our prison system and related services. They are extremely difficult, and continued leadership and a sustained approach is important. Please enable Mr. Espinda to serve another four years to continue the progress made in the Department of Public Safety. Thank you for your consideration.

Aloha, BILL KANEKO

**Governors Message 543
Confirmation Hearing
Director of the Department of Public Safety
Gubernatorial Nominee, NOLAN P. ESPINDA
Thursday, April 4, 2019
Conference Room 229
Senate Committee on Public Safety,
Intergovernmental, and Military Affairs**

My name is Malia Espinda, wife of Director Nolan Espinda.

I am in strong support of his confirmation as Director of the Hawaii State Department of Public Safety.

Thank you for the opportunity to provide testimony.

GM-543

Submitted on: 4/3/2019 4:34:39 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
betsy shim	Individual	Oppose	No

Comments:

PLEASE KEEP CONFIDENTIAL. RETALIATION IS REAL.

I oppose having Mr. Espinda confirmed as the Director of PSD. The department has faced challenge after challenge with no reprieve. It appears that the department has not progressed under his supervision - I do not say leadership because I feel that he does not provide any. He is not accesible to the public or his employees. The recent riot at MCCC is just the most recent example of how business is not being handled appropriately. The news related that there was no Warden on the premises at the time of the riot. How can this be? What kind of decision making is this that supposedly secure facility has no supervisor in charge to handle a crisis when it occurs. He responds after the damage has been done to show face - a little too late. Should have been avoided altogether and never happened in the first place. Because of this, I think that things went terribly wrong. I drove by at the time of the riot and it was scary. Policemen with guns standing outside. Right outside a subdivision! The news had an article the other day about how staff was in fear for their lives! That concerns me deeply! It seems like the staff has no support, no supplies, and no guidance. Millions of dollars in damage that taxpayers like me have to pay the bill for? What kind of justice is that? I think we need a new boss in charge of that department to change things around.

GM-543

Submitted on: 4/3/2019 4:40:00 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Reid	Individual	Support	No

Comments:

The Honorable Clarence K. Nishihara, Chair

The Honorable Glenn Wakai, Vice Chair

Committee on Public Safety, Intergovernmental and Military Affairs

The State Senate

State Capitol, Room 214

Honolulu, Hawaii 96813

Dear Chair Nishihara,

Subject: GM 543 Submitting for consideration and confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, Nolan P. Espinda, for a term to expire at noon on 12-05-2022.

I Reid P. Ogata am providing testimony **in support** of the nomination and confirmation of Mr. Nolan P. Espinda as the Director of the Department of Public Safety.

I have been an employee of the Department of Public Safety since its inception. Through those years I have seen many Directors come and go. Mr. Espinda has been a consummate professional during his time in the Department of Public Safety and his stay as the Director of Public Safety.

His leadership and direction has rejuvenated my own personnel feelings about the department inspiring myself to aspire to greater heights in my career. Mr. Espinda said when he took over as Director that it was time for him to stop watching things occur and for him to step up and take on the responsibility to lead the department. I'm at the end of my career but Mr. Espinda's words when he first became director inspired to me work harder and work tirelessly for the personnel under me just as he has done for me.

Mr. Espinda has built a highly qualified team of Deputy Directors that are extremely educated and knowledgeable. The leadership and guidance they have given me since Mr. Espinda has been in charge has been invaluable to my career. I am honored to have worked under all of them. Their tireless dedication echo's the leadership that Mr. Espinda has put forward.

I highly support the nomination of Mr. Espinda and look forward to great things ahead under his leadership.

Very Respectfully Yours,

Reid Ogata

GM-543

Submitted on: 4/3/2019 4:41:15 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Aaron K. Wills	Individual	Oppose	No

Comments:

Committee on Public Safety, Intergovernmental, and Military Affairs

Senator Clarence K. Nishihara, Chair

Senator Glenn Wakai, Vice Chair

The Law Office of Aaron K. Wills, Aaron K. Wills

Thursday, April 4, 2019

OPPOSITION to the Confirmation of Nolan Espinda as the Director of the Department of Public Safety

The Department of Public Safety is in desperate need of new leadership. Most importantly the Department of Public Safety needs a new director and this committee should not confirm Nolan Espinda for any further representation as the Director of the Department of Public Safety.

What has become abundantly clear during Nolan Espinda's term as director is that he will operate business as usual, continue to deny and deflect blame, and does not believe in the evidence based practices of developing and maintain a "rehabilitation" model of incarceration. Nolan Espinda lacks the education and experience to have the vision and to ultimately implement cost-effective criminal justice reforms that will reduce our incarcerated population, and reduce recidivism rates.

Currently our prisons and jails in Hawaii have high rates of suicide, the ACO staff continue to use “solitary confinement” as an administrative segregation tool for both general population and for separating and isolating the mentally ill population. The frequent use of solitary confinement as a segregation tool is inconsistent with best practices.

There have been recent deaths at the hands of the Sheriffs, which we have subsequently learned that the Sheriffs on the scene requested the use of ‘non-lethal’ weapons which they possess in their arsenal, but have not used or trained with the weapons purchased with tax payer dollars. Even more recently a new article from Hawaii News Now, published from an anonymous letter written by an ACO who was present during the recent Maui Correctional Center riots, states the staff was, “Scared for their lives, as the inmates attempted to burn them alive in their control boxes....the inconvenient truth about your jail is that it’s not safe, we’re not safe and the public is not safe!”

That is alarming testimony coming from an ACO who was on the scene and risking his life for the Department of Public Safety. You would think, the least we could do is provide these ACOs with the best protective equipment possible, in order to protect their lives in case of a “riot” such as this one. In fact, as these ACOs prepared and formed riot teams to respond to the threat at MCCC, the officers were ill-equipped, some not equipped at all, and not one officer was ever issued personal protective equipment before entering any of the modules. Mr. Espinda can’t control the actions of the inmates. However, what we can control and shall not stand for is Mr. Espinda making excuses on why he was unable to make sure that his staff, the ACOs, were not well trained and protected in case of a riot such as the one at MCCC.

The leadership response we received from Mr. Espinda in response to the MCCC riot was to try and play word games by characterizing the incident as a “disturbance” and not a riot. Any reasonable person taking a look at the damage caused by the MCCC riot would conclude that whatever occurred that caused that much damage, certainly was not an “isolated incident or disturbance”. Mr. Espinda lacked the leadership before, during, and after the MCCC riot. We can’t have this kind of leadership at the Department of Public Safety.

When Mr. Espinda was appointed, the governor's message was "fix visitation". Mr. Espinda then issued non-contact visits and they were instituted at OCCC and Halawa. This means that when a person at either of these two facilities has a visit, the visitor must first call to make an appointment for a 15-minute "visit". When they arrive, they are sent to a kiosk with a video screen and even though the person they are visiting may be in a module close by, the incarcerated person is at a kiosk with a video screen in their module "visiting" by video.

Evidence-based practices and research has shown that visitation is an important strategy for reducing recidivism. Keeping people connected with their loved ones and friends is crucial to help the imprisoned person move forward and to maintain the hope they need to rehabilitate. Sadly, this administration and Mr. Espinda have shown that they does not care about the research and data.

The HCR 85 Correctional Reform Task Force recommendations have been all but completely ignored as the Ige administration moves forward with their goal is to build more cages and private prisons that isolate our incarcerated population and continues the mass incarceration movement. Further confirmation of Mr. Espinda and the "status quo" will do nothing more than show the public their contempt for the community, for the plight of struggling families, and for the research and data that prove that Hawai'i is moving in the wrong direction with its incarceration practices.

Furthermore, the Department of Public Safety is wrought with nepotism and hiring of staff who pledge alliance with the Director and his goals rather than fulfilling the mission of the Department of Public Safety, including "Corrections". Under Mr. Espinda's leadership there has been less transparency, less accountability, a deterioration of mental health services for prisoners, and further elimination of in-person visits.

While these issues did not start with Director Espinda, his lack of understanding of evidence based practices, and lack of commitment to criminal justice reform, means that we can expect more of the status quo in the form of overcrowding, continuing the punishment model of incarceration instead of a rehabilitation focused model, and further lack of leadership at the most critical moments when the safety of prisoners and his staff are at stake.

I urge the committee to oppose the confirmation of Nolan Espinda as the Director of the Department of Public Safety.

Thank you for this opportunity to testify.

Aaron K. Wills

TO: Chair Nishihara, Vice-Chair Wakai, and Members of the Public Safety,
Intergovernmental, & Military Affairs Committee

FROM: Nikos Leverenz

RE: Comments on GM 543

DATE: April 4, 2019 (1:15 PM)

The following short list serves as *prima facie* evidence that a course correction is desperately needed at the Department of Public Safety (DPS): the recent uprising at the Maui jail; two recent killings of unarmed individuals by DPS officers; the high incidence of prisoner suicides prompting legislation to establish a suicide prevention commission; the ongoing failure of DPS to provide meaningful rehabilitative programming and adequate mental health services; discrimination against transgender prisoners and gay corrections officers resulting in court settlements; the inability of children and families to have visits including physical contact with their loved ones behind the walls; and the continued imprisonment of Hawaii residents in substandard, sometimes deadly, for-profit facilities in Arizona.

Whoever serves as the titular head of DPS is likely to be of little practical consequence without a concomitant recognition that the Legislature has also played a key role in systemic dysfunction. DPS does not operate in a vacuum but continued deference and neglect by the Legislature has functionally made it an entity unto itself. As such, the Legislature should engage in more exacting fiscal and administrative oversight over DPS on a year-to-year basis.

If the Legislature is unwilling to fulfill its core obligation as a coordinate branch to monitor and direct the functions of those executive departments that it funds, including DPS, then it should empower an independent Inspector General with subpoena and prosecutorial powers to conduct meaningful oversight on behalf of the public interest.

Hawaii's correctional facilities are overcrowded because the Legislature has failed to pursue meaningful policy reforms despite the evidentiary record before it. The experiences of other states show that substantial reform is indeed possible. This includes those states with higher levels of crime, those states with longer and deeper histories of structural racism, and even those states with conservative Republican majorities.

Every aspect of this state’s criminal justice system—from bail practices to sentencing laws to correctional practices to parole practices to probation practices to reentry practices—should be continually re-evaluated to ensure that this state’s taxpayers are not needlessly funding over-incarceration and excessive periods of criminal justice supervision of low-risk individuals that results in long cycles of re-incarceration.

That almost three-quarters of those in jail are pre-trial detainees or are there for Class C felonies or lower, including technical parole and probation violations, is a clear indicator that over-incarceration and re-incarceration is not mere happenstance.

The continued dehumanization, stigmatization, criminalization, and incarceration of those with behavioral health issues is a shameful human rights atrocity that besmirches the character of this land, its people, and its institutions.

One key policy remedy to advance justice, compassion, health, and human rights in our state: a concerted long-term effort to build the capacity to provide medically-supervised treatment on demand for those who request it outside of a punitive correctional context.

The most important shortfall to be addressed with all due speed is a tangible and publicly articulated political sense that the current situation is no longer tenable by any rational measure and that a new course is indeed possible.

GM-543

Submitted on: 4/3/2019 5:23:45 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Allan Octavio	Individual	Support	No

Comments:

I fully support the continued leadership of Public Safety Director Nolan Espinda. I have been a Correctional Officer since 1997 and have seen first hand, the positive changes that have occurred during his leadership as a Warden and as Director. He truly cares for the men and women who work at the various facilities. He routinely visits the facilities on weekends and holidays and boosts the morale of the officers and staff. He has always been available and approachable unlike others who set up barriers. I have witnessed his interactions with both staff and inmates. He is respected because he is not afraid of inmate contact. He is able to hear directly from those that have legitimate grievances. He may not be popular but he is fair. He is accountable to the people of Hawaii by instituting cost saving measures at the facility level and initiating health incentives for the employees. He has been in the trenches with the staff at both OCCC and Halawa and knows the difficulties and challenges of the job. There is no other person that I know of that has the experience and knowledge of the work we do who will continue to make positive changes and lead us into the future. Thank you for allowing me this opportunity to submit my testimony.

Respectfully Submitted,

Allan Octavio

Adult Corrections Officer IV

GM-543

Submitted on: 4/3/2019 5:28:05 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Coco Iwamoto	Individual	Oppose	No

Comments:

Testimony in STRONG OPPOSITION TO GM543, reconfirmation of Nolan Espinda as Director of DPS

I was surprised to hear Espinda on Hawaii Public Radio recently indicating his support of criminal justice reform. However, he continues to ignore the recommendations of the Task Force discussing Alternatives to Incarceration and looking into best practices.

The following datapoints do not reflect positively on Espinda's tenure:

1. an increase in suicides within our jails and prisons
2. over reliance on SOLITARY CONFINEMENT/ADMINISTRATIVE SEGREGATION in ways that are inconsistent with best practices
3. continued decline of in person visits despite numerous studies that emphasize the importance of visitation
4. less mental health services, education and programming
5. lack of accountability: staff/volunteers/families continue to be afraid to speak out against abuses, and inhumane treatment, including conditions of confinement - and there is a fear of retaliation.

Evidence that Espinda lacks vision, courage and executive skills to lead:

1. he believes that the solution to overcrowding is to build more jails/prison beds
2. he supports partnering with private prison corporations
3. recent deaths at the hands of sheriffs and correctional officers

In closing, the recent uprising at Maui Community Correctional Center, which has been overcrowded for years, could have been avoided. More men and women could have been placed on work furlough, extended furlough, or electronic monitoring furlough rather than being crammed at MCCC. These are tools at the disposal of PSD.

Furthermore, the phones in the pod where the riot started were broken -the men were unable to communicate with loved ones and/or their counsel. Even staff complained about the conditions, yet administration did not nothing to remedy the situation.

Senate confirmation is a tool of accountability that the legislature has to let the Executive branch know that they can do better with the budget allocated and within the scope identified by law. This is one of those instances that we can do better.

Thank you for your consideration,

Kim Coco Iwamoto

BRYAN ANDAYA
1939 Kuapapa Place - Honolulu, Hawaii 96819
Tel. (808) 542-9511
bpandaya@netscape.net

April 4, 2019

Testimony in **Strong Support of GM 543 Nolan Espinda** - PSM 4/3/19 1:15 p.m. Rm 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

My name is Bryan Andaya, President and Chief Operating Officer of L & L Franchise dba L & L Hawaiian Barbecue and L & L Drive-Inn. Please accept this testimony in **strong support of GM543 appointing Nolan Espinda** as Director of the Department of Public Safety.

I have been personal friends with the Espinda family for about eight years. Having gotten to know Nolan and his family, I am confident that he has the values and demeanor necessary to run the Department of Public Safety. Nolan is patient, empathetic, compassionate, and even-handed. These values are necessary not only in leading public safety personnel like the sheriffs and correctional officers, but also the individuals who are in the custody of the department and their families.

From my personal interaction with Nolan and his family, he always considers different viewpoints and gives each viewpoint thoughtful consideration. Slow to anger, Nolan is a thoughtful listener and has the ability to place himself in the shoes of another person to really understand the other person. These qualities are needed in the Department of Public Safety.

Running a large state agency in which controversy and high emotions are inherent, Nolan has not had an easy job; but he's managed to navigate potentially explosive situations. It's easy to second-guess, but the nature of the position requires a steady hand like Nolan. Coupled with his expertise, Nolan's patience, empathy, and compassion will vastly improve the department and the people working to keep our community safe.

Gov. Ige's appointment of Nolan matches perfectly with his passion and uncommon skills. On this basis, I strongly support Nolan Espinda's nomination as Director of the Department of Public Safety.

Very truly yours,

Bryan Andaya



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

April 4, 2019

TO: The Honorable Senator Clarence K. Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

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

SUBJECT: **GM 543 – Submitting for consideration and confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, NOLAN P. ESPINDA, for a term to expire at noon on 12-05-2022.**

Hearing: Thursday, April 4, 2019, 1:15 p.m.
Conference Room 229, State Capitol

POSITION: The Governor's Coordinator on Homelessness strongly supports the confirmation of Nolan P. Espinda as Director of the Department of Public Safety (DPS).

Mr. Espinda has served as the Director of DPS since 2015. I have had the privilege of working closely with Mr. Espinda in this role, as well as his team to address issues related to the issue of homelessness in Hawaii.

In particular, I worked closely with Mr. Espinda and Deputy Director for Law Enforcement Renee Sonobe Hong to develop law enforcement policies and procedures that respect the constitutional rights of individuals experiencing homelessness, while also ensuring that law enforcement officers can address criminal activity such as trespass on government property. In addition, Mr. Espinda and his staff have worked to hard to address barriers, such as the lack of birth certificates and identification documents, that may impede the ability of offenders to access housing and other resources following discharge from jail or prison.

Mr. Espinda is a dedicated public servant and has proven himself to be an effective leader for DPS. I strongly urge his confirmation, and look forward to working closely with Mr. Espinda and his staff moving forward.

Thank for the opportunity to provide testimony.

GM-543

Submitted on: 4/3/2019 6:08:34 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jake	Individual	Oppose	No

Comments:

GM-543

Submitted on: 4/3/2019 6:51:28 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Keith Kamita	Individual	Support	No

Comments:

I strongly support the the continuance of Director Noland Espinda as Director of the Department of Public Safety. Director Espinda has provided the Department of Public Safety (PSD) with much needed stability, continuity and direction it lacked. I have known and worked with Mr. Espinda for over 25 years and have found him to be a capable and strong leader.

I am in STRONG SUPPORT of confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, NOLAN P. ESPINDA.

GM-543

Submitted on: 4/3/2019 7:04:44 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Ray	Individual	Oppose	No

Comments:

I am in strong opposition to the reconfirmation of Nolan Espinda. As Director Nolan Espinda has shown no leadership of the Dept. as has been reported in the media, The Sheriff's Dept. has asked for equipment that has been purchased but never issued to the deputies. Also on Espinda's watch their has been a push too limit the deputies authority. This has cause a negative effect on morale and an increase in the number of deputies transferring out of the dept. Many employees are dissatisfied with Espinda's leadership but are afraid to speak due to possible retaliation. In summary Nolan Espinda is not the right leader for this department.

GM-543

Submitted on: 4/3/2019 7:28:47 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Trisha Kehaulani Watson, JD, PhD	Individual	Support	Yes

Comments:

To the Honorable Committee Members:

My name is Dr. Trisha Kehaulani Watson and I have known Nolan Espinda for approximately 12 years now. I am in strong support of his re-nomination to his position of Director of the Department of Public Safety.

Government administration is challenging, and DPS is a particularly challenging Department to manage and oversee. The Director position is one of high visibility and endless, diverse challenges, both related to public safety and the management of its staff. Mr. Espinda has addressed these challenges effectively.

Mr. Espinda has never been a man of many words, but he is a man of tremendous integrity. I have always found him to be honest and hard-working.

He is truly deserving of this nomination and re-confirmation.

Mahalo,

Trisha Kehaulani Watson, JD, PhD

GM-543

Submitted on: 4/3/2019 7:33:37 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Theodora L. Leatumauga	Individual	Support	No

Comments:

GM-543

Submitted on: 4/3/2019 7:41:07 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Urasaki	Individual	Oppose	No

Comments:

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, INTERGOVERNMENTAL & MILIARY AFFAIRS

Sen. Clarence Nishihara, Chair

Sen. Glenn Wakai, Vice Chair

Thursday, April 4, 2019

1:15 pm

Room 229

OPPOSITION TO GM 543 - NOLAN ESPINDA CONFIRMATION

Aloha Chairs Nishihara and Kim, Vice Chairs Wakai and Kidani 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 the families of **ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as 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 more than 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.

Community Alliance on Prisons has never testified for or against an appointment and I thought long and hard before writing this testimony, however, so many people are dying, so much justice is being denied, and for the good people in the department who are enduring retaliation, I must, in good conscience speak out for those who are unable to speak

"Public safety is not increased by inflicting pain, humiliation, violence and disrespect."

Leann Bertsch

Director of the North Dakota Department of Corrections

In the more than 20 years that Community Alliance on Prisons has worked on justice issues and with the Department of Public Safety, we have never seen the department in such abominable shape. The lack of leadership is staggering. I have known many staff people, both those uniform and non-uniform employees, who are honest, who have taken their jobs seriously, and who work every day to protect the people in their care and custody as well as for the safety of the general public.

A CRISIS OF LEADERSHIP

Community Alliance on Prisons has received many calls from PSD staff asking for our help in the last few years. This never happened before since we work primarily on issues faced by imprisoned

people. We have been told by various employees that when they bring forth issues to be addressed, they are locked out of meetings. When incarcerated persons and/or their families raise issues to the department, retaliation is the response. Retaliation for speaking out is real for both employees and for the incarcerated. In short, there is a total lack of respect for the employees who are not the “Yes” people and for the individuals in the department’s “care and custody.” Innovation is stifled. Director Espinda has systematically shut out those who want to work to make the system more humane for both workers and the incarcerated. Staff have reported cover-ups of deaths in facilities and want to come forward, however, they are afraid because of Director Espinda’s threats and intimidation. *What will it take before the state realizes that Hawai`i’s correctional system is in crisis?*

It was made clear that the Director does not understand his responsibilities when he described his position to the Finance and Ways and Means committees when he was first appointed: “*The Judiciary sends them to us and we lock them up.*” **This is not leadership.**

It is painfully clear that this mantra has filtered down to the staff who apparently do not understand that incarceration IS the punishment. At a meeting of the Reentry Commission, a question was asked about the assessments (RAD) done upon intake for convicted persons. A staff member replied that the RAD was to assess the “*level of punishment*” for a particular individual. There was a deputy director in the room who did not correct this statement. Under the “leadership” of Director Espinda, the department of public safety has turned into the department of punishment and secrecy.

All across the nation and the world, correctional systems are realizing that the old para-military style of corrections is unsustainable, inhumane, and ineffective. When experienced people are brought to Hawai`i to discuss better ways of addressing our correctional challenges, they are routinely ignored. This begs the question: *Why is Hawai`i satisfied to continue on this para-military path that so many jurisdictions are abandoning in favor of more humane rehabilitation?*

The Department of Public Safety needs REAL leadership, which demands collaboration, inspiration, and participation of employees, other agencies, the community, and the people in their care and custody. The Director should be a role model who is respected by his employees.

Instead, the Director is following the Trump playbook and repeatedly characterizing serious events as “Major Mistakes” and claims the work of others such as “national model on restitution” for which the Crime Victims Compensation Commission was recognized.

Leadership demands collaboration; not threats and intimidation. When the staff is disrespected and front-line workers are not consulted, fiefdoms form and the result is that there is no consistency in corrections, law enforcement, and administration. This is where we are now.

How could anyone think that a person with the following CV is qualified? For a cabinet member, one would think that the Governor would want to find a qualified person with demonstrable achievements to direct the department. For a person with 32 years of experience, this CV is appalling.

NOLAN ESPINDA

BORN:	1957, Honolulu, Hawaii
PERSONAL:	Wife (Malia); Daughters - Caitlin (27); Fallon (20); Kamaile (17)
EDUCATION:	Graduate, Iolani School, 1975 Graduate, California State University at Chico B.A. Political Science
WORK HISTORY:	
1983 to 1988	Hawaii Youth Correctional Facility (HYCF) Recreation Specialist
1988 to 1990	Oahu Community Correctional Center Corrections Supervisor I, Unit Manager
1990 to 1993	Waiawa Correctional Facility (WCF) Acting Corrections Manager I (Warden)
1993 to 1999	Oahu Community Correctional Center Acting Corrections Manager II (Warden)

1999 to 2003	Halawa Correctional Facility (HCF) Managing ACO IV (Warden)
2003 to 2004	Department of Public Safety Office of the Institutions Division Administrator
2004 to 2009	Oahu Community Correctional Center (OCCC) Managing ACO IV (Warden)
2009 to 2015	Halawa Correctional Facility (HCF) Managing ACO IV (Warden)
2015 to Present	Director, Department of Public Safety

A FEW OF THE GLARING PROBLEMS IN HAWAII'S DEPARTMENT OF PUBLIC SAFETY

1. OVERDETENTION
2. MCCC RIOT
3. VISITATION
4. INCREASING NUMBER OF SUICIDES IN PRISONS HERE AND ABROAD
5. DENIAL OF CULTURAL PRACTICES (HAWAIIAN AND NATIVE AMERICANS)
6. FAILURE TO IMPLEMENT JUSTICE REINVESTMENT INITIATIVES & REFORM
7. LACK OF ADEQUATE MENTAL HEALTH SERVICES
8. STACKING TASK FORCE GROUPS WITH FORMER PSD EMPLOYEES
9. MURDER AT THE CAPITOL
10. REFUSAL TO ENGAGE THE COMMUNITY AND STAKEHOLDERS

1. OVERDETENTION

How many lawsuits will it take for the state to realize we have a problem? There are several suits going forward right now. This is amazing since the ACLU has sued and won on this issue. The court ordered the state (taxpayers) to pay \$1,000 a day for each person who was over-detained. I received a call from a gentleman who told me that when he was incarcerated, an ACO came to his cell and told him to pack up his property. He thought he was being moved and asked where he was going. The ACO replied that he was supposed to be released one year ago.

An article in the Honolulu Star Advertiser¹ reported:

...“Breiner said the Public Safety Department has tried to keep the persistent problems quiet. “It hasn’t stopped; it is still going on, and that is why it is very hushed up,” he said. “When they discover someone has overstayed, they don’t stop and contact the police department and public defender’s office. They don’t stop and contact the prior attorney’s office. They literally just grab the person and tell them to clean their stuff out and literally give them the bum’s rush and kick them out the door. And that is a consistent pattern with all of our clients on the overstays.”

How much are taxpayers expected to pay to cover incompetence and the “major mistakes” of this department, led by Nolan Espinda?

2. MCCC RIOT

The department has been characterizing the MCCC riot, calling it a “disturbance.” I contacted a person I know on Maui and asked what started the riot, the response I received was:

“Well it started over broken AC, crowding, broken phones and the factyes fact that the Temporary Assigned Chief of Security Captain Jacque Mulleitner told the inmates “Go ahead and do what you gotta do” placing lives in danger!”

Community Alliance on Prisons received this email from Maui:

“My son has been telling for weeks how things are changing and not for the good. I think there is a new warden/director that is making the changes. He believes someone just couldn't take it any more....there are 4 phones on the unit 3 were broken...someone just lost it. Also, one of the changes

¹ Excessive prison time still a mess for inmates, By Sophie Cocke, March 18, 2019.

<https://www.staradvertiser.com/2019/03/18/hawaii-news/excessive-prison-time-still-a-mess-for-inmates/>

is mail once per week or month so connecting with families extremely difficult. They feel helpless no-one listening when formal written complaints filed.”

On Tuesday, April 2, 2019, MCCC staff sent the following letter to media outlets.

For far too long the “Political Establishment” of this State and the “Bureaucratic Leadership” of The Department of Public Safety have reaped the rewards of their positions of power while the men in women in Blue have borne the costs. Their austere “Budget Cuts” and “Lack of Funding” that represent the pinnacle of success for their careers have been the root cause of our career failures.

We the Corrections Officers at (M.C.C.C.) believe that it is the right of this righteous Public of Maui County to know the inconvenient truth about the current state of their Jail, which is the epicenter and beating heart of Law and Order here in Maui County.

The recent sets of critical incidents that occurred at (M.C.C.C.) on 3/11/19 and were falsely touted as “Disturbances” were indeed full-blown riots.

These riots occurred in Modules A, B, C & D which encompass a total of (60) cells and are staffed by a minimum of 3 to a maximum of 7 officers on any given shift. Built over 20 years ago and designed for a maximum holding capacity of (120) inmates, these Modules are sadly the most up-to-date housing units in our Jail. The Modules were originally designed with security flaws, are relatively old, out-dated and poorly maintained. All of these factors render every single security feature and locking mechanism within these Modules utterly obsolete; consequently, every single cell and module door can be manipulated, overridden, bypassed and breached by majority of the inmate population. These are the security conditions in which we operate under and are considered to be “business as usual” or “normal conditions” by our (C.O.S.), Warden and upper echelons of the department. Right before the riots took place there were (214) inmates housed in the Modules, all playing “pretend lockdown”, fully capable of breaching their cell doors at will.

Unsafe operational conditions, inadequate man power, out-dated equipment or lack of proper equipment, a destitute facility in disrepair and decay, incompetent leadership (from the bottom to the top of the Chain of Command) unfit to run the Jail, lack of riot training and constant high in inmate tensions contributed to a toxic environment that boiled over into a full-fledged riot involving (214) inmates.

As riots conditions ensued inmates breached their cell doors, destroyed, damaged and burned everything they could get ahold of. Glass windows, doors, locking mechanisms, thick porcelain sinks and toilets, pipes and fire sprinklers were all destroyed. They lit numerous class A, B, & C fires throughout the Modules burning mattresses, plastic chairs, wooden tables, linens, blankets, sheets, uniforms, toilet paper, trash and cleaning chemicals were all used as fuel. They even attempted to burn officers alive in the Control Boxes forcing them to evacuate. Inmates were assaulting other inmates while toxic smoke and severe flooding were filling the Modules.

We responded by forming riot teams that were ill-equipped or not equipped at all and not a single officer was issued personal protective equipment before entering the Modules. Due to being poorly equip, outnumbered and knowing the seriousness of the battle ahead we were scared for our lives but still performed our job duties to the best of our abilities. We breached the Modules through the Rear Outdoor Rec Yard Doors. We took down unruly inmates, securing and extracting them one at a time. Officers that attempted to carry out and save injured inmates were being assaulted in the process. Through the use of sheer physical force, less than lethal weapons and teamwork we were able to regain control, quell and finally suppress the riots over a period of 8 hours.

The direct aftermath of these riots have resulted in an inhumane, uninhabitable, life threatening environment; but, for the Department of Public Safety and our Supervisors it’s “business as usual”. Inmates are being forced to live in these conditions and we’re being forced to work in these conditions with no protective gear. No abatement processes have been carried out and the

air in the Modules contain life threatening particles due to the burning of hazardous materials and toxic chemicals. To make matters worse the Modules are ventilated by a 20 + year old central air conditioning system that has been completely contaminated and unabated as well.

Since 3/11/19 there have been constant inmate uprisings and rebellions, so much so, that the presence of lethal force has been necessary to maintain control and order. The Modules which are supposed to be the most secured place in Maui is now the most unsecured place on Maui.

The State of Hawaii and The Department of Public Safety are violating human rights and stand guilty in showing contempt for human life. Their failure to fully evacuate, quarantine and abate the Modules in a timely manner just goes to show that this department and the people run it care more about their "BUDGET" than human life.

The inconvenient truth about your Jail is that it's not safe, we're not safe and the Public is not safe.

From the staff at M.C.C.C.

This is the department's response to the MCCC staff letter:

"The comments contained in the provided letter portray trauma that we are all still working through at this time. There absolutely has not been, not will there be, any retaliatory actions heaped on an already embattled group of dedicated employees. These employees continuously work under the most difficult conditions and are commended and not condemned or second-guessed for their continued dedication and professionalism during this period of recovery."

MCCC has been plagued with problems and it is not just about overcrowding. A former Warden went to prison for sexually assaulting an incarcerated female, a former ACO was sentenced to 10 years for sexual assault², Warden James Hirano was escorted off MCCC property on August 3, 2018 and the Daily Memo, dated August 4, 2018 read: **"James Hirano and Christopher Gouveia is not allowed on property until further notice!!!"** Hirano was then immediately "retired" with no explanation. *What will it take before the state realizes that there is no respect for Nolan Espinda's "leadership"?*

3. VISITATION

The Director asserts that he "fixed" visitation. How did he do this? One day visitation was cut off because there were not enough staff and then the Governor said "fix visitation" and boom...it was fixed. HOW? Currently, there are two facilities with no contact visits...Halawa and OCCC. This means that a visitor must call for an appointment and upon arrival is escorted to a kiosk with a video monitor. The incarcerated person is then at a kiosk in his or her module (which could be close by) with a video screen and that is the visit. In the OCCC Environmental Impact Statement, it was revealed that the department planned to discontinue contact visits and only do these video visits.

Research and data show that visits are a strategy to reduce recidivism. Keeping family and friends connected is extremely important to help people focus on moving forward.

"2017 was an important year for the movement to protect in-person visits in correctional facilities. Media outlets, grassroots organizations, and policymakers across the country spoke out and created real change that will positively impact the lives of incarcerated people and their families for years to come. And although there is much work still to be done, it appears that 2018 is already off to a strong start with new legislation introduced in New Jersey and policy changes in California."³

² Ex-guard gets 10-year prison sentence for sexual assault, LILA FUJIMOTO, NOV 15, 2017.

<http://www.mauinews.com/news/local-news/2017/11/ex-guard-gets-10-year-prison-sentence-for-sexual-assault/>

³ Growing momentum in the fight to preserve in-person visits, by Lucius Couloute, March 5, 2018.

<https://www.prisonpolicy.org/blog/2018/03/05/growing-momentum-visitation18/>

So, here's the conundrum. In-person visits have a positive impact on prison safety and are crucial to those behind bars. Furthermore, research says that visitation is one of the most important keys for prisoner re-entry and that it significantly reduces recidivism, i.e., the return rate to prison. Why, then, are we seeing more repressive restrictions, and, importantly, shutting the door to real visits as institutions try to replace them with video visitation?

*Visitation has a significant effect on recidivism. "Any visit reduced the risk of recidivism by 13 percent for felony reconvictions and 25 percent for technical violation revocations, which reflects the fact that visitation generally had a greater impact on revocations. The findings further showed that more frequent and recent visits were associated with a decreased risk of recidivism"*⁴ (p. 27).

*...Consonant with the few extant empirical studies of the topic (e.g., Adams and Fischer 1976; Holt and Miller 1972; Ohlin 1951), any visitation and more frequent visitation were both associated with a lower likelihood of recidivism. Additional, more nuanced analyses conveyed similar findings, such as the notion that visitation over many different months exerts a greater effect than visits over fewer months. Visitation was also associated with delaying the onset, or timing, of recidivism.*⁵

This is the problem: A Director who ignores research and has asserted that he doesn't like data. ***What will it take for the state to realize that this attitude from the "leadership" of Nolan Espinda is a threat to public safety?***

4. SUICIDES

More than two dozen inmates have killed themselves in Hawaii jails and prisons since 2010, according to DPS.⁶

On January 17, 2018, a young woman named Ashley Gray died after being brought to Castle Hospital. Ms. Gray was reported to have committed suicide; however, I saw her 3 days after she arrived at the hospital in semi-conscious condition. She was badly beaten up with a thin bloody line under her chin that went from ear to ear (as if someone came from behind with a thin wire, reported to me as the wire from ear buds), a cut over her left eye, a fat lip, and bruises all over her arms and legs. The ACO who accompanied her told her family she fought the emergency room nurses and that resulted in her bruised condition. This seemed impossible since Ms. Gray was semi-conscious. The family spoke to emergency room personnel who said that Ms. Gray arrived in that condition. Her family is still seeking the return of Ms. Gray's journal and her songbook, where she wrote music, which were handed to the Chief of Security, who has denied receiving them. Ms. Gray was serving time for a technical violation, not a new crime. She had just been released from lock-up (solitary at WCCC) when this happened. This is an example of the cover-ups that are so common in the department.

Many people who allegedly committed suicide were recently released from solitary confinement or administrative segregation. There are lawsuits by families in several of the recent suicides that we

³ The Clampdown on Visiting Loved Ones in Prisons and Jails Isn't Helping Anyone, By Jean Trounstein. April 11, 2018. In-person visits are beneficial to prison safety and recidivism rates and are crucial to those behind bars.

<https://www.alternet.org/human-rights/prison-visitation-clampdown>

⁴ The Effects of Prison Visitation on Offender Recidivism, Minnesota Department of Corrections (St. Paul, MN), 2011. https://mn.gov/doc/assets/11-11MNPPrisonVisitationStudy_tcm1089-272781.pdf

⁵ Inmate Social Ties and the Transition to Society Does Visitation Reduce Recidivism? William D. Bales, Daniel P. Mears - Florida State University

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.865.9780&rep=rep1&type=pdf>

⁶ State to pay \$75K to family in prisoner suicide at Halawa Correctional Facility, By Mark Ladao, March 31, 2019.

<https://www.staradvertiser.com/2019/03/31/hawaii-news/state-to-pay-75k-to-family-in-prisoner-suicide/>

know about. How is this acceptable in the land of aloha? *What will it take before the state realizes that the government is complicit in these tragedies?*

5. DENIAL OF CULTURAL PRACTICES (HAWAIIAN AND NATIVE AMERICAN)

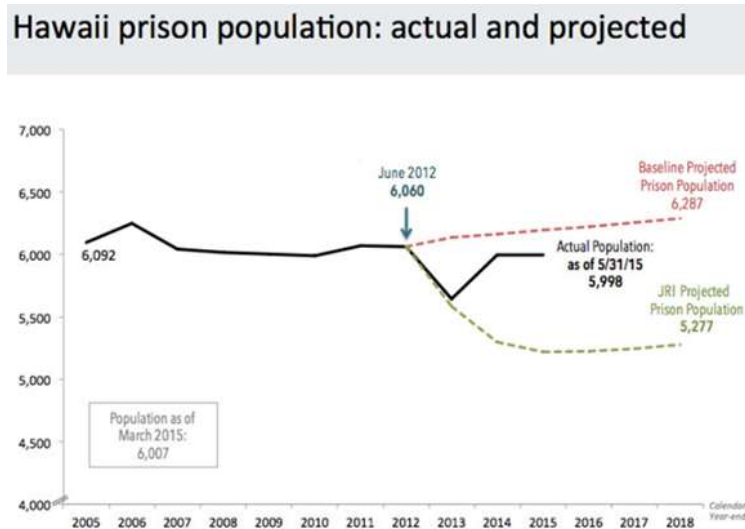
Despite the department’s assertion that Hawaiians account for approximately 40% of the incarcerated population, it is clear that the majority of imprisoned people are Hawaiian. There have been community groups that have gone into certain facilities here and in Arizona to celebrate Makahiki – a time of peace – in Hawaiian culture. Although Christian churches appear to have free access to facilities here and abroad, it has been a struggle for Hawaiian cultural groups to have similar access.

There are also incarcerated people who practice Native American rituals who have been denied their sacred items. *How many lawsuits will it take before the state complies with its constitutional responsibilities?*

6. JUSTICE REINVESTMENT INITIATIVES & REFORM

Hawai‘i won a grant (written by Community Alliance on Prisons) to bring the successful Justice Reinvestment Initiative to Hawai‘i in June 2011. JRI is a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen neighborhoods.

“In June 2012, state leaders in Hawaii enacted legislation to reduce corrections spending and invest in strategies to increase efficiency and decrease recidivism. Using a data-driven “justice reinvestment” approach, the state received intensive technical assistance from the Council of State Governments Justice Center (CSG Justice Center), in partnership with the Pew Center on the States and the U.S. Department of Justice’s Bureau of Justice Assistance. With continued resources and support, Hawaii leaders are now working to implement the legislation.”⁷



An article in Civil Beat⁸ articulates the lack of progress in Hawai‘i. *“In 2012, the state’s Justice Reinvestment Initiative set lofty goals to achieve higher efficiency and a lower inmate population. There’s been practically no progress so far.”*

⁷ Justice Reinvestment in Hawaii: Improving Public Safety by Expanding Treatment Programs and Strengthening Victim Services, Justice Center, Council of State Governments, September 2012.

https://csgjusticecenter.org/wp-content/uploads/2013/04/Hawaii-2-pager_v9.pdf

⁸ What’s Happening to Hawaii’s Push for Criminal Justice Reform? By RUI KANEYA, AUGUST 17, 2015.

<http://www.civilbeat.com/2015/08/whats-happening-to-hawaiis-push-for-criminal-justice-reform/>

In 2015, SR 45 passed requesting the department of public safety to provide an itemized accounting of the **\$1,000,000 that the justice reinvestment initiative set aside in 2012 for community-based programs** and the \$3,400,000 set aside in 2013 for expanding treatment programs and victims' services and initiating plans to establish a research and planning office. The department's accounting of funds submitted to the 2016 Legislature revealed that to date, not one extra treatment slot in the community was funded, despite the \$1 million set aside in 2012 for community-based programs.

HAWAII'S DELEGATION TO NORWAY

In 2015, a delegation from Hawai'i was invited by the Prison Law Office⁹ in Berkeley, CA to go to Norway to understand how they transformed their correctional system. Both Governor Ige and Nolan Espinda declined the invitation. Hawai'i's delegation included Justice Michael Wilson, Bob Merce (VP Native Hawaiian Legal Corporation), Bert Matsuoka (Chair of the Paroling Authority), Rep. Gregg Takayama (Chair of Public Safety Committee), and James Hirano (Warden of MCCC) who toured several prisons and community programs. The delegation from North Dakota included a State Senator, Superintendent of the North Dakota State Hospital, Director of Correctional Practices, Director of North Dakota Dept. of Corrections, and a District Court Judge).¹⁰

North Dakota, however, fully embraced what they learned in Norway and immediately changed the mission of the Dept. of Corrections and vastly reduced the number of people in solitary confinement, that are outlined in this Mother Jones article. *"This is the crux of Norway's approach: Once you accept that these people will one day be your neighbors, you might feel more invested in making sure they have the skills to get by on the outside." ... Now the only way you'll land in the hole is by endangering somebody, Bertsch says. Solitary stints are short, with clear expectations for how to get out, and the emphasis has shifted from punishment to treatment. Long-isolated prisoners are no longer dumped back into the general population – a new behavioral therapy unit gives them time to adjust to being around people."*¹¹

*"Norwegian prisons reject life sentences and solitary confinement in favor of living quarters built on a human scale, behavioral counseling and a focus on successful re-entry into society. The correctional facilities are often derided as being more like country clubs than prisons. But their results back up claims of success. Norway reports two-year recidivism rates as low as 20 percent, compared to rates three times higher in the U.S."*¹²

HCR 85 CORRECTIONAL REFORM TASK FORCE

Upon returning home, Rep. Takayama wrote HCR 85, a resolution creating a task force to explore correctional reform for the 2016 legislature. The other thing done was a series of community television shows highlighting different aspects of reform and the difference in US and Norway corrections. Bob Merce, Vice Chair of the HCR 85 Correctional Reform Task Force wrote the Final report that was submitted to the 2019 Legislature entitled, "Creating Better Outcomes, Safer Communities"¹³. There has been little to no change in the way that Hawai'i's correctional system operates.

⁹ US-European Criminal Justice Program Going Strong

http://prisonlaw.com/wp-content/uploads/2015/08/Final-Innovations-Program-Reporting_-6-23-2016-1.pdf

¹⁰ Norway Prison Tour – Lessons learned on criminal justice reform, The Docket, by Donovan Foughty, District Court Judge, Winter 2016. <http://prisonlaw.com/wp-content/uploads/2015/12/Norway-Article-Docket-Magazine3.pdf>

¹¹ North Dakota's Norway Experiment - Can humane prisons work in America? A red state aims to find out, By DASHKA SLATER, MOTHER JONES - JULY/AUGUST 2017 ISSUE
<http://www.motherjones.com/crime-justice/2017/07/north-dakota-norway-prisons-experiment/>

¹² TENDER JUSTICE 'I'm Somewhere Bettering Myself' Prison Reform Unlike Any Other in America, By David Kidd. August 2018. North Dakota is conducting a prison experiment inspired by Norway, a country with recidivism rates three times lower than in the U.S. <http://www.governing.com/topics/public-justice-safety/gov-north-dakota-prison-criminal-justice-reform.html>

¹³ https://www.courts.state.hi.us/wp-content/uploads/2018/12/HCR-85_task_force_final_report.pdf

7. LACK OF MENTAL HEALTH SERVICES

Hawai`i was under a Memorandum of Agreement with the Department of Justice after investigators from the Civil Rights Division came to Hawai`i and were shocked by the number of mentally ill individuals in Hawai`i's correctional system. Under the thumb of the DOJ, Hawai`i hired Dr. Mark Mitchell to bring Hawai`i into compliance with federal law. After many years of reforming the services to this vulnerable population and bringing Hawai`i into compliance, Dr. Mitchell and his assistant, a psychologist, were fired.

While we have been told that approximately 17% of individuals incarcerated by the state are suffering from Severe and Persistent Mental Illness, there is a huge number of incarcerated persons who suffer from a variety of mental health issues. When I spoke to the Director a few years ago after a committee hearing about our concern for those contending with mental health challenges, he dismissed my concern with this response: "It's drugs."

A new Bureau of Justice Statistics report¹⁴ offers another grim view of mental health problems in America's prisons and jails. Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates 2011-12 is the first government update on the mental health of incarcerated populations since 2006. BJS has made some changes to its data collection, making comparisons to earlier reports difficult, but the takeaway is the same, ten years later: U.S. prisons and jails are filled with people who have a current or past mental health problem, and facilities are still not meeting the demand for treatment.

Half of people incarcerated in prisons and two-thirds of people in jails had either current "serious psychological distress" or a history of mental health problems. Yet only about a third of those reporting serious psychological distress were currently receiving treatment, and only a slightly greater share of people with a history of mental health problems was currently being treated. So while correctional facilities are warehousing people with mental health problems, they lack the capacity to adequately meet the needs of those in their care.

8. STACKING TASK FORCE GROUPS WITH FORMER PSD EMPLOYEES

This has been a way that the department can keep a lid on things. The HCR 85 Correctional Reform Task Force had one community member that was mandated to be chosen by the Director of Public Safety. The member chosen to represent the community on the Task Force was (the now disgraced) Prosecutor Keith Kaneshiro, who showed up for 2 meetings and did not interact with the community at all. Thus, the community had no representation except for 10 minutes at the end of each meeting where we were allowed to speak.

The community representative on the HCR 134 Pretrial Reform Task Force was Milton Katsubo, a former employee of the department. Mr. Katsubo did not inform the community of anything happening at the task force, which were closed meetings. Again, there was no community representation or engagement because the community member was chosen by the Director.

9. MURDER AT THE CAPITOL

The murder at the Capitol¹⁵ in February of a young man with polio, who was small in stature, intoxicated and unarmed was shocking. The news reported: *The man killed was identified as Delmar Espejo. He allegedly put the sheriff deputy in a headlock during an altercation moments after he was asked to*

¹⁴ New government report points to continuing mental health crisis in prisons and jails, by Wendy Sawyer, June 22, 2017. https://www.prisonpolicy.org/blog/2017/06/22/mental_health/

¹⁵ Heartbreak, tears: Family of a man shot at the Capitol raises questions over his death, By Casey Lund, February 23, 2019, Updated February 25. <http://www.hawaiinewsnow.com/2019/02/24/heartbreak-tears-family-man-shot-capitol-raises-questions-over-his-death/>

leave the grounds. That fight led the sheriff to fire his gun. The state said Espejo was loitering with a bottle of alcohol that night. But relatives are casting doubt on what led up to Monday's shooting at the State Capitol.

And then a month later in another article¹⁶, the state admitted:

The state has purchased at least 35 less lethal guns and eight pepperball guns in the last two years. But none of the less lethal options are available for use by deputies on patrol, a Hawaii News Now investigation found. The issue came up after an officer-involved fatal shooting near the Capitol.

10. REFUSAL TO ENGAGE THE COMMUNITY AND STAKEHOLDERS

The shameful "process" of replacing OCCC has totally ignored the community, many of whom have loved ones inside. The department and their consultants held a community meeting at night in a difficult to find room at Aloha Stadium. It was very dark with no signage and several community members left when they could not find the place. The meeting was slated for 2 hours and they limited the time for community members to speak (after their consultants did their dance). After the last person spoke, there was still an hour left and many people wanted to continue their comments. At this point, the Director closed the meeting and no one was allowed to share their additional concerns and comments. His contempt for the community was obvious in this community meeting that was held about the ill-conceived plans for replacing OCCC. This is what the Director calls "community engagement".

According to an article by the Council of State Governments Justice Center, a public safety think tank, public engagement is key in reducing incarceration rates. Residents have to care.

Senators, I implore you to look beyond the budget and see that the community taxpayers are being over-burdened paying for the "major mistakes" of the Department of Public Safety's current Director.

According to Michael Pittaro, Assistant Professor of Criminal Justice, School of Security and Global Studies at American Military University, who presented on this topic at the New Jersey Chapter of the American Correctional Association, there are four 'I's in transformational leadership.¹⁷ These principles can help build a good line staff. They are:

1. Idealized influence;
2. Inspirational motivation;
3. Individualized consideration; and
4. Intellectual stimulation.

We urge the committee and the entire Senate to carefully consider the confirmation of Nolan Espinda. It is obvious that there is widespread dissatisfaction among his staff. As the MCCC staff noted in their letter, "*The State of Hawaii and The Department of Public Safety are violating human rights and stand guilty in showing contempt for human life.*" Community Alliance on Prisons urges you and the Governor to seek competent leadership that is willing to make the reforms necessary to fix our broken correctional system. Mahalo for this opportunity to share our deep concerns.

¹⁶ State admits less-lethal options are on hand, but not for use in field, By Lynn Kawano, March 26, 2019, Updated March 27. <http://www.hawaiinewsnow.com/2019/03/27/public-safety-admits-it-has-dozens-less-lethal-weapons-none-available-deputies-patrol/>

¹⁷ Pittaro M. Transformational Leadership: Improving the Culture of Corrections. Conference presentation, New Jersey Chapter: American Correctional Association, April 2016. <https://www.correctionsone.com/careers/articles/419535187-Why-transformational-leadership-is-the-right-model-for-corrections/>



LIUNA!

**TESTIMONY OF RYAN K. KOBAYASHI
GOVERNMENT AND COMMUNITY RELATIONS DIRECTOR
HAWAII LABORERS UNION LOCAL 368**

**COMMITTEE ON PUBLIC SAFETY INTERGOVERNMENTAL AND MILITARY
AFFAIRS**

PETER A. GANABAN
*Business Manager/
Secretary-Treasurer*

ALFONSO OLIVER
President

JOBY NORTH II
Vice President

TONI FIGUEROA
Recording Secretary

JAMES DRUMGOLD JR.
Executive Board

ORLANDO PAESTE
Executive Board

JOSEPH YAW
Executive Board

MARTIN ARANAYDO
Auditor

RUSSELL NAPIHA'A
Auditor

MARK TRAVALINO
Auditor

ALFRED HUFANA JR.
Sergeant-At-Arms

NOTICE OF HEARING

DATE: Thursday, April 5, 2019
TIME: 1:15 p.m.
PLACE: Room 229

**SUPPORT FOR NOLAN ESPINDA AS NOMINEE FOR DIRECTOR OF PUBLIC
SAFETY**

ALOHA COMMITTEE CHAIR NISHIHARA, VICE-CHAIR WAKAI

My name is Ryan K. Kobayashi, Government and Community Relations Director for the Hawaii Laborers Union, Local 368. The Hawaii Laborers Union is made up of over 5000 working and retired members across the State of Hawaii, and we **SUPPORT** the nomination of **NOLAN ESPINDA** as the **Director of Public Safety** and respectfully request that your committee take favorable action on this nomination.

Respectfully,

Ryan K. Kobayashi

LIUNA Local 368
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Feel the Power



BEFORE THE SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, &
MILITARY AFFAIRS

April 4, 2019

Governor’s Message 543
Relating to the Office of Hawaiian Affairs

Aloha Chair Nishihara, Vice-Chair Wakai, and Members of the Committee,

Ka Lāhui Hawai‘i Political Action Committee (KPAC) submits the following testimony in OPPOSITION of the reappointment of Nolan Espinda as the Chair of the Department of Public Safety.

Kanaka Maoli are over represented in Hawai‘i’s jails and prisons. They make up 40% of the inmate population while only make up only 21% of the general population. The welfare, safety and human rights (including the right to practice indigenous Hawaiian religion) of Kanaka Maoli prisoners are of concern for KPAC.

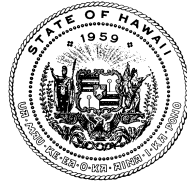
The Hawai‘i’s Department of Public Safety’s archaic approach to “punishment” is long overdue for an overhaul. Between June 2011 and January 2012, at the request of then Governor Abercrombie and Legislative leaders, the Justice Center staff conducted extensive data analyses of Hawaii’s criminal justice system to identify criminal justice population and cost drivers in the state. The Justice Center proposed policy options to the Hawaii State Legislature that was projected to help reduce the state’s inmate population by more than 900 inmates by the end of fiscal year 2016 — and by 1,010 inmates by fiscal year 2018. So far 27 states have worked with the Justice Center to develop state-specific, data-driven policies that save taxpayer dollars, and direct some of those savings to strategies that can decrease crime and strengthen neighborhoods. Yet despite this Hawai‘i has yet to fully implement recommendations from the Justice Center as well as thw Native Hawaiian Task Forces and Pu’uhonua Advisory Groups

Although overcrowding, high recidivism rates, and high rate of suicides in Hawai‘i’s jails and prisons did not start with Mr. Espinda, he has certainly not improved the situation. We need fresh leadership looking at more progressive and humane approaches to dealing with these issues that have forced the intervention of watch dog groups like American Civil Liberties Union and the Native Hawaiian Legal Corp.

Criminal justice reform that can decrease inmate population and save the State of Hawai‘i money needs to be implemented. We can ensure rehabilitative forms of “punishment” while keeping our neighborhoods and communities safe and it needs to start with here with your vote.

Respectfully submitted,

M. Healani Sonoda-Pale
Chair, KPAC



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony in SUPPORT of GM543
Submitting for consideration and confirmation as the Director of the Department of Public Safety, Gubernatorial Nominee, NOLAN P. ESPINDA, for a term to expire at noon on 12-05-2022.

SENATOR CLARENCE K. NISHIHARA, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

Hearing Date: April 4, 2019

Room Number: 229

1 **Fiscal Implications:** N/A.

2 **Department Testimony:** The Department of Health (DOH) supports the nomination of Nolan
3 P. Espinda for Director of the Department of Public Safety (PSD). Mr. Espinda is a trusted
4 partner and collaborator with the DOH on behavioral health and substance abuse issues. PSD is a
5 significant part of the continuum of care as they increasingly deal with clients who have substance
6 abuse and behavioral health needs. It is clear that Mr. Espinda greatly cares for PSD's clients as
7 he does not shy away from making difficult decisions to improve their quality of care.
8 Additionally, he has been a valuable partner to reduce prescription drug abuse, prevent opioid
9 overdoses, and improve law enforcement interaction with citizens with mental health issues
10 through PSD's law enforcement divisions. DOH looks forward to continuing the partnership
11 with Mr. Espinda and PSD to improve health and social justice outcomes.

12 Thank you for the opportunity to testify in support of GM543.

13 **Offered Amendments:** N/A.

14



Aloha Chair Nishihara, members of the Senate Public Safety Committee,

Young Progressives Demanding Action strongly opposes the reconfirmation of Nolan Espida to the position of Director of the Department of Public Safety. We have many concerns about the way in which Director Espinda has handled the DPS, about the apparent priorities of the department under his watch, and about the general approach to criminal justice expressed through his tenure. We believe the State of Hawai'i is in desperate need of new leadership and a new direction within its criminal justice system.

Some serious concerns include:

- The severe overcrowding in Hawai'i's incarceration facilities as a result of decades of bad policy, that has been reinforced and doubled-down on by the department's unwillingness to accept data-driven reform proposals;
- The ACLU of Hawai'i's lawsuit over dangerous and disgraceful conditions in these facilities;
- The loss of life within these facilities, especially through suicide, as a direct result of Director Espinda's budgetary policy choices to try and cut corners and save money by eliminating staff with counseling and mental health expertise, as well as senior staffers, resulting in extremely low department moral;
- Multiple accounts of abhorrent behavior from prison guards, ranging from rape to the smuggling of drugs to inmates;
- A doubling down on Hawai'i's disgraceful policy of predominantly Kanaka Maoli prisoners to a private, for-profit prison in Arizona, and a failure to recognize the exploitative nature of for-profit prisons, which make a mockery of justice;

- The repeated expression of a heavy-handed, punitive mindset and implementation in regards to law enforcement and criminal justice that does not address the many problems with our current system but, rather, reinforces them;
- The extremely poor rates of actual rehabilitation for inmates as a result of this mindset;
- The department's fervent opposition to any form of audit by direction of the legislature, and its general lack of transparency or accountability;
- The handling of riots on Maui, which express many of the problems listed above in one extraordinary event; and
- Reported intimidation of current and former DPS staff members who try to bring these problems to light, or who express disagreement with the direction Mr. Espinda is leading the DPS.

Former President of the United States, Barack Obama, made it a point to warn the American people about the dangers of utilizing private prisons in 2016. Decades of research show that restorative, not punitive, systems of justice are more successful at keeping the community safe, keeping rates of crime and recidivism low, and are more cost-effective. Yet, it seems that the Department, under Mr. Espinda, would rather operate as a good ol' boys club focused on keeping "outsiders" away and acting as a placeholder for certain public employees to collect a paycheck without engaging in any meaningful work in service of the people.

The recent Hawaii News Now story describes the lengths these employees will try to keep status quo.

Hawai'i deserves a Public Safety Department that will make its mission the reform of a broken and out-of-date justice system, and a Director who will work to gain the public trust back and toward real sustainable solutions. We urge this body to therefore vote no on GM543.

Mahalo,

The Social Justice Action Committee
Young Progressives Demanding Action

GM-543

Submitted on: 4/3/2019 8:35:11 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jared Redulla	Individual	Support	Yes

Comments:

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

My name is Jared Redulla and I am the Administrator of the Narcotics Enforcement Division. This afternoon I am on leave and this is my personal testimony. I am writing in support of Nolan Espinda's confirmation as Director of the Department of Public Safety.

Law enforcement is an honorable profession. Recently, some have painted a picture that law enforcement in the Department is irretrievably broken. This afternoon, I say to you that this is wholly untrue. Under Director Espinda and Deputy Director Sonobe Hong, The Department of Public Safety has had a great amount of success in its Law Enforcement Division. Even more importantly, the Department's law enforcement officers continue to serve honorably despite the criticism and trials of the last several weeks. Here are some examples of law enforcement success:

First, to address the issue of opioids in our State, The Department has successfully worked with the Legislature and many stakeholders to create and implement important programs to balance the need for healthcare while ensuring the public's safety. For example, we have increased prescription drug monitoring compliance to 90 percent, while exponentially increasing usage of this important program.

Second, The Department, working with the county police departments, has provided the foundation for the extremely successful law enforcement medication drop box program across the state. To date, the collection of medications by placing drop boxes in community police stations across the State has resulted in hundreds of pounds of unwanted drugs from falling into the wrong hands or contaminating the environment.

Third, under Director Espinda and Deputy Director Sonobe Hong's administration, the Department has seen a marked decline in the number of drug contraband cases in our correctional facilities. This reduction can be attributed to strong policies and greater staff training. Our inmates and our employees are much safer as a result.

Leadership is often a journey of truth. There are many truths that leaders in the Department of Public Safety understand. One truth is that many of us in this room must work in imperfect conditions and with scarcity of resources. By its very nature, law enforcement work is imperfect, dynamic and uncertain.

Another truth is that as Public Safety leaders, we must balance the need to complete our important work with the needs of our valuable employees. Achieving this balance is perhaps the hardest job of all of the leaders in this room.

It is also true, that as Public Safety leaders, we cannot always make the progress we want to make, while simultaneously keeping all of our employees happy.

Nothing has made these truths more evident than the events of the last several weeks.

The large question for the Committee is whether Director Espinda can rise to the challenge of an important idea whose time has come. That idea is Criminal Justice Reform. Based on the successes of the Department, that all of us in this room have achieved together, I know most assuredly that Director Espinda will do what is necessary to achieve the reforms in criminal justice that our community needs.

I know Director Espinda as a man who believes deeply in the important work of our Department and in the commitment of our Department's employees.

I also know Deputy Director Sonobe Hong as a woman of devout principle.

For all of these reasons, I humbly ask the Committee to please support Director Espinda's confirmation.

Thank you for the opportunity to give testimony this afternoon.

GM-543

Submitted on: 4/3/2019 10:17:36 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
edward abadie	Individual	Oppose	No

Comments:

I hearby as a constituent and concern public citizen, oppose the confirmation of the sitting director of Hawaii department of public safety Nolan Espinda for a second appointment (4 years) by governor Ige

How is it possible that a director with so much alleged questionable practices in policies and opposition to his leadership be allowed to continue with the support of the highest elected executive?

How can said elected executive be considered qualified to determined the qualification and ethics of mention appointee, when so much controversy and testimony has been presented and reviewed by other lawmakers as unsatisfactory.

Wouldnt the lack of over oversight into the actions and ethics of Nolan Espinda be cause for concern to anyone who can produce a conscious thought?

The mere fact that this director has his deputy directors creating a website to petition him for reconfirmation is outrageous. The media has covered this upcoming reconfirmation of Espinda with so many individuals afraid to speak out for fear of retaliation.

Please do the right thing and do not reconfirm Espinda. Listen to the workers/individuals that have spoken out about his inefficiency to run the department of public safety.



Aloha Public Safety Committee,

Young Progressives Demanding Action is submitting testimony in **STRONG OPPOSITION** to the reconfirmation of Nolan Espida to the Director of the Department of Public Safety. Due to many drastic and concerning factors we believe the state of Hawai‘i is in desperate need of new leadership and a new direction in this department.

In the past few years there have been some serious concerns such as:

- ACLU’s lawsuit over prison conditions
- The loss of life to include suicides in our prison/jails.
- The numerous stories of bad behavior from prison guards that range from rape to smuggling drugs to inmates
- Sending Hawai‘i’s prisoners to an Arizona state private for-profit prison
- A heavy-handed punitive mindset and implementation in regards to law enforcement and criminal justice.
- Extremely low rates of actual rehabilitation of inmates
- This department’s fervent opposition to being audited by direction of the legislature.
- The recent Maui riots
- Horror stories from former staff members

Former President of the United State Barack Obama made it a point to warn the American people about the dangers of utilizing private prisons in 2016. Yet, it seems that the state of Hawai‘i has yet to get the memo back in Obama’s hometown.

Furthermore, it was just revealed in a Hawaii News Now story the lengths this department is going to try and manipulate the system to keep status quo, subverting the democratic process and using their public positions to see the outcome they believe to be best.

(Story Here: http://www.hawaiinewsnow.com/2019/04/04/last-minute-maneuvering-by-supporters-psd-director-described-intimidating/?fbclid=IwAR3kRXiodaF5IKpAsmMhycBUvEFEDWOhioAMd_gII18NIukG0IKsRxfFS8)

We need the State of Hawai'i Public Safety Department to attain new leadership in order to gain the public trust back and work toward real sustainable solutions. Please we urge this body to vote NO on the GM 543. Mahalo for your time.

GM-543

Submitted on: 4/4/2019 7:30:59 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Evern Williams	Individual	Oppose	No

Comments:

Our family opposes the re-nomination of Nolan Espinda!

My son was in OCCC for 8 months and came out suffering from PTSD because of what he experienced there. On occasion I was not able to see him when guards to fake sick leave for an outside event. Espinda has NOT managed OCCC and has NOT been proactive with implementing critically needed change.

We critically need a new administrator who is not into nepotism. A new and more qualified director will come in with a non-biased approach versus keeping up the administrative and staff network behind the scene that keeps the status quo. This was demonstrated by the much appreciated leak to the news.

Hawaii desperately needs an administrator with the foresight, fortitude and determination to implement justice reform. We have NOT seen this with Nolan Espinda.

Please find a new and better administrator and do not renew Nolan Espinda as Director of Public Safety.

GM-543

Submitted on: 4/4/2019 8:44:42 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Patrick Lee	Individual	Oppose	Yes

Comments:

I oppose the nomination of Nolan Espinda. In his letter to the senate, he said that Shawn Tsuha, Robin Nagamine and I did not do anything to move ahead in the CALEA process. He lied to the senate. I have forwarded emails from 2013 and 2014 that show the progress of the policies we created. As a matter of fact, 4 of the 5 policies that Espinda claims to have created were already drafted in 2013 and sent up to Labor Relations for consultation with the union.

Another policy that came to light recently is the Weapons and Equipment Policy. That policy addressed the Sig Sauer long guns that the Department purchased. This was done BEFORE the purchase. This was drafted in 2014 and sent for consultation. As of this date that policy has not been implemented.

Based on the deception and lies that Espinda has put out, I ask that you NOT confirm Espinda.

Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair
Committee on Public Safety, Intergovernmental, & Military Affairs
Thursday, April 4, 2019 at 1:15 p.m.
Conference Room 229
State Capitol

RE: GM 543 Nominee Nolan Espinda - OPPOSE

Aloha Chair Nishihara, Vice Chair Wakai and Members of the Committee:

I am writing in regard to the Governor's nominee, Nolan Espinda, for consideration as the Director of the Department of Public Safety.

My name is S. Kukunaokalā Yoshimoto, I represented Holomua Pu'uhonua on the HCR85 Criminal Justice Task Force, an co-chair of the Native Hawaiian Subcommittee. I strongly OPPOSE the reappointment of Mr. Espinda for the following reasons:

- During Mr. Espinda's tenure, there has been an increase in suicides within our jails and prisons;
- Mr. Espinda believes that the solution to overcrowding is to build more jails/prison beds in Hawai'i and to partner with private prisons;
- Under his watch, our correctional facilities continue to overly rely upon SOLITARY CONFINEMENT/ADMINISTRATIVE SEGREGATION in ways that are inconsistent with best practices;
- Further elimination of in person visits despite a plethora of studies that emphasize the importance of visitation;
- Nepotism (hiring staff who pledge alliance to the Director rather than fulfilling the mission of the Department);
- Mr. Espinda alleges that he supports criminal justice reform. However, he declined the opportunity to visit Norway to learn about their correctional model based on a philosophy of rehabilitation, and continues to ignore the recommendations of the HCR85 Task Force discussing alternatives to incarceration;
- Lack of transparency and accountability;
- Less mental health services, education and programming;
- Staff/volunteers/families continue to be AFRAID to speak out against abuses, and inhumane treatment and conditions of confinement for fear of retaliation; and
- Recent uprising/riot at Maui Community Correctional Center (this facility has been overcrowded for years. More men and women could have been placed on work furlough, extended furlough, or electronic monitoring furlough rather than being crammed at MCCC. These are tools at the disposal of PSD. Furthermore, the phones in the pod where the riot started were

broken - the men were unable to communicate with loved ones and/or their counsel. Staff complained about the conditions and yet, administration did nothing to remedy the situation.)

TESTIMONY ON GM 543 RELATING TO CONFIRMATION OF DIRECTOR OF
DEPARTMENT OF PUBLIC SAFETY – GUBERNATORIAL APPOINTMENT NOLAN
ESPINDA - BEFORE THE HOUSE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS.

April 4, 2019

1:15 pm

Conference Rm. 229

Aloha Chair Nishihara, Vice-Chair Wakai, and members of the House Committee on Public Safety, Intergovernmental, & Military Affairs. My **name is Stephen Morse. I am the Executive Director of Blueprint for Change (BFC) and am here today to oppose the confirmation of Nolan Espinda as Director of the Department of Public Safety.**

Senators, Hawaii's criminal justice system and in particular, its correctional system are badly in need of sweeping reforms, and we need leadership in key positions to make that happen, not the status quo.

I am opposing Mr. Espinda's nomination for the following reasons:

- he is not the leader we need at Public Safety to help Hawaii make its correctional system a humane and accountable one. He and his administration showed no interest and do not support the important work and recommendations put forth by the Legislative Task Force that has become known as, Task Force 85.
- Under his management, there have been several high profile escapes, including one that led to the death of the inmate, and a recent riot at MCCC.
- Under his management, visitation services remain cold and alienated for children and families.
- He lacks good judgment. Several years ago, it was disclosed that he was intimately involved with a Public Safety staffer that was a subordinate of his. Fraternization like this, while not a crime, can lead to other serious problems within the department, such as staff morale, nepotism, and favoritism.

Mahalo for allowing me to share this testimony with the Committee.

TO: The Senate Committee on

Public Safety, Intergovernmental, and Military Affairs (PGM)

The Honorable Senator Clarence Nishihara, Chair

The Honorable Senator Glenn Wakai, Vice Chair

Committee Members:

Hon. Kurt Fevella

Hon. Sen. Rosalyn Baker

Hon. Sen. Breene Harimoto

From:

Harold (Civil Engineer / CIP Coordinator PSD) and

Joan Alejandro (Public School Teacher, Waipahu Intermediate School)

91-336 Hoowalea Place

Ewa Beach, Hawaii 96706

SUBJECT: GM No. 543 – Relating to the Confirmation of Noland Espinda, Director of The Department of Public Safety (PSD) – IN SUPPORT OF CONFIRMATION

On behalf of me and my wife Joan, it is with deep conviction that we submit OUR SUPPORT of the CONFIRMATION of Noland Espinda, DIRECTOR of The Department of Public Safety.

I, Harold Alejandro, would also like to submit a written testimony conveying my SUPPORT for DIRECTOR ESPINDA. I have served the U.S. Army and U.S. Air Force (22 yrs), worked in Private Practice as a Civil and Environmental Engineer, and have worked as an Engineer / Project Coordinator for the Department of Transportation, City and County of Honolulu, Department of Accounting and General Services, and with the Department of Education, and since 2015 with the Department of Public Safety. It has been my privilege and honor to work under the leadership of Director Espinda, who has OVER 35 years' experience in Corrections and who rose up the ranks from a junior Adult Corrections Officer to now DIRECTOR of Public Safety. I feel Director Espinda is the ONLY QUALIFIED person to lead the Department, at this time, in the Department's History.

Director Espinda is the most qualified DIRECTOR PSD has had in recent years. Under his current term (since 2014), Director Espinda had spearheaded numerous Capital Improvement Projects in excess \$44M to FINALLY start addressing Infrastructure Improvements and Repairs at all PSD Facilities Statewide more so than any other DIRECTOR in PSD. Sadly, Director Espinda had inherited past years of neglected repairs and infrastructure improvements, but instead of complaining about them, he led the charge to address them head on. Under Director Espinda's leadership, some of the CIP projects to his credit includes, fixing our

outdated Security Hardware and Infrastructure Statewide, and addressing some of the Backlogged Deferred Maintenance Projects (from A/C Upgrades and Repairs, Plumbing Repairs, Roof Repairs, Repairs of Security Antiquated Doors and Broken Security Fencing, Fixing of Security Lighting, Renovating Support Facilities and Offices, Providing a new Sally Port at KCCC and HCCC to address intake offenders, addressing ADA Violations, addressing Building Code and Fire Code Violations, fixing Waiawa CF 0.5MG Water Tank and Water Treatment System, just to name a few).

Currently, under Director Espinda, we now have new Housing Projects planned, currently under Design, for WCCC (Womens), HCCC (Hawaii), MCCC (Maui), and KCCC (Kauai) more than any other PREVIOUS Director for PSD. Director Espinda's "Let's DO IT" Attitude led to the largest bid out of PSD CIP Projects in recent years with over 40 projects currently being constructed, under award for design and/or construction, or under the planning stages for Consultant Execution by DAGS. Not to mention, currently under Director Espinda, PSD has both the support of the PUBLIC, Staff, and the Governor to finally move towards the building of a NEW OCC Facility, to which previous Directors were NOT Successful. To complete the myriad of projects, PSD would need Director Espinda's Leadership and continued support. Failure to reinstate Director Espinda would lead to further delays, termination, and possible lost in momentum of what we have gained in the short term he has been PSD's Leader.

I leave you all with a thought....

Sometimes striving to make a Difference is not popular and at times may be inconvenient...you may fail and fall along the way...but the path to making a Difference should Not be hindered, amidst the glitches...

Great Leaders rise to this occasion and persevere.... because from the goal of striving to make a Difference ...The GREATER GOOD WILL PREVAIL. Director Espinda has the right heart and mind to lead the Department of Public Safety....he already started on path to make a difference...we just need to help him see it thru.

IN SUPPORT OF DIRECTOR ESPINDA's REINSTATEMENT.

GM-543

Submitted on: 4/3/2019 10:40:12 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Cates	Individual	Support	No

Comments:

I am in strong support of Director Espinada's nomination. His vision for the women's prison and their prisoners is something that the community of Kailua supports. The women's prison has been a big asset to Kailua under Director Espinda's watch, and we totally support bringing all women detainees and prisoners to one facility in Kailua. Women deserve one facility and fair treatment, just as the Director has envisioned. I don't know anyone in prison, but hearing him speak before the Kailua neighborhood board educated me about housing all women together in one prison or jail for their own safety and better outcome. His compassion for these women is something that cannot be overlooked, and has been long ignored by previous administrations.

Espinda has been a Director with an open mind and good ideas. As a community watch coordinator, cognizant of the revolving door of repeat property crime offenders, I am confident that Espinda can bring a fair balance to our system that will satisfy our community. Bail reform is something that needs to be looked at, and Espinda will be balanced in his assessment.

GM-543

Submitted on: 4/3/2019 11:53:02 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
jw	Individual	Oppose	No

Comments:

Senator Nishihara & Members of the Public Safety Committee:

I oppose the reappointment of Nolan Espinda as the Director of Public Safety. He lacks the expertise and knowledge for a position of this level of importance especially in the area of law enforcement.

This is evident in the example of the directive issued by Director Espinda's subordinate, Sheriff Albert Cummings on August 8, 2017 to "Section Commanders and Sergeants" regarding the handling of drug paraphernalia cases where he directs them to continue arresting for pipes with residue (dirty pipes, drug paraphernalia), charging arrestees with Promoting Dangerous Drugs 3rd a C Class Felony, and prohibited acts related to drug paraphernalia (decriminalized in Act 72 on July 3, 2017). Following this instruction would be contrary to articles of Act 72 which decriminalized this type of nonviolent possession type case. Issuance of a citation would be warranted for a violation of this type. Clearly, this is what Act 72 was intended to promote. Perhaps this is a means to maintain felony drug arrest statistics for whatever reason.

Thanks for your time.

GM-543

Submitted on: 4/4/2019 6:38:34 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Lopez	Individual	Support	No

Comments:

As an occupational therapist, I worked with Nolan in the mid 1990s while he was the administrator at OCCC and Halawa. Nolan was working very hard to accomplish two goals that I was involved with: (1) to improve safety in the facilities for his employees and (2) to reduce sick time caused by workers compensation injuries. My expertise was in re-designing work spaces to decrease job related injuries and in bringing employees back to the job after an injury. Nolan was an effective administrator committed to a long term plan that would resolve substantial deficiencies in his employees' work environment. He made progress in reaching both goals even within the confines of union issues and the work comp law. Over the years, I have watched Nolan maintain this commitment to safety and security. I think that this is relevant today particularly in the context of moving OCCC. Developing a new facility that will provide an environment that is safe and secure for employees and inmates alike will be crucial to the success of new facility. Through his years as director, I believe that Nolan has and continues to demonstrate a commitment to his workforce and inmates. Confirming Nolan will allow the seamless continuation of the work he has been and continues to be devoted to and the important and difficult work ahead. Thank you for the opportunity to testify.

GM-543

Submitted on: 4/4/2019 7:07:17 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carolyn Weygan-Hildebrand	Individual	Oppose	Yes

Comments:

Greetings!

The Department of Public Safety needs a lot of help to address its many issues. There is no question about that. Governor Ige and the rest of the State cannot approach this with complacency and think that status quo will do. The State needs a change-driven Director who will charge ahead and lead in making the prison system a rehabilitation and reintegration-oriented one. Turning around a prison system is where we need to be at this juncture not status quo. This is what needs to be done especially when the public has been hearing about a new prison facility that has a staggering cost.

Thank you.

GM-543

Submitted on: 4/4/2019 7:12:05 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Hartsock	Individual	Support	No

Comments:

GM-543

Submitted on: 4/4/2019 7:34:59 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jo-Anne Aiwohi	Individual	Support	No

Comments:

I am in support of Nolan Espinda as Director of Public Safety. Nolan has the experience that is needed to run a tough department. Public Safety is differ from other departments where funds are not generated therefore always being short of funds has made his job very challenging. Under the circumstances he did the best he could with what was given to him to work with.

Given the appropriate funding and getting the right staff and leaders,I believe Nolan could make good improvements for Public Safety. He is the only qualified local individual for this position as I worked for PSD for almost 25 years and seen directors come and go.

Mahalo for you considering his Directorship.

GM-543

Submitted on: 4/4/2019 8:28:26 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Anita Trubitt	Individual	Oppose	No

Comments:

TESTIMONY OF ROBERT TOYOFUKU IN SUPPORT OF THE NOMINATION OF
NOLAN ESPINDA AS DIRECTOR OF THE DEPARTMENT OF PUBLIC
SAFETY

April 4, 2019

To: Chairman Clarence Nishihara and Members of the Senate Committee on Public Safety.
Intergovernmental and Military Affairs:

My name is Bob Toyofuku and I am an attorney concentrating in government affairs consulting in Hawaii. I am testifying in support of Nolan Espinda for another term as the Director of the Department of Public Safety.

I have had the opportunity to work on several matters for two clients with Director Espinda and found him to be fair and willing to listen to the suggestions that my clients presented to improve the operation of the prison system. I was able to secure a meeting with the Director and one of his staff to discuss the possible suggestions in short order. He was patient and listened with interest, asked questions and took it under consideration awaiting any specific proposal. I felt that he conducted himself in a professional manner at these meetings.

My other interaction with the Director was when I was a member of the task force for the Penal Code Reform where he was also on the task force.

Thank you for the opportunity to submit this testimony in support of Director Espinda for another term.

GM-543

Submitted on: 4/4/2019 9:58:37 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

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

Comments:

GM-543

Submitted on: 4/4/2019 10:01:27 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jim Albertini	Testifying for Malu 'Aina	Oppose	No

Comments:

The situation in our jails and prisons is a crisis as shown by the Maui riots. We need a fresh approach and new leadership emphasizing Pu'uhonua and healing rather than punishment. More public or private prisons is not the answer. We need positive, constructive alternatives to prisons --look to the source in Hawai - -PU'UHONUA!

Mahalo. Jim Albertini



POLICE DEPARTMENT COUNTY OF KAUAI



DEREK S. K. KAWAKAMI
Mayor

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MICHAEL M. CONTRADES
Acting Chief of Police
mcontrades@kauai.gov

Testimony of Michael M. Contrades 
Acting Chief of Police, Kauai Police Department

Before the
Senate Committee on Public Safety
April 4, 2019; 1:15 pm

In consideration of
GM543 Nolan P. Espinda Gubernatorial Nominee for the
Director of the Department of Public Safety

Honorable Chair Clarence K. Nishihara, Vice Chair Glenn Wakai, and Members of the
Committee:

The Kaua'i Police Department **supports** the appointment of Gubernatorial Nominee
Nolan P. Espinda as the Director of Public Safety.

It is through his leadership and that of the Deputy Director Renee Sonobe-Hong and
Sheriff Al Cummings that a collaborative relationship exists between our department
and State law enforcement agencies.

For the reasons above, we humbly ask this committee to support GM 543, the
confirmation of Nolan P. Espinda as the Director of the Department of Public Safety.

Thank you for the opportunity to testify.



GM-543

Submitted on: 4/4/2019 10:57:41 AM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Bergquist	Individual	Comments	No

Comments:

Dear Char Nishihara, Vice Chair Wakai, Committee Members:

Hawai'i is in need of a course correction for its criminal justice system. The findings of the HCR85 and HCR134 Task Forces highlight this in no uncertain terms. New leadership can help ensure that these recommendations are implemented forthwith.

Mahalo for considering these comments.

GM-543

Submitted on: 4/4/2019 1:03:05 PM

Testimony for PSM on 4/4/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Daido	Individual	Support	No

Comments:

Chair Nishihara, Vice Chair Wakai and Members of the Senate Committee on Public Safety, Intergovernmental, and Military Affairs.

I am Eric Daido, retired State of Hawaii employee. Thank you for the opportunity to submit testimony in strong support of gubernatorial nominee Nolan Espinda as the Director of Public Safety Department (PSD).

Mr. Espinda brings 35+ years of experience in public safety, and management in the public sector. He is an exemplary nominee who is managing all aspects of law enforcement and corrections operations statewide and who is worthy of your support.

Mr. Espinda extensive background and qualifications are well-suited to meet many of the challenges that PSD will face now and in the future. He has a solid understanding of how PSD fits into the overall State functions.

In the past I have worked with Mr. Espinda on numerous projects and was always impressed with his intelligence, keen insights, and confident manner that always brought out the best in people from diverse backgrounds, interests and motivations. I am confident that he will continue to contribute tremendously to PSD success in fulfilling its mission.

I strongly believe that PSD under Mr. Espinda leadership is more efficient and effective than ever before.

I urge your committee to recommend the Senate confirmation of Mr. Nolan Espinda as the Director of PSD.

Thank you again for the opportunity to support Mr. Nolan Espinda.

Sincerely,

// Signed//

Eric R. Daido

April 04, 2019



BEFORE THE SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, &
MILITARY AFFAIRS

April 4, 2019

Governor’s Message 543
Relating to the Office of Hawaiian Affairs

Aloha Chair Nishihara, Vice-Chair Wakai, and Members of the Committee,

Ka Lāhui Hawai‘i Political Action Committee (KPAC) submits the following testimony in OPPOSITION of the reappointment of Nolan Espinda as the Chair of the Department of Public Safety.

Kanaka Maoli are over represented in Hawai‘i’s jails and prisons. They make up 40% of the inmate population while only make up only 21% of the general population. The welfare, safety and human rights (including the right to practice indigenous Hawaiian religion) of Kanaka Maoli prisoners are of concern for KPAC.

The Hawai‘i’s Department of Public Safety’s archaic approach to “punishment” is long overdue for an overhaul. Between June 2011 and January 2012, at the request of then Governor Abercrombie and Legislative leaders, the Justice Center staff conducted extensive data analyses of Hawaii’s criminal justice system to identify criminal justice population and cost drivers in the state. The Justice Center proposed policy options to the Hawaii State Legislature that was projected to help reduce the state’s inmate population by more than 900 inmates by the end of fiscal year 2016 — and by 1,010 inmates by fiscal year 2018. So far 27 states have worked with the Justice Center to develop state-specific, data-driven policies that save taxpayer dollars, and direct some of those savings to strategies that can decrease crime and strengthen neighborhoods. Yet despite this Hawai‘i has yet to fully implement recommendations from the Justice Center as well as thw Native Hawaiian Task Forces and Pu’uhonua Advisory Groups

Although overcrowding, high recidivism rates, and high rate of suicides in Hawai‘i’s jails and prisons did not start with Mr. Espinda, he has certainly not improved the situation. We need fresh leadership looking at more progressive and humane approaches to dealing with these issues that have forced the intervention of watch dog groups like American Civil Liberties Union and the Native Hawaiian Legal Corp.

Criminal justice reform that can decrease inmate population and save the State of Hawai‘i money needs to be implemented. We can ensure rehabilitative forms of “punishment” while keeping our neighborhoods and communities safe and it needs to start with here with your vote.

Respectfully submitted,

M. Healani Sonoda-Pale
Chair, KPAC

From: [wallace kohashikawa](#)
To: [PSMTestimony](#)
Cc: [wallace kohashikawa](#)
Subject: Testimony Against Nolan Espinda's nomination
Date: Wednesday, April 3, 2019 1:43:48 PM

This testimony is against the re-appointment of Nolan Espinda for Head of the Department of Public Safety.

Recently the Department has been in the news because of rioting and shootings but my testimony is more personal.

Someone dear to me who works at the department is being deliberately punished and retaliated against by the management.

This kind of cruel treatment should not be occurring within any State department and to me is criminal.

A graduate of UH with honors this person is a hard worker who has high ethical standards.

Which would suggest

that these standards of ethics go against the "way things are done" in the department. This person has gone her bosses head to seek relief but they all seem to "be in cahoots".

I have found out that the committee can do little to change things or to even help this person directly.

The only power they have is to deny the reappointment of Mr. Espinda to be the head of the department.

That, in turn, can change the conditions and policies within the department and help this person also.

So I ask that Mr. Nolan Espinda's nomination is rejected as the ultimate responsibility of what goes on within the department ultimately lies with him.

Wallace Kohashikawa
1070 Ala Napunani St. #408
Honolulu, Hi 96818
Ph. 834-3456

From: [raebudden](#)
To: [PSMTestimony](#)
Subject: Testimony in Opposition to Nolan Espinda as Nominee for Director Of Department Of Public Safety
Date: Wednesday, April 3, 2019 8:45:17 PM

To:

Senator Clarence K. Nishihara, Chair
Committee On Public Safety, Intergovernmental, and Military Affairs

Senator Glenn Wakai, Vice Chair
Committee On Public Safety, Intergovernmental, and Military Affairs

And Members of the Committee On Public Safety, Intergovernmental, and Military Affairs

Re: GM 543

I am submitting testimony in OPPOSITION to the nomination of NOLAN P. ESPINDA as the Director of the Department of Public Safety.

This legislature's HCR 85 Task Force has made it clear that Hawai'i's correctional system is broken.

Suicides and attempted suicides within the system have increased and caused this Committee to hold a 2018 Informational Briefing with the Department Of Public Safety.

Mental health services have declined in our jail's and prisons. This happening despite past intervention by the Department of Justice to bring our jail's mental health care services up to federal standards.

These are just a few examples.

We cannot keep moving forward with the status quo! Please do not confirm the nomination of Nolan Espinda as the Director of the Department of Public Safety.

Mahalo-

Raelyn Reyno Yeomans

Sent from my iPad

TESTIMONY ON
CONSIDERATION AND CONFIRMATION OF NOLAN P. ESPINDA
AS DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY

By
Deborah M. Taylor

Senate Committee on Public Safety, Intergovernmental and Military Affairs
Senator Clarence Nishihara, Chair
Senator Glenn Wakai, Vice Chair

April 4, 2019 at 1:15pm
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

I am in strong support of the Governor's nomination of Mr. Nolan P. Espinda as the Director of the Department of Public Safety (PSD).

My name is Deborah Taylor; I am employed as the Acting Warden at Maui Community Correctional Center with PSD. I have a total of 22 years of state service and have been with PSD since June 1997.

As a retired military veteran, fitting in with an organization whose ideology was Para-military coupled with the goal of rehabilitation was and is the place to be. Through my years with PSD some standards have blurred as we struggle through different styles of leadership. As our department heads towards the future we require a strong and steady leader with the knowledge and understanding of what goes on in the trenches, one that garners the respect of his peers and one who is willing to get us to the level of excellence.

Mr. Espinda has shared guiding principles of manning our facility to assist in the reduction of overtime. For example, staff requesting unscheduled vacation leave which would leave a shift short staffed and requiring overtime. By allowing staff to change shift with another staff member for their shift reduces the need to hire overtime, creating a win-win solution.

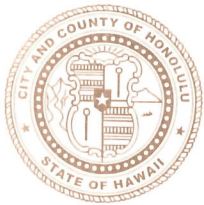
Where guidelines have blurred and ever changing with regard to family leave, Mr. Espinda's voice when addressing the family leave dilemma created guidelines for us to follow and track with greater accuracy. This has been instrumental for our facilities that may have experienced fraud, waste, and abuse.

Mr. Espinda's time as Director has successfully been able usher new housing facilities for the Maui Community Correctional Center, which no other Director in a span of 22 years has ever accomplished. Mr. Espinda has ushered in new firearms and

training, delivered new staff uniforms that they are proud to wear. He has delivered regular visits to our communities, so families can bond.

With the recent events at the Maui Community Correctional Center, some may say to little to late. I say everyone is culpable, including the Legislature and the Judiciary. This confirmation hearing leads me to believe that Governor Ige continues to understand the huge contributions that Mr. Espinda has made to the Department of Public Safety. Hands Down! Slow, but accurate, steady change. Why should we go back now?

Thank you for allowing me the opportunity to provide written testimony. I urge that your Committee confirm the appointment of Mr. Nolan P. Espinda as the Director of the Department of Public Safety.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 202
HONOLULU, HAWAII 96813-3065
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

IKAIKA ANDERSON

Councilmember, District 3

Email: ianderson@honolulu.gov

Phone: 808-768-5003

Fax: 808-768-1235

April 3, 2019

Sen. Clarence K. Nishihara,
Chair, Committee on Public Safety, Intergovernmental and Military Affairs
State Capitol Room 214
Honolulu, HI 96813

Aloha Chair Nishihara and Members of the Committee:

I am submitting testimony **in strong support of G.M. 543 for the Senate confirmation of Nolan Espinda as the Director of the Hawaii State Department of Public Safety (PSD).**

Like many others, I watched as PSD underwent seemingly-constant shuffles in executive management all while numerous media stories emerged shedding light on mismanagement that resulted in a system where overtime became the norm, rather than the exception. Since the appointment of Director Espinda I have both read and heard about the dramatic improvements within PSD that are directly attributable to his commitment to, leadership of, and passion for the Department.

There is no question that one of the most difficult of government functions is that of public safety, particularly when this involves the management and oversight of corrections facilities, their staff and incarcerated individuals. In effect: management is responsible for an entire community, not just one aspect. Director Espinda has dedicated his career to public service, and I respectfully ask that you please allow this dedicated fellow public servant to continue serving the people of Hawaii by strengthening and building upon his many accomplishments.

Thank you for this opportunity to provide testimony in strong support of Director Nolan Espinda.

Malama pono,

A handwritten signature in black ink, appearing to read "Ikaika Anderson", is written over the printed name.

Ikaika Anderson

Councilmember, District 3 (Windward O'ahu)

From: evernw@aol.com
Sent: Wednesday, April 3, 2019 11:04 PM
To: Sen. Clarence Nishihara; Sen. Glenn Wakai; Sen. Glenn Wakai; Sen. Roz Baker; Sen. Breene Harimoto; Sen. Kurt Fevella
Cc: Sen. Les Ihara, Jr.
Subject: OPPOSE Nolan Espinda's appointment

Aloha Chair Nishihara, Vice Chair Wakai and Members of the Committee:

As a parent of a formerly incarcerated son, I deeply OPPOSE Nolan Espinda's appointment as Director of Department of Public Safety.

My son suffered greatly during his time there and is currently under psychiatric and PTSD care because of his experience. Mr Espinda has been ineffective and unwilling to act deliberately on what needs to be changed.

Under Mr. Espinda's watch,

- There is a huge and continued lack of transparency and accountability
- Suicides have increased
- Our correctional facilities continue to overly rely upon SOLITARY CONFINEMENT/ADMINISTRATIVE SEGREGATION in ways that are inconsistent with best practices.
- Further elimination of in person visits despite a plethora of studies that emphasize the importance of visitation
- Nepotism (hiring staff who pledge alliance to the Director rather than fulfilling the mission of the Department)
- Less mental health services, education and programming
- = Staff/volunteers/families continue to be AFRAID to speak out against abuses, and inhumane treatment and conditions of confinement for fear of retaliation.

Mr Espinda believes that the solution to overcrowding is to build more prison beds and encourage private prisons.

Hoerbrt, our family believes that

- bail and justice reform will go a long way toward reducing the prison population.
- more mental and social help is needed to be more effective
- we should not be relying on private/corporate interests because they are in the business and making sure we have more prisoners to add to their bottom line.

Please OPPOSE NOLAN ESPINDA's renewal and look for another, more effective candidate without the current baggage.

Mahalo for looking for someone else,

Evern

From: Erich Mitamura <erichm96817@yahoo.com>
Sent: Thursday, April 4, 2019 12:00 AM
To: Sen. Clarence Nishihara
Subject: Nolan Espinda Confirmation

I oppose Nolan Espinda's confirmation. I have been a Deputy Sheriff for 7 years with the Department of Public Safety. I have worked at the State Capitol and have witnessed firsthand Ogata, Cummings, and Sonobe Hong lack of leadership. Sheriff Division newest first deputy has never attended an academy, has limited job knowledge and shows particular favoritism to certain deputies. This has caused the capitol section to have low morale, rampant OT, and lack of leadership. Despite all of this, he was chosen by Espinda and Sonobe Hong as First Deputy. We have equipment and weapons out of policy. Currently, the capitol has a large peppy spray can labeled "deep freeze", three Benelli shotguns we can't use because we no longer qualify with them and a rusted 870 shotgun. Those are just several examples of the lack of leadership and resources under the leadership of Espinda, Sonobe Hong, Cummings, and Ogata.

Thank you,
Erich Mitamura

TO: Chair Nishihara, Vice-Chair Wakai, and Members of the Public Safety,
Intergovernmental, & Military Affairs Committee

FROM: Nikos Leverenz

RE: Comments on GM 543

DATE: April 4, 2019 (1:15 PM)

The following short list serves as *prima facie* evidence that a course correction is desperately needed at the Department of Public Safety (DPS): the recent uprising at the Maui jail; two recent killings of unarmed individuals by DPS officers; the high incidence of prisoner suicides prompting legislation to establish a suicide prevention commission; the ongoing failure of DPS to provide meaningful rehabilitative programming and adequate mental health services; discrimination against transgender prisoners and gay corrections officers resulting in court settlements; the inability of children and families to have visits including physical contact with their loved ones behind the walls; and the continued imprisonment of Hawaii residents in substandard, sometimes deadly, for-profit facilities in Arizona.

Whoever serves as the titular head of DPS is likely to be of little practical consequence without a concomitant recognition that the Legislature has also played a key role in systemic dysfunction. DPS does not operate in a vacuum but continued deference and neglect by the Legislature has functionally made it an entity unto itself. As such, the Legislature should engage in more exacting fiscal and administrative oversight over DPS on a year-to-year basis.

If the Legislature is unwilling to fulfill its core obligation as a coordinate branch to monitor and direct the functions of those executive departments that it funds, including DPS, then it should empower an independent Inspector General with subpoena and prosecutorial powers to conduct meaningful oversight on behalf of the public interest.

Hawaii's correctional facilities are overcrowded because the Legislature has failed to pursue meaningful policy reforms despite the evidentiary record before it. The experiences of other states show that substantial reform is indeed possible. This includes those states with higher levels of crime, those states with longer and deeper histories of structural racism, and even those states with conservative Republican majorities.

Every aspect of this state's criminal justice system—from bail practices to sentencing laws to correctional practices to parole practices to probation practices to reentry practices—should be continually re-evaluated to ensure that this state's taxpayers are not needlessly funding over-incarceration and excessive periods of criminal justice supervision of low-risk individuals that results in long cycles of re-incarceration.

That almost three-quarters of those in jail are pre-trial detainees or are there for Class C felonies or lower, including technical parole and probation violations, is a clear indicator that over-incarceration and re-incarceration is not mere happenstance.

The continued dehumanization, stigmatization, criminalization, and incarceration of those with behavioral health issues is a shameful human rights atrocity that besmirches the character of this land, its people, and its institutions.

One key policy remedy to advance justice, compassion, health, and human rights in our state: a concerted long-term effort to build the capacity to provide medically-supervised treatment on demand for those who request it outside of a punitive correctional context.

The most important shortfall to be addressed with all due speed is a tangible and publicly articulated political sense that the current situation is no longer tenable by any rational measure and that a new course is indeed possible.

From: Alan Urasaki <aurasaki@hawaiiintel.net>
Sent: Wednesday, April 3, 2019 8:13 PM
To: Sen. Clarence Nishihara
Subject: PSD Director confirmation

Senator Nishihara,

I am reaching out to you as a constituent in Pearl City and as the PSM Chair to share my views on the PSD Director.

I am strongly opposed to his confirmation as his leadership at PSD, especially with the Sheriff Division, has been greatly lacking these many years. I applaud you for taking into consideration all sides of this issue. I have seen first hand the damage to morale and working conditions of our deputy sheriffs under this administration, which includes the Deputy Director of Law Enforcement, and Sheriff. It is time for new leadership in PSD.

Thank you for your time.

Alan Urasaki

Sent from [Mail](#) for Windows 10

NOMINEE NOLAN ESPINDA
Senate Hearing

REAL JUSTICE ENDORSEMENT

A person who has been on the frontline of the movement for criminal justice reform and building safer communities!

Dear Chair Nishihara, Vice Chair Wakai and Members of the Committee:

My name is Carrie Ann Shirota and I am testifying as a citizen and as a member of Hawai'i Justice Coalition. As background, I have a law degree and have experience as a Public Defender, Enforcement Attorney with the Hawai'i Civil Rights Commission, Director of Maui Economic Opportunity's BEST Reintegration Program, Soros Justice Fellows, UHMC Lecturer and Group Facilitator for Parents and Children Together. On a more personal note, I have family and friends who work within law enforcement and corrections, as well as loved ones who have been incarcerated.

As Senators, you have the duty under our Hawaii Constitution to vet the Governor's nominees for each principal Department, with the advice and consent of the Senate. I trust that you will take into consideration the minimum and desirable qualifications necessary, and testimony from our community to chart a new course for the Department of Public Safety, and the people of Hawai'i.

Being the Director of this Department poses many challenges - challenges that precede Mr. Espinda's tenure. Yet, we are at a CROSSROADS....

However, because our jails and prisons are CLOSED INSTITUTIONS, we continue with the status quo and further deteriorating unconstitutional conditions of confinement and lack of dignity.

3. PROBLEMS - UNCONSTITUTIONAL CONDITIONS OF CONFINEMENT, and LACK OF DIGNITY & HUMANITY

A. MCCC RIOT - phone calls, contrast with CT

B. VISITATION - videoconference v. in person

C. Programming - education, GED, vocational, higher education

D. Mental health/substance abuse

E. Reentry

**F. PREA - VIOLATIONS (suicide death settlement \$75K;
ME TOO MOVEMENT - USE YOUR SUBPOENA POWERS TO
INVESTIGATE AND COMPEL TESTIMONY UNDER OATH**

G. KANAKA MAOLI

achieve successful outcomes that will benefit and uplift our entire community.

New Jersey

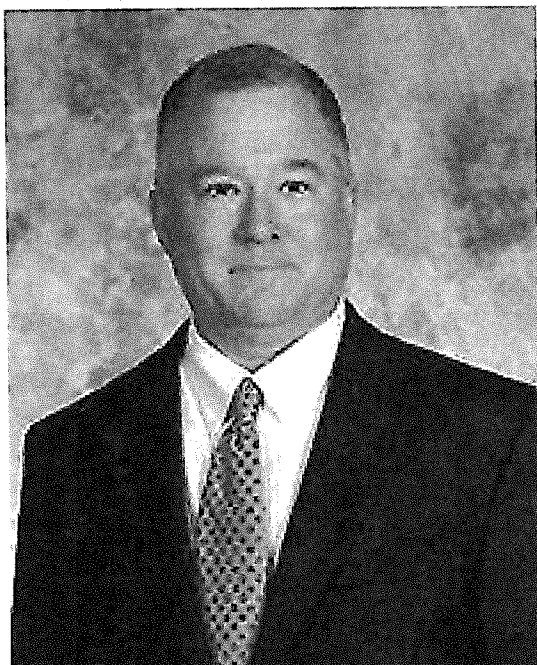
training, as well as the Department's fleet of vehicles. Hicks was also Director of Programs and Community Services, where he had oversight of \$64.5 million in the procurement and contracting process of reentry services to approximately 2,800 inmates at 18 Residential Community Release Programs across New Jersey. Additionally, he directed the Office of County Services, which is responsible for conducting annual inspections of the 22 county correctional facilities and 376 municipal detention facilities located throughout the state. Hicks also served as Assistant Division Director of the Office of Transitional Services, the office responsible for providing comprehensive reentry services to inmates upon entry to prison until their reintegration back into the community.

Hicks has dedicated much of his professional career to serving the State of New Jersey. Prior joining the NJDOC, Hicks served as Policy Advisor to former New Jersey Governor Jon S. Corzine as well as Policy Counsel to former New Jersey Governor Richard J. Codey. Hicks also completed a judicial clerkship for the Honorable Joseph Isabella of Essex County.

Hicks is a graduate of the College of William and Mary in Williamsburg, Virginia and received his Juris Doctor degree from Seton Hall University School of Law in Newark, New Jersey.

Texas

**Texas Department of Criminal Justice
Executive Director**



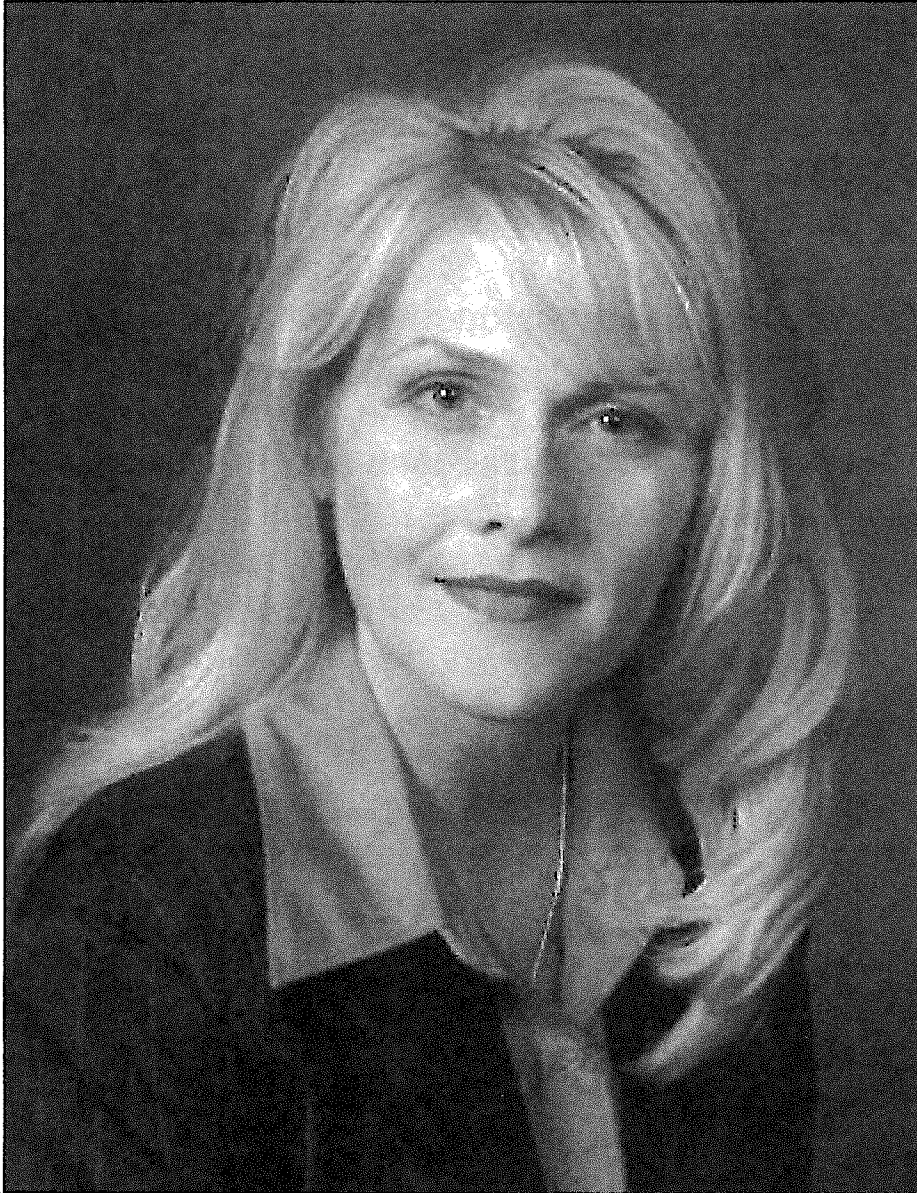
**Bryan Collier
Executive Director**

Bryan Collier was appointed Executive Director by the Texas Board of Criminal Justice and assumed the role August 1, 2016. “Bryan is a proven leader who stands ready to continue to fulfill the department’s mission and commitment to public safety,” said Texas Board of Criminal Justice Chairman Dale Wainwright. “He brings a wealth of knowledge and experience having served more than 31 years in various positions within the department. I’m confident he’ll serve TDCJ and the state of Texas well in this new role.”

Collier, 51, joined the TDCJ in 1985 as a clerk. He has held a wide variety of positions to include Correctional Officer, Parole Officer, Unit Supervisor, Program Administrator, and Parole

NORTH DAKOTA

Leann Bertsch



Director

Department of Corrections and Rehabilitation

Leann Bertsch was appointed Director of the North Dakota Department of Corrections and Rehabilitation by Governor Doug Burgum in December 2016. Bertsch has served as the department's director since July 2005. She served as

Cynthia Brann - Commissioner



Cynthia Brann was named Commissioner in October, 2017. She has 35 years of corrections and public safety experience. Commissioner Brann comes to DOC with four years of executive level responsibility as the Deputy Commissioner providing strategic planning, leading cultural and organizational change, implementing evidence based practices as well as integrating the work of the facilities and community divisions. Her accomplishments include effective restructuring of adult probation services resulting in operational efficiencies, the reduction of caseloads and increased positive offender outcomes; reform of the juvenile detention decision processes and risk assessment tools resulting in statewide reduction in secure detention admissions without increased public safety risk and successfully embedding evidence-based policies and practices within the adult and juvenile divisions. From 2001 to 2011, Ms. Brann was a Regional Correctional Administrator overseeing all operations within a nine county division. From 1996 to 2001, she served as a Regional Resource Coordinator managing all offender program contracts and fiscal operations within a four

With the pick Wednesday of Rollin Cook of Utah as Connecticut's next correction commissioner, Gov.-elect Ned Lamont won what criminal-justice officials say was a national recruiting battle for an up-from-the-ranks prisons official with a reputation as a reformer and innovative leader.

Scott Semple, who is retiring as commissioner, said the Lamont administration has landed a corrections leader in great demand as incoming administrations in several states conduct national searches for executives with the skills to lead prison systems in a transformational era for penology and criminal justice.

"In my view, Connecticut arguably is getting the best available commissioner that was out there," said Semple, who has led a campaign in Connecticut to shift the mission of its prisons from punishment to rehabilitation. "I don't think we could have done any better."

Ryan Drajewicz, the governor-elect's transition director and chief of staff, said the administration quickly moved to hire Cook after a national search identified him as a leader willing and able to build on the changes brought by Semple with the support of Gov.

Dannel P. Malloy.

Cook's familiarity with Semple's approach helped Lamont sell Cook on Connecticut in a series of telephone interviews, he said. Cook accepted the job without a face-to-face meeting with Lamont or a trip to Connecticut, a state he has never visited.

"A lot of this is standing on the shoulders of the good work done by the current governor and Commissioner Semple — just an opportunity for us to leverage that," Drajewicz said. "It's easy to recruit people into an agency such with the good work that's been done before."

Cook stepped down this year after five years as executive director of the Utah Department of Corrections, where he oversaw a system with 2,200 employees and more than 7,000 inmates in five community correction centers and state state correctional facilities.

rehabilitation and things once we have them in here. But having a home that's the foundation for everything.

FOLEY: Commissioner, heroin is such a problem here in Connecticut. And so many people are in here, in the population, because of the opioid addiction problem. They come here, how can you help them succeed when they come out.

Commissioner Cook: Well, here's the secret. And I think everyone knows that there's no magic bullet. It's a problem all across the country. I think the key is that that, one, is that we don't try to find one model that answers just the problem, we need to have multiple options for people. Because not one size fits all for each person that's in treatment or has some sort of addiction.

FOLEY: How are treatment services here in the facilities?

COOK: So far from what I've seen, they are incredible. In fact, to the point where I'm excited about what sort of progress can be made not only inside, but on the outside as well.

FOLEY: Recently in Connecticut, healthcare for the population of prisoners has been a big issue. Tell me your thoughts on that.

COOK: It has to be my highest priority and it has to be the highest priority for our organization. What a lot of people don't understand is that the people that we take care of every single day are guaranteed by the Constitution healthcare. And when we are failing in that way, we're not doing our jobs right. It's our job to make sure they get the proper healthcare.

FOLEY: You used to be a corrections officer yourself?

COOK: So I consider myself still a corrections officer. I started in jail in Salt Lake County Utah 30 years ago., And I worked my way up through the ranks. To have this opportunity is in many ways overwhelming, I could've never imagined it.

60 MINUTES

PROPOSED BILL _ FREE telephone calls

CALIFORNIA

safety issues, as well as hands-on institutional skills. Mr. Diaz has been instrumental in developing policies and processes that focus on staff well-being and training, inmate rehabilitation and accountability, and communication with victims and families. His own personal history growing up in a small town in the central San Joaquin Valley, under the guidance of his mother and father who both worked in law enforcement, contributed to his unique perspective. Mr. Diaz is proud to be a leader in CDCR as it embraces its mission to rehabilitate the people entrusted to its care, understanding that this is key to the public safety of the people of the State of California, and to the future of the state.

IDAHO

Director's Office



Director Josh Tewalt
Josh Tewalt

Josh Tewalt re-joined the Idaho Department of Correction on December 1, 2018, after two years as the Director of Operations for the Association of State Correctional Administrators (ASCA).

A growing prison population had some Idaho lawmakers taking a second look Monday at recommendations to reclassify some felonies as misdemeanors and increasing efforts to prevent people from going to prison in the first place.

The Criminal Justice Reinvestment Oversight Committee heard from state prison and probation officials and experts with the Council of State Governments. Idaho has more than 8,600 prison inmates today, and prison officials expect that number to increase to more than 10,000 by the end of 2022.

Based on that projection, the state will need about 2,400 more prison beds. Prison officials are now looking at building a new prison and expanding several others at a cost of more than \$500 million.

Committee co-chair Sen. Patti Anne Lodge, a Republican from Huston, said giving inmates “good time” credit for behaving well in prison or finding alternative sentencing options could be useful options.

“We’re building a huge industry around punishment for crime and safety,” Lodge said, urging the committee to look at how churches, community groups and families can help.

The state began the criminal justice reinvestment project about four years ago, bringing together judges, attorneys, correction officials, substance abuse workers and others to try to find ways to reduce Idaho’s prison population. The effort had bipartisan support along with expert policy and analysis help from the Council of State Governments.

The Legislature made several tweaks to Idaho’s laws, including passing legislation that improved the way the state tracked crime and recidivism rates, changed the way substance abuse treatment funding was distributed and gave probation and parole officers more flexibility in sanctioning offenders who were violating probation rules.

“We have some definite problems that we were facing in 2013 when we started this and they are bigger problems today so we

The Philadelphia Tribune

By John N. Mitchell

Pointing to the punitive nature of parole and supervision in Philadelphia and across the state, District Attorney Larry Krasner has announced his office's new policy of working with judges to reduce parole and supervision in both felonies and misdemeanors.

"There is data that points to the fact that extensive supervisory periods in addition to, and in many cases equal to, sentences results in diminishing returns," Krasner said. "This not only translates to higher rates of recidivism and costs, but also in terms of excessively high case loads for parole officers and the destruction, in many cases, of families who are under the heavy weight of excessive parole."

People on probation and parole can be required to pay monthly fees for the duration of their supervision. And the longer someone is under supervision, Krasner said, the higher their risk of getting sent back to prison for a probation violation or losing a job because an employer becomes impatient with an employee who has to leave for regular appointments with his or her parole or probation officer.

"We can't prove it causes poverty, but it certainly keeps people in poverty," said Sangeeta Prasad, a Stoneleigh Fellow in the District Attorney's Office.

Pennsylvania has both the highest number (112,351) and rate (1,109 per 100,000 adults) of parole supervision in the nation, according to a 2018 study by Columbia University.

Pennsylvanians are three times more likely to be under parole supervision than adults in the rest of the United States.

In Philadelphia, which has 1.5 million residents, 44,000 people are currently under supervision, Krasner said. New York, which has a population almost six times that of Philadelphia, has just 12,700 people under supervision.

And a 2017 study by the Council of State Governments Justice Center found that nearly one-third of Pennsylvania's prison beds

**CRIMINAL JUSTICE
REFORM
STARTS WITH A
VISIONARY
LEADER**

California Outcomes

- ▶ Between 2006- 2012, California downsized its prison population by 23%, compared to the nationwide state prison population decrease of 1%.
- ▶ 173,942 to 134,211 (decrease of 39,731)
- ▶ CA's violent crime rate drop of 21% exceeded the national decline of 19%.
- ▶ California's property crime rate dropped by 13%, but that rate was slightly lower than the national reduction of 15%.
- ▶ 2011 - The U.S. Supreme Court in Brown v. Plata held that the health care in CA prison system was constitutionally inadequate due to severe overcrowding. The Court noted that the CA prisons had been operating at around 200% of their design capacity for at least 11 years, and ordered the state to reduce this figure to 137% design capacity within 2 years. The State made reductions through its REALIGN Policy. (Lower court decision filed in 2001).

New Jersey Outcomes

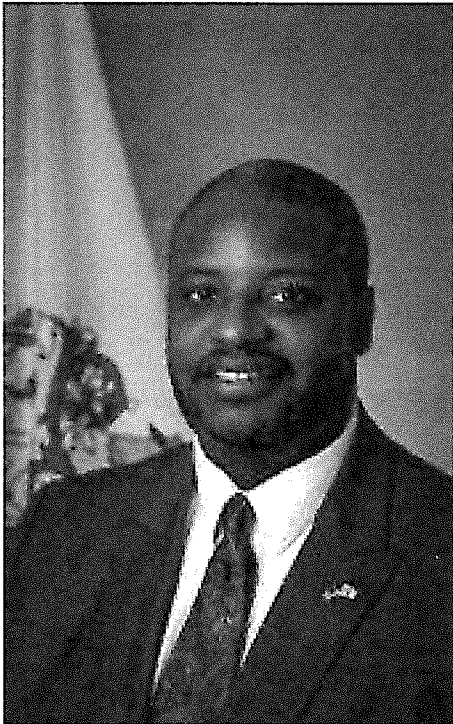
- ▶ **Between 1999-2012, NJ state prison population reduced by 26%, while the nationwide state prison population increased by 10%**
- ▶ **31,493 to 23,225 (decrease of 8,268)**
- ▶ **NJ's violent crime rate fell by 30%, while the nation rate decreased by 26%**
- ▶ **NJ's property crime rates decreased by 31% compared to the national decline of 24%**

New York Outcomes

- ▶ Between 1999-2012, New York reduced its prison population by 26%, while the nationwide state population increased by 10%.
- ▶ 72,896 to 54,268 (decrease of 18,268)
- ▶ NY's violent crime rate fell by 31%, compared to the national rate which decreased by 26%.
- ▶ NY's property crime rate fell by 29% compared to the national decline of 24%.

Marcus O. Hicks, Esq.

New Jersey Department of
Corrections Acting Commissioner



**Acting Commissioner
Marcus O. Hicks, Esq.**

Marcus O. Hicks, Esq., is Acting Commissioner of the New Jersey Department of Corrections (NJDOC) with more than 15 years of public policy and legal experience. As Acting Commissioner of the State's second-largest Department, Hicks is responsible for a budget of nearly \$1 billion and 8,000 employees. Hicks oversees approximately 20,000 state-sentenced offenders housed across 13 correctional facilities, county jails and community halfway houses.

Prior to his appointment as Acting Commissioner, Hicks served in many roles throughout the Department since he began in 2007. Most recently, Hicks was the Chief of Staff for the Department, where he managed human resources, policy analysis, research and evaluation, grants management, custody and civilian staff training, as well as the Department's fleet of vehicles. Hicks was also Director of Programs and Community Services, where he had oversight of \$64.5 million in the procurement and contracting process of reentry services to approximately 2,800 inmates at 18 Residential Community Release Programs across New Jersey. Additionally, he directed the Office of County Services, which is responsible for conducting annual inspections of the 22 county correctional facilities and 376 municipal detention facilities located



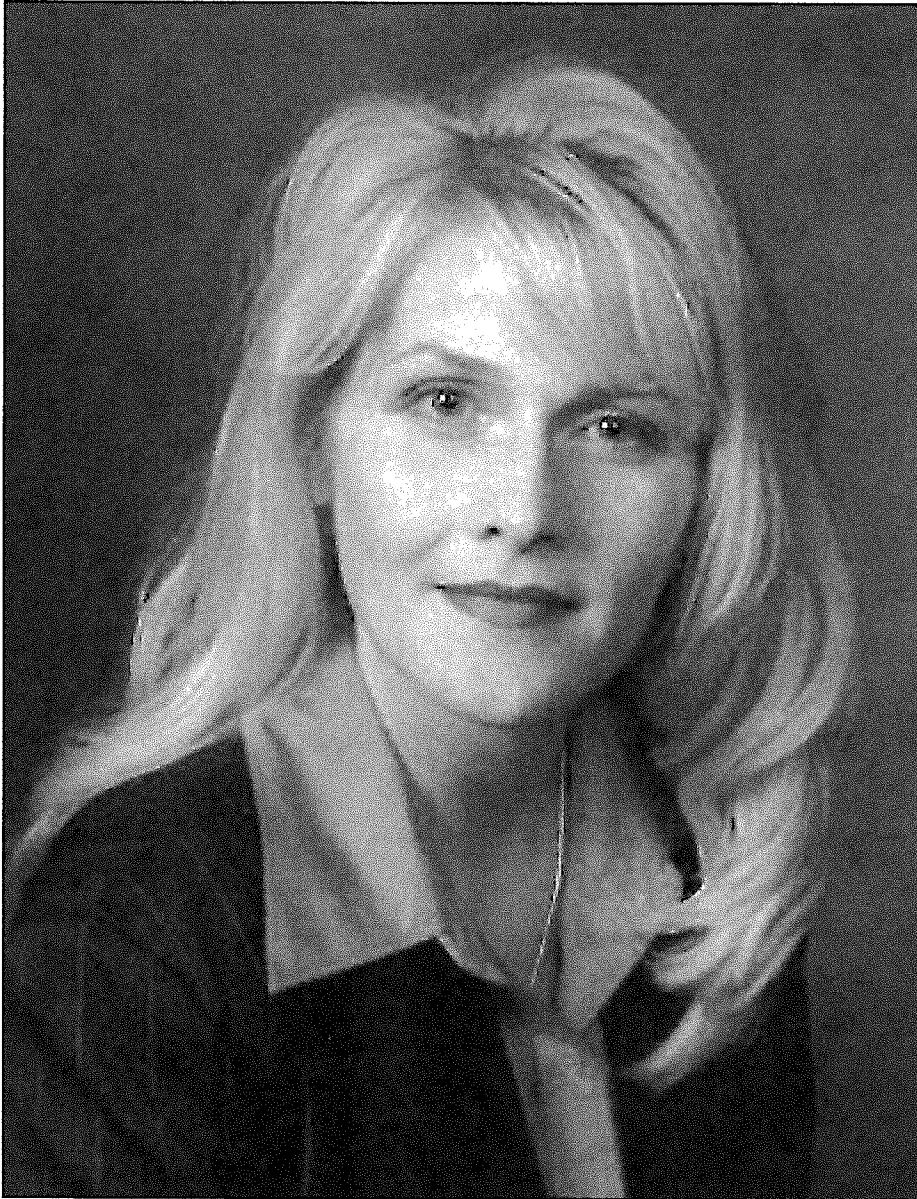
Commissioner Cynthia Brann

Cynthia Brann, Commissioner

Cynthia Brann was named Commissioner in October, 2017. She has 35 years of corrections and public safety experience. Commissioner Brann comes to DOC with four years of executive level responsibility as the Deputy Commissioner providing strategic planning, leading cultural and organizational change, implementing evidence based practices as well as integrating the work of the facilities and community divisions.

Her accomplishments include effective restructuring of adult probation services resulting in operational efficiencies, the reduction of caseloads and increased positive offender outcomes; reform of the juvenile detention decision processes and risk assessment tools resulting in statewide reduction in secure detention admissions without increased public safety risk and successfully embedding evidence-based policies and practices within the adult and juvenile divisions. From 2001 to 2011, Ms. Brann was a Regional Correctional Administrator overseeing all

Leann Bertsch



Director

Department of Corrections and Rehabilitation

Leann Bertsch was appointed Director of the North Dakota Department of Corrections and Rehabilitation by Governor Doug Burgum in December 2016. Bertsch has served as the department's director since July 2005. She served as Commissioner of the North Dakota Department of Labor from September 2004 through June 2005.

From: [sonny.ganaden](#)
To: [PSMTestimony; nishihara1 - Venus](#)
Subject: Comments Re: Director of Public Safety; Alabama
Date: Thursday, April 4, 2019 4:16:21 PM
Attachments: [GM543_Ganaden_Oppose.pdf](#)
[Alabama notice letter and report aldodoc.pdf](#)

Aloha Senator Nishihara,

I am forwarding testimony from today's hearing regarding the appointment of the Director of Public Safety, and the recent letter and investigation from the Alabama Department of Justice which is referenced in that testimony.

It is my concern that a lawsuit, by the Department of Justice, the ACLU (which has filed a complaint in the federal court), or another group of attorneys capable of pursuing class action litigation will lead to federal oversight of the state Department of Public Safety similar to what has happened in Alabama this week, and has happened in this state in 1993.

Mahalo,
Sonny Ganaden

Ernesto "Sonny" M. Ganaden, Esq. JD# HI 8948
(808)294-9949 sonnyganaden@gmail.com

Senator Clarence K. Nishihara, Chair
Senator Glenn Wakai, Vice Chair
Committee on Public Safety, Intergovernmental, & Military Affairs
Thursday, April 4, 2019 at 1:15 p.m.
Conference Room 229
State Capitol

RE: GM 543 Nominee Nolan Espinda - **COMMENTS IN OPPOSITION**

Aloha Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

This testimony is offered with no animosity to Mr. Espinda, his family, or the employees of the Department of Public Safety.

I am a lawyer, writer, and teacher. I have practiced criminal and civil litigation for 10 years. In 2012, I was the lead writer of the Native Hawaiian Justice Task Force Report, delivered to the Hawaii state legislature in 2013. I am an instructor in the ethnic studies department at the University of Hawai'i at Mānoa.

Using numerous metrics provided to your committee, conditions in the Department of Public Safety are worse than departments in the rest of the United States, and worse than they were in this state in 1993, when a lawsuit undertaken by the ACLU led to a consent decree in the federal court and the establishment of the state's private prison arrangement.

Several audits and state task force reports have thoroughly articulated the consistent failings of the department. The Native Hawaiian Justice Task Force Report was submitted to the legislature in January 2013. Nine members representing the criminal justice system were appointed to the task force, and 157 people testified, including legislators, judges, activists, the formerly incarcerated, and current pa'ahao. I was the "lead writer" and, with a team from the Office of Hawaiian Affairs, compiled much of the research and testimony into a narrative form. Like other state-sponsored, well-intentioned documents, it was ignored. Recent task forces criticize the practice of pre-trial detention and the development of a new O'ahu Community Corrections Center without the development of best practices, as the current facility will be demolished in anticipation of the Honolulu rail transit system and the continuing gentrification of urban Honolulu. Your committee has been made aware of sexual assaults, suicides, felonies by guards, failures of oversight, death, and decades of failed oversight of the department.

Ernesto "Sonny" M. Ganaden, Esq. JD# HI 8948
(808)294-9949 sonnyganaden@gmail.com

Without a change in department leadership, and the establishment of legislation that adopts bail reform, best practices, and a progressive concept of the department's duties, it is likely that a lawsuit will lead to the federal court managing a restructuring of Hawaii's department of public safety.

This is not an outlandish statement. As an attachment to this testimony, I offer a letter and investigative report of the Department of Justice regarding the status of Alabama US Attorney's Office, filed April 2, 2019, which will likely lead to a restructuring of that state's department. Using information and data from local media sources, lawsuits, and the department itself, the conditions in Hawaii's prisons and jails are worse than those described in Alabama.

Lessons from around the world are unanimous: mass incarceration does not work to make communities safe. What does work are collaborative, community-based restorative justice programs; evidence-based models for rehabilitation; addiction treatment; job training; the zealous preservation of due process; and traditional cultural practices that perpetuate a sense of belonging and pride. In communities where basic human needs are met, crime is rare. For the small percentage of people who are a legitimate danger to society, municipalities should maintain small, well-managed prisons.

The citizens of Hawaii require a Director of the Department of Public Safety that is willing to establish best practices for the department that are aligned with the 21st century and local values.

Respectfully Submitted,

Sonny Ganaden

Attached: Notice Letter and Investigative Report, US Department of Justice, Alabama



U.S. Department of Justice

April 2, 2019

The Honorable Kay Ivey
Governor of Alabama
Alabama State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130

Re: Notice Regarding Investigation of Alabama's State Prisons for Men

Dear Governor Ivey:

We write to report the results of the investigation into the conditions of confinement in Alabama's State Prisons for Men (Alabama's prisons) by the Civil Rights Division and the Alabama United States Attorneys' Offices, conducted under the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997. Consistent with the statutory requirements of CRIPA, we provide this Notice of the alleged conditions that we have reasonable cause to believe violate the Constitution. We also notify you of the supporting facts giving rise to, and the minimum remedial measures that we believe may remedy, those alleged conditions.

After carefully reviewing the evidence, we conclude that there is reasonable cause to believe that conditions at Alabama's prisons violate the Eighth Amendment to the Constitution and that these violations are pursuant to a pattern or practice of resistance to the full enjoyment of rights protected by the Eighth Amendment. In particular, we have reasonable cause to believe that Alabama routinely violates the constitutional rights of prisoners housed in the Alabama's prisons by failing to protect them from prisoner-on-prisoner violence and prisoner-on-prisoner sexual abuse, and by failing to provide safe conditions. The violations are exacerbated by serious deficiencies in staffing and supervision and overcrowding.¹

We are obligated to advise you that 49 days after issuance of this Notice, the Attorney General may initiate a lawsuit under CRIPA to correct the alleged conditions we have identified if Alabama officials have not satisfactorily addressed them. 42 U.S.C. § 1997b(a)(1). The Attorney General may also move to intervene in related private suits 15 days after issuance of this letter. 42 U.S.C. § 1997c(b)(1)(A).

¹ The Department's investigation of Alabama's prisons was opened to investigate three issues: (1) whether Alabama's prisons are protecting prisoners from physical and sexual violence at the hand of other prisoners; (2) whether Alabama's prisons are providing safe and sanitary living conditions; and (3) whether Alabama's prisons are protecting prisoners from excessive force and sexual abuse from staff. This Notice Letter applies to the first two issues. The Department's investigation into third issue is ongoing because the Department's petition to enforce its subpoena for documents relevant to that issue is pending with the court.

We hope, however, to resolve this matter through a more cooperative approach and look forward to working with you to address the alleged violations of law we have identified. The lawyers assigned to this investigation will be contacting the Alabama Department of Corrections to discuss this matter in further detail. Please also note that this Notice is a public document. It will be posted on the Civil Rights Division's website.

If you have any questions, please call United States Attorney Jay E. Town at (205) 244-2001 or Steven H. Rosenbaum, Chief of the Civil Rights Division's Special Litigation Section, at (202) 616-3244.

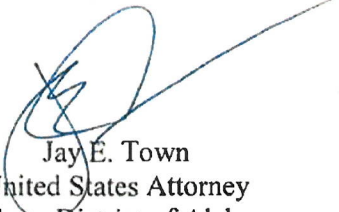
Sincerely,



Eric S. Dreiband
Assistant Attorney General
Civil Rights Division



Louis V. Franklin, Sr.
United States Attorney
Middle District of Alabama



Jay E. Town
United States Attorney
Northern District of Alabama



Richard W. Moore
United States Attorney
Southern District of Alabama

cc: Steven T. Marshall
Attorney General
State of Alabama

Jefferson Dunn
Commissioner
Alabama Department of Corrections

Deborah Toney
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Union Springs, AL 36089

Christopher Gordy
Warden
Donaldson Correctional Facility
100 Warrior Lane
Bessemer, AL 35203

Walter Myers
Warden
Easterling Correctional Facility
200 Wallace Drive
Cilo, AL 36017

Joseph Headley
Warden
Elmore Correctional Facility
3520 Marion Spillway Road
Elmore, AL 36025

Mary Cooks
Warden
Fountain Correctional Facility
Fountain 3800
Atmore, AL 36503

Guy Noe
Warden
Hamilton Aged & Infirm Correctional Facility
223 Sasser Drive
Hamilton, AL 35570

Cynthia Stewart
Warden
Holman Correctional Facility
Holman 3700
Atmore, AL 36503

Leon Bolling
Warden
Kilby Correctional Facility
P.O. Box 150
Mt. Meigs, AL 36057

DeWayne Estes
Warden
Limestone Correctional Facility
28779 Nick Davis Road
Harvest, AL 35749

Karla Jones
Warden
St. Clair Correctional Facility
1000 St. Clair Road
Springville, AL 35146

John Crow
Warden
Staton Correctional Facility
P.O. Box 56
Elmore, AL 36025

Michael Strickland
Acting Warden
Ventress Correctional Facility
379 Alabama Highway 239 North
Clayton, AL 36016

Attachment: Section 1997b Notice

**INVESTIGATION OF
ALABAMA'S STATE PRISONS FOR MEN**



United States Department of Justice
Civil Rights Division

United States Attorney's Offices for the
Northern, Middle, and Southern Districts of Alabama

April 2, 2019

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I. INTRODUCTION

The Civil Rights Division and the three U.S. Attorney's Offices for the State of Alabama ("Department" or "Department of Justice") provide notice, pursuant to the Civil Rights of Institutionalized Persons Act, 42 U.S.C. §§ 1997 *et seq.* ("CRIPA"), that there is reasonable cause to believe, based on the totality of the conditions, practices, and incidents discovered that: (1) the conditions in Alabama's prisons for men (hereinafter "Alabama's prisons")¹ violate the Eighth Amendment of the U.S. Constitution; and (2) these violations are pursuant to a pattern or practice of resistance to the full enjoyment of rights protected by the Eighth Amendment. The Department does not serve as a tribunal authorized to make factual findings and legal conclusions binding on, or admissible in, any court, and nothing in this Notice Letter ("Notice") should be construed as such. Accordingly, this Notice is not intended to be admissible evidence and does not create any legal rights or obligations.

Consistent with the statutory requirements of CRIPA, we write this Notice to notify Alabama of the Department's conclusions with respect to numerous constitutional violations, the facts supporting those conclusions, and the minimum remedial measures necessary to address the identified deficiencies.²

There is reasonable cause to believe that the Alabama Department of Corrections ("ADOC") has violated and is continuing to violate the Eighth Amendment rights of prisoners housed in men's prisons by failing to protect them from prisoner-on-prisoner violence, prisoner-on-prisoner sexual abuse, and by failing to provide safe conditions, and that such violations are pursuant to a pattern or practice of resistance to the full enjoyment of rights secured by the Eighth Amendment. The violations are severe, systemic, and exacerbated by serious deficiencies in staffing and supervision; overcrowding; ineffective housing and classification protocols; inadequate incident reporting; inability to control the flow of contraband into and within the prisons, including illegal drugs and weapons; ineffective prison management and training;

¹ At present, there are 13 such correctional facilities: Bibb Correctional Facility; Bullock Correctional Facility; Donaldson Correctional Facility; Easterling Correctional Facility; Elmore Correctional Facility; Fountain Correctional Facility; Hamilton Aged & Infirm; Holman Correctional Facility; Kilby Correctional Facility; Limestone Correctional Facility; St. Clair Correctional Facility; Staton Correctional Facility; and Ventress Correctional Facility. We also investigated the conditions at Draper Correctional Facility; however, in late 2017, the Alabama Department of Corrections ("ADOC") closed that facility. We did not review the conditions in other ADOC facilities, such as work release facilities or the Julia Tutwiler Prison for Women.

² The Department's investigation of Alabama's prisons was opened to investigate three issues: (1) whether ADOC is protecting prisoners from physical and sexual violence at the hand of other prisoners; (2) whether ADOC is providing safe and sanitary living conditions; and (3) whether ADOC is protecting prisoners from excessive force and sexual abuse from staff. This Notice applies to the first two issues. The Department's investigation into third issue is ongoing because the Department's petition to enforce its subpoena for documents relevant to that issue is pending with the court.

insufficient maintenance and cleaning of facilities; the use of segregation and solitary confinement to both punish and protect victims of violence and/or sexual abuse; and a high level of violence that is too common, cruel, of an unusual nature, and pervasive.

Our investigation revealed that an excessive amount of violence, sexual abuse, and prisoner deaths occur within Alabama's prisons on a regular basis. Indeed, a review of a single week in Alabama's prisons—a week in September 2017—provides a window into a broken system that too often disregards prisoners' safety.

The “Hot Bay” at Bibb³ was a housing unit populated exclusively with prisoners with disciplinary infractions. It had limited supervision and no programming. On a Friday in September 2017, three days before the Department of Justice arrived at Bibb for the first full facility tour of our investigation, two prisoners stood guard at the doors of the Hot Bay, an open dormitory housing men in bunkbeds multiple rows deep, watching for rarely-seen correctional officers. At the back of the dormitory and not visible from the front door, two other prisoners started stabbing their intended victim. The victim screamed for help. Another prisoner tried to intervene and he, too, was stabbed. The initial victim dragged himself to the front doors of the dormitory. Prisoners banged on the locked doors to get the attention of security staff. When an officer finally responded, he found the prisoner lying on the floor bleeding from his chest. The prisoner eventually bled to death. One Hot Bay resident told us that he could still hear the prisoner's screams in his sleep.

That same day, at Staton, a prisoner was stabbed multiple times by another prisoner and had to be medically evacuated by helicopter to a nearby hospital. The following day, at Elmore, a prisoner was beaten and injured by four other prisoners. At Ventress, officers performed a random pat down on a prisoner, finding 17 cigarettes laced with drugs, a plastic bag of methamphetamine, and a bag filled with another hallucinogen drug referred to as “cookie dough.”⁴

On Sunday, a prisoner asleep in the honor dormitory—a dormitory reserved for prisoners with good behavior—at St. Clair was woken from sleep when two prisoners started beating him with a sock filled with metal locks. The victim was injured so severely that he was transported to an outside hospital for emergency treatment. That same day at Ventress, a prisoner was punched so forcefully in the eye by another prisoner that he was sent to an outside hospital. Another prisoner was stabbed by two other prisoners with homemade knives. A different

³ The “Hot Bay” is an internal nickname for what is also called the “Behavior Modification” dormitory or “restricted housing unit.” It is where prisoners who have been disciplined for drugs or violence are placed and are not allowed to leave the dormitory for meals or the canteen line, are not given a microwave or television, or allowed to attend any outside programs or jobs. Since we inspected Bibb and informed ADOC of our initial findings that the Hot Bay was critically dangerous, the Hot Bay at Bibb has been closed, but “Behavior Modification” dormitories continue to operate at other facilities.

⁴ “Cookie dough” is a brown or white synthetic crystalline powder made of poisonous chemicals that is mixed with tobacco and smoked. It causes extreme paranoia, severe hallucinations, and violent nausea. It is sometimes referred to as “Brown Clown.”

Ventress prisoner was punched so hard in the face by prisoners with shirts covering their faces that he was transported to an outside hospital for treatment. At Staton, a prisoner threatened a correctional officer with a knife measuring seven inches in length. And another prisoner reported that he had been sexually assaulted by a fellow prisoner after he had only agreed, in exchange for three store items, to lower his pants for that prisoner to view his buttocks while masturbating.

On Tuesday, at Fountain, a prisoner set fire to another prisoner's bed blanket while he was sleeping, leading to a fight between the two men. Officers searching a dormitory at Ventress found 12 plastic bags of an unknown substance, 79 cigarettes laced with drugs, two bags containing "cookie dough," and a bag of methamphetamine.

On Wednesday morning, a prisoner at Easterling was sexually assaulted inside of a segregation cell by an inmate. Four days prior, this same prisoner had been forced at knifepoint to perform oral sex on two other prisoners.

On Thursday, at Ventress, a prisoner was so severely assaulted by four other prisoners that he had to be transported to an outside hospital for treatment. A different Ventress prisoner reported being sexually assaulted.

At Bullock, a prisoner was found unresponsive on the floor by his bed and later died; his death was caused by an overdose of a synthetic cannabinoid. On Friday at Ventress, an officer observed a prisoner bleeding from the shoulder due to a stab wound; the prisoner was transported to an outside hospital for treatment.

These incidents in Alabama's prisons are just some of those reported in ADOC's own records during one week. And based on what we learned from our investigation and statements made by ADOC's head of operations, it is likely that many other serious incidents also occurred this week but were not reported by prisoners or staff.

II. INVESTIGATION

In October 2016, the Department opened a CRIPA investigation into the conditions in ADOC facilities housing male prisoners. The investigation focused on whether ADOC (1) adequately protects prisoners from physical harm and sexual abuse at the hands of other prisoners; (2) adequately protects prisoners from use of excessive force and staff sexual abuse by correctional officers; and (3) provides prisoners with sanitary, secure, and safe living conditions.

Five experienced expert consultants in correctional practices assisted with this investigation. Three of these experts are former high-ranking corrections officials with significant experience leading state and local corrections departments; the remaining two are nationally recognized experts in medical care and sexual safety in prisons. At least two of the experts accompanied us on site visits to Alabama prisons, interviewed ADOC staff and prisoners, reviewed documents, and provided their expert opinions and insight to help inform the investigation and its conclusions. The remaining experts reviewed documents and provided their

expert opinions and insights to assist the Department in forming conclusions and recommending remedies to tackle the significant problems encountered during the investigation.

Between February 2017 and January 2018, we conducted site visits to four Alabama prisons: Donaldson, Bibb, Draper, and Holman. Our investigation was aided by numerous sources of information.

Throughout the course of this investigation, we interviewed approximately 55 ADOC staff members. Our site visits included interviews with wardens, deputy wardens, captains, Prison Rape Elimination Act (“PREA”)⁵ compliance officers, sergeants, medical staff, mental health staff, classification staff, and maintenance managers. In addition, we also met with staff of ADOC’s central office, including the Deputy Commissioner of Operations, the head of the Intelligence and Investigations Division (“I&I”), the PREA Coordinator, and other members of ADOC management and the investigations branch.

We also interviewed over 270 prisoners. In addition to four site visits, we sent two Department investigators to interview prisoners in seven Alabama prisons—Limestone, Donaldson, Staton, Ventress, Easterling, Bullock, and Fountain. ADOC did allow prisoners to access a toll-free number with direct access to Department personnel. As a result, the Department conducted over 500 interviews with prisoners and family members by phone. We received and reviewed more than 400 letters from ADOC prisoners. We also received hundreds of emails from prisoners and family members to a special email address established specifically for this investigation.

We augmented our site visits by requesting and reviewing hundreds of thousands of pages of documents and data from 2015 to 2018. In order to inform our understanding of ADOCs practices, we reviewed incident reports, medical records, autopsies, policies and regulations, training materials, mental health records, personnel files, staffing plans, shift rosters, duty post logs, and a limited number of investigative files. ADOC produced its entire incident report database from 2015 through June 2017 and a portion of its incident report database from June 2017 through April 2018.

In some sections of this Notice, we provide more examples to illustrate the variety of circumstances in which the violation occurs, while in others we focus on one or two examples that demonstrate the nature of the violations we found. The number of examples included in a particular section is not indicative of the number of violations that we found. These examples comprise a small subset of the total number of incidents upon which we base our conclusions. And though there may be more examples from facilities we visited and certain others from which we received more information, given the enormous breadth of ADOC’s Eighth Amendment violations—including the lack of certain statewide policies, our concerns with ADOC management, and the fact that prisoners are frequently transferred to different facilities—it is evident the examples described in this Notice are typical of the system as a whole.

⁵ 34 U.S.C. §§ 30301-30309.

III. BACKGROUND

ADOC currently houses approximately 16,000 male prisoners in 13 prisons with varying custody levels. Based on the most recent ADOC Annual Report available, five of these facilities—Donaldson, Holman, Kilby, Limestone, and St. Clair—are maximum, or close custody, meaning they are “designed for incarcerating the most violent and highest classified offenders admitted to ADOC.” In the close custody facilities, many of the prisoners are housed in cells, as opposed to open dormitory-style housing. They range in population from just over 900 prisoners at St. Clair to over 2,000 at Limestone. ADOC classifies eight of its facilities—Bibb, Bullock, Easterling, Elmore, Fountain, Hamilton Aged & Infirm, Staton, and Ventress—as medium custody, which are “less secure than close custody for those inmates who have demonstrated less severe behavioral problems.” Hamilton houses fewer than 275 prisoners, while Bibb houses almost 1,800. Many of the prisoners housed in medium custody facilities live in open dormitories; however, even in these facilities, there are a number of segregation cells.

ADOC operated a fourteenth men’s prison called Draper at the time that we opened our investigation. We inspected Draper in October 2017, and discovered numerous dangerous and unsanitary conditions within the prison. For example, there was open sewage running by the pathway we used to access the facility. Numerous prisoners informed us that toilets and plumbing pipes in dormitories and segregation required frequent maintenance, yet were still often overflowing or clogged, with standing sewage water on the floors. In addition, there were reports of rats and maggots in the kitchen. After the inspection, our experts informed ADOC of their shock at the state of the facility. In fact, during our inspection of Draper, one of our experts had to leave the kitchen area before becoming sick from the toxic fumes of the cleaning chemicals. Approximately one month after our site visit, we learned through press reports that ADOC was closing Draper after engineering experts hired by ADOC concluded that the facility was “no longer suitable to house inmates, or to be used as a correctional facility.”

IV. CONDITIONS IDENTIFIED

ADOC fails to protect prisoners from serious harm and a substantial risk of serious harm. *See Farmer v. Brennan*, 511 U.S. 825, 833 (1994); *Helling v. McKinney*, 509 U.S. 25, 33-35 (1993); *Harrison v. Culliver*, 746 F.3d 1288, 1298 (11th Cir. 2014). The combination of ADOC’s overcrowding and understaffing results in prisons that are inadequately supervised, with inappropriate and unsafe housing designations, creating an environment rife with violence, extortion, drugs, and weapons. Prisoner-on-prisoner homicide and sexual abuse is common. Prisoners who are seriously injured or stabbed must find their way to security staff elsewhere in the facility or bang on the door of the dormitory to gain the attention of correctional officers. Prisoners have been tied up for days by other prisoners while unnoticed by security staff. Prisoners are often found in unauthorized areas. Some prisoners sleep in dormitories to which they are not assigned in order to escape violence. Prisoners are being extorted by other prisoners without appropriate intervention of management. Contraband is rampant. The totality of these conditions pose a substantial risk of serious harm both to prisoners and correctional officers.

Laube v. Haley, 234 F. Supp. 2d 1227, 1245 (M.D. Ala. 2002); *see also Helling*, 509 U.S. at 33 (“That the Eighth Amendment protects against future harm to inmates is not a novel concept. The Amendment . . . requires that inmates be furnished with the basic human needs, one of which is reasonable safety.”).

The Eighth Amendment applies to the States through the Due Process Clause of the Fourteenth Amendment and prohibits the infliction of “cruel and unusual punishments.” *Estelle v. Gamble*, 429 U.S. 97, 101 (1976). The Eighth Amendment’s ban on cruel and unusual punishments applies to the “treatment a prisoner receives in prison and the conditions under which he is confined.” *Farmer*, 511 U.S. at 832; *Bass v. Perrin*, 170 F.3d 1312, 1316 (11th Cir. 1999). The conditions in Alabama’s prisons are objectively unsafe, as evidenced by the high rate of prisoner-on-prisoner homicides and violence, including sexual abuse. Alabama is incarcerating prisoners under conditions that pose a substantial risk of serious harm, even when that harm has not yet occurred. Alabama is deliberately indifferent to that harm or serious risk of harm and it has failed to correct known systemic deficiencies that contribute to the violence. The deplorable conditions within Alabama’s prisons lead to heightened tensions among prisoners. And, as a result, the violence is spilling over so that it is affecting not only prisoners, but ADOC staff as well.

That ADOC’s prisons are dangerous appears to be acknowledged at all levels. The following data highlights that danger. Alabama prisoners endure an extraordinarily high rate of violence at the hands of other prisoners. Based on the latest data available from the Department of Justice’s Bureau of Justice Statistics, Alabama’s prisons have the highest homicide rate in the country. In 2014, the national average homicide rate in prisons was seven homicides per 100,000 prisoners. During fiscal year 2017, ADOC publicly reported nine homicides in its men’s prisons, which house about 16,000 prisoners (a rate of homicide of 56 per 100,000 prisoners). This is approximately eight times the 2014 national rate.

Our experts observed that, based on their experience, the amount of prisoner-on-prisoner violence in Alabama’s prisons was much higher than other similar systems. Based on ADOC’s publicly reported statistics, the number of prisoner-on-prisoner violent incidents has increased dramatically over the last five-and-a-half years.



Chart 1: ADOC’s reported instances of prisoner-on-prisoner violence

This increase in violent incidents has persisted and continued even after our investigation began. Our experts have consistently raised concerns about the levels of violence with ADOC leadership and suggested potential solutions throughout our investigation.

ADOC correctional staff are also harmed by the violence. Shortly before we notified ADOC of our investigation, a correctional officer was stabbed to death at Holman. ADOC’s own incident reports indicate that, since 2017, correctional officers have been stabbed, punched, kicked, threatened with broken broomsticks or knives, and had their heads stomped on. One officer at Donaldson was quoted as saying, “Walking out of these gates, knowing you’re still alive, that’s a successful day.” At the same time, dozens of ADOC correctional officers have been arrested in the past two years for crimes related to drug trafficking and other misconduct within Alabama’s prisons. And ADOC told us that ADOC staff are bringing illegal contraband into Alabama’s prisons.

As detailed below, there is reasonable cause to believe that there is a pattern or practice of Eighth Amendment violations throughout the ADOC system. To establish a pattern or practice of violations, the United States must prove “more than the mere occurrence of isolated or ‘accidental’ or sporadic discriminatory acts.” *See Int’l Bhd. of Teamsters v. United States*, 431 U.S. 324, 336 (1977). It must “establish by a preponderance of the evidence that . . . [violating federal law] was . . . the regular rather than the unusual practice.” *Bazemore v. Friday*, 478 U.S. 385, 398 (1986) (quoting *Teamsters*, 431 U.S. at 336); *see also EEOC v. Am. Nat’l Bank*, 652 F.2d 1176, 1188 (4th Cir. 1981) (explaining that a “cumulation of evidence, including

statistics, patterns, practices, general policies, or specific instances of discrimination” can be used to prove a pattern or practice).

A. ADOC’s Overcrowding Contributes to Serious Harm to Prisoners.

One factor leading to the overwhelming amount of violence within Alabama’s prisons is severe overcrowding. Alabama has one of the most overcrowded prison systems in the nation. In 2013, Alabama had an imprisonment rate of 646 per 100,000 residents—the fourth highest in the nation and well above the average U.S. incarceration rate of 417 per 100,000 residents. The Alabama rate was well above the rates for other similarly situated states, such as Georgia and South Carolina.

According to recent data published by ADOC, Alabama’s prisons have a system-wide occupancy rate of 165%. ADOC houses approximately 16,327 prisoners in its major correctional facilities, but the system was designed to hold 9,882. However, the average occupancy rate at the 13 major correctional institutions that we reviewed is approximately 182%, after excluding work release and other facilities. For example, Staton, a medium security prison, is designed to hold 508 prisoners and held 1,385 in November 2018 for an occupancy rate of 272.6%. And Kilby, a close security prison, has a design capacity of 440 beds, and held 1,407 prisoners at the end of November 2018—an occupancy rate of 319.8%. This severe overcrowding remains despite the fact that Alabama convened a Prison Reform Task Force in February 2014, to recommend solutions to the problem of overcrowding. Based on the Task Force’s recommendations, the Legislature passed Senate Bill 67, which took effect in January 2016. In an effort to decrease the prison population, the law created a new class of felonies for low-level drug and property crimes and reformed parole boards. However, it did not apply retroactively and the effect on Alabama’s prison population has been minimal. In the two years that this investigation has been ongoing, the prison population in male correctional facilities has decreased by approximately 1,615 prisoners, but, because ADOC closed one major correctional facility during that time, the average occupancy rate per facility has not decreased.

While overcrowding is not an Eighth Amendment violation on its own, it can cause and exacerbate unconstitutional conditions. *See Rhodes v. Chapman*, 452 U.S. 337, 347-50 (1981); *Collins v. Ainsworth*, 382 F.3d 529, 540 (5th Cir. 2004); *French v. Owens*, 777 F.2d 1250, 1252-53 (7th Cir. 1985) (holding that overcrowding was unconstitutional where it led to unsafe and unsanitary conditions).

In *Brown v. Plata*, the Supreme Court affirmed a three-judge court ruling that overcrowding in the California state prison system had overtaken the limited resources of prison staff; imposed demands well beyond the capacity of medical and mental health facilities; and created unsanitary and unsafe conditions. *Brown v. Plata*, 563 U.S. 493, 518-19 (2011). The Court also upheld the lower court’s order that California reduce its state prison population to 137% of capacity to attain a reasonable level of safety. *Id.* at 540-41.

In another case, *Mobile County Jail Inmates v. Purvis*, the district court entered a finding of contempt when a county failed to correct unconstitutional conditions of overcrowding. *Mobile Cty. Jail Inmates v. Purvis*, 551 F. Supp. 92, 94 (S.D. Ala. 1982) (“Overcrowding is the

root and basic problem' contributing to the deplorable physiological and psychological effects of the Mobile County Jail . . ."). The Eleventh Circuit later affirmed. *Mobile Cty. Jail Inmates v. Purvis*, 703 F.2d 580 (11th Cir. 1983) (unpublished table decision).

Similarly, in *Maynor v. Morgan County*, 147 F. Supp. 2d 1185 (S.D. Ala. 2001), the district court made a preliminary finding that conditions in a county jail violated the Eighth Amendment when inmates were forced to sleep on the floor under bunks, on the floor between bunks, on tables, and between tables. *Maynor v. Morgan Cty.*, 147 F. Supp. 2d 1185, 1186, 1188 (S.D. Ala. 2001) ("Plaintiffs have carried their burden of showing that the conditions extant in the Morgan County Jail violate their rights to the minimal civilized measures of life's necessities and protection from a substantial risk of serious harm under the Eighth Amendment.").

In Alabama's prisons, the overcrowding combined with understaffing is driving prisoner-on-prisoner violence. *See Laube*, 234 F. Supp. 2d at 1245 (holding that a combination of substantial overcrowding and significantly inadequate supervision in open dormitories deprives inmates of their right to be protected from the constant threat of violence).

B. ADOC's Severe Understaffing Exposes Prisoners to Serious Harm.

Staffing in Alabama's prisons is at a crisis level. For fiscal year 2017, ADOC publicly reported "critical levels of authorized staffing shortages." In January 2019, ADOC's Commissioner, Jefferson S. Dunn, announced to the Legislature that he would request funding to hire 500 more correctional officers, which is a fraction of the additional staff deemed necessary by ADOC's own analysis. One month later, in February 2019, ADOC acknowledged that it needs to hire over 2,000 correctional officers and 125 supervisors in order to adequately staff its men's prisons. Commissioner Dunn explained to the Legislature that "there is a direct correlation between the shortage of officers in our prisons and the increase in violence," noting that the current level of violence is "unacceptably high."

This egregious level of understaffing equates to inadequate supervision that results in a substantial risk of serious harm. *See Alberti v. Klevenhagen*, 790 F.2d 1220, 1227-28 (5th Cir. 1986) (upholding district court's finding that inadequate staffing and supervision, among other factors, led to a pattern of constitutional violations); *Ramos v. Lamm*, 639 F.2d 559, 573 (10th Cir. 1980) ("Violence and illegal activity between inmates . . . is further facilitated by the inadequacy of the staffing levels."); *Van Riper v. Wexford Health Sources, Inc.*, 67 F. App'x 501, 505 (10th Cir. 2003) ("When prison officials create policies that lead to dangerous levels of understaffing and, consequently, inmate-on-inmate violence, [there is a violation of the Eighth Amendment.]"). ADOC does not have sufficient staff to supervise its overcrowded prisons. Dormitories of prisoners, housing up to 180 men, are often unsupervised for hours or shifts at a time.

Staffing levels of line correctional officers in Alabama's prisons are at dangerous levels. According to ADOC's staffing report from June 2018, Alabama's prisons employ only 1,072 out of 3,326 authorized correctional officers. Three prisons have fewer than 20% of the authorized correctional officers: Easterling—17%; Bibb—19%; and Holman—19%. Four prisons have 30% or less of the authorized correctional officers: Bullock—24%; Fountain—26%; St. Clair—

28%; and Ventress—30%. Three others have less than 40%: Donaldson—35%; Staton—35%; and Kilby—36%. Only three remaining prisons also have correctional officer staffing levels over 40%: Elmore—41%; Limestone—56%; and Hamilton—75%. Hamilton A&I (which houses approximately 275 elderly and sick prisoners and is authorized for only 45 officers) at 75% staffing is still dangerously understaffed. A former ADOC warden stated that with this level of understaffing, “the convicts are in extreme danger and the correctional officers working there are in extreme danger.” Correctional staffing levels have decreased over time as shown in the following chart:



Chart 2: ADOC's reported correctional officer staffing levels

In reality, the deficit in the number of security staff working any given shift can be worse than 20% below required levels. For example, the Warden at Holman told us that, on any given day, she estimates that she has “probably 11” security staff, both officers and supervisors, per shift for the entire complex—a prison population of approximately 800. And the Warden at Bibb stated that he currently has only 66 assigned security staff, both officers and supervisors, covering approximately 1,800 prisoners over four shifts. Leadership at the facilities have used a variety of measures to fill the extreme shortages. These include mandated overtime, which allows supervisors to require that correctional officers stay an additional four hours past the end of their 12-hour shift.

In another stop-gap measure intended to address the extreme understaffing, officers are required to work oxymoronic “voluntary mandatory overtime,” which requires officers to work two additional 12-hour shifts a month. It is not uncommon for officers to be disciplined for refusing to stay for mandated time or for mandatory overtime, leaving prisons even more understaffed. By the same token, staffing prisons with exhausted staff makes for ineffective and, in this system, potentially life-threatening outcomes.

In fiscal year 2017, a correctional officer at St. Clair with a base pay of \$38,426.60, earned almost \$80,000 in overtime. Extrapolating that amount in overtime pay, the officer averaged 90-95 hours per week. Within Alabama, ADOC is the state department with the highest total amount of overtime paid to employees—\$31.6 million. The next highest state department paid \$6.77 million in overtime. Officers are tired and the hours are affecting job performance and officer morale. Prisoners report seeing officers asleep on duty. And incident reports reflect that officers are often disciplined for sleeping. One officer at Donaldson revealed that he has been so tired on duty that he “fell asleep on his feet and hit the floor.”

C. ADOC Does Not Reasonably Protect Prisoners from Rampant Violence.

The Eighth Amendment’s ban on cruel and unusual punishments requires that ADOC “take reasonable measures to guarantee the safety” of all prisoners. *Farmer*, 511 U.S. at 832 (quoting *Hudson v. Palmer*, 468 U.S. 517, 526-27 (1984)). When a state takes a person into custody, the Constitution imposes upon the state a corresponding duty to assume some responsibility for his safety and well-being. *Cty. of Sacramento v. Lewis*, 523 U.S. 833, 851 (1998) (citing *DeShaney v. Winnebago Cty. Dep’t of Soc. Servs.*, 489 U.S. 199-200 (1989)). The Eleventh Circuit has held that “an excessive risk of inmate-on-inmate violence . . . creates a substantial risk of serious harm . . .” *Lane v. Philbin*, 835 F.3d 1302, 1307 (11th Cir. 2016) (citing *Harrison v. Culliver*, 746 F.3d 1288, 1299 (11th Cir. 2014)). The Eleventh Circuit has also found a substantial risk of harm where prisoners were housed in conditions that included routine understaffing, dysfunctional locks on cell doors, and the ready availability of homemade weapons. *See Marsh v. Butler Cty.*, 268 F.3d 1014, 1030, 1034 (11th Cir. 2001) (en banc) (“[A]n Eighth Amendment violation can arise from unsafe conditions of confinement even if no assault or similar physical injury has yet occurred.” (citing *Helling*, 509 U.S. at 33-34, *abrogated on other grounds by Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 561-63 (2007)).

ADOC officials must take precautions to protect prisoners from violence, and are “not free to let nature take its course.” *Farmer*, 511 U.S. at 833-34. It is clear from the number of deaths, fights, and stabbings in Alabama’s prisons that ADOC is failing to protect its prisoners and nature is taking its course.

1. *ADOC Must Accurately Classify the Deaths That Occur Within Its Custody.*

According to ADOC’s public reports, between January 2015 and June 2018, 24 prisoner deaths have occurred as a result of a homicide (eight in 2015; three in 2016; nine in 2017; and four from January through June of 2018). We definitively identified three additional homicides—two in 2017 and one in the first half of 2018. These unreported homicides provide reasonable cause to believe that ADOC’s homicide rate is higher than what ADOC has publicly reported. There are numerous instances where ADOC incident reports classified deaths as due to “natural” causes when, in actuality, the deaths were likely caused by prisoner-on-prisoner violence. This is especially concerning given that these incident reports are used for public statistical reporting as required by law. For example:

- A prisoner died in February 2018, from wounds he sustained four days earlier in a knife fight at Kilby. The autopsy details multiple stab wounds to the prisoner’s head, abdomen, back, and arm. One stab wound extended “through the scalp and impact[ed] the skull and [was] associated with a depressed skull fracture 1/4 inch in diameter.” The toxicological analysis report also revealed the presence of methamphetamine in his system. The incident report listed this prisoner’s death as “Natural,” despite the original incident report narrative describing an altercation with a weapon. Though ADOC reported the death as “Natural,” the autopsy report definitively states that manner of death was “homicide.”
- In November 2017, a prisoner was rushed to a hospital from Elmore with a brain bleed. Prior to the transfer, the prison’s health care unit had refused to provide medical attention to the prisoner—even though he was “bleeding from his head”—because he appeared to be “under the influence.” At the hospital, he ultimately required emergency brain surgery. Further investigation revealed that another prisoner had physically assaulted the decedent. The incident report does not detail how the assault occurred. Approximately one month later, following readmission, the hospital informed ADOC officials that the prisoner died. ADOC classified the death as “Inmate Death – Natural.” In contrast, the autopsy report describes “multiple contusions present on the right upper chest, wrists and arms.” The autopsy concludes that the manner of death was “homicide” caused by “blunt force head trauma,” which resulted in a subdural hematoma (a pool of blood between the brain and its outermost covering).
- In October 2017, a correctional officer observed a prisoner lying on the bathroom floor, “nonresponsive,” in a dormitory at Elmore. The incident report notes that “Brown Timberland steel toe boots” were taken into evidence, but gives no indication of what injuries the prisoner had and why these boots were evidence. The prisoner died three days later. A spreadsheet of prisoner deaths from 2017, which ADOC’s medical contractor produced to us, indicates that he died from a “[p]ossible assault—[f]acial bleeding and [o]ccipital [fracture].” The incident report, however, lists the cause of the prisoner’s death as “Inmate Death – Natural.” The autopsy report contains a detailed description of his death: “This 55-year-old male . . . was an inmate at Elmore Correctional Facility when he smoked a synthetic cannabinoid on 10/02/17. Another inmate reportedly began to punch, kick, and slam [him] who was likely unable to resist due to his intoxicated condition. [He] was taken to the shower room in an attempt to arouse him from his ‘high.’ Correctional officers determined that [he] was unresponsive and he was transported to Kilby Health Center, then onward to Jackson Hospital for a higher level of care. [He] expired on 10/05/17 from his injuries.” The autopsy report noted injuries to the scalp, a skull fracture, and bleeding on the surface of the brain. The prisoner also sustained a fractured rib, which caused bleeding into the right chest cavity. The autopsy report concludes that the manner of death was “homicide” as caused by “blunt force injuries of the head and chest.”

2. *The Excessive Number of Deaths Due to Violent, Deadly Assaults Demonstrates that ADOC Is Unable to Adequately Keep Its Prisoners Safe.*

Our investigation revealed that an alarming number of prisoners are killed by other prisoners using homemade knives. The knives used in these assaults are frequently long and sharp, thus able to easily penetrate the victim's body and puncture vital organs. Several prisoners who were stabbed to death also had been stabbed in past incidents. ADOC, with the knowledge that previously stabbed prisoners were at risk for further violence, took no meaningful efforts to protect these prisoners from serious harm—harm that was eventually deadly. As detailed by the examples of killings described below, ADOC does not protect prisoners in its custody from death caused by prisoner-on-prisoner violence.

- In September 2018, a prisoner was stabbed to death at St. Clair. The autopsy classified the death as a homicide caused by multiple sharp force injuries resulting in significant blood loss. It further described stab wounds to the neck, left back, and right back. One of those stab wounds penetrated approximately 5½ inches. The prisoner had previously been stabbed in July 2017 while incarcerated at St. Clair.
- In July 2018, a prisoner was stabbed to death at Ventress. The autopsy noted that “another prisoner with a prison-made ‘shank’ reportedly stabbed him.” And the autopsy further noted that “[t]he cause of death was a stab wound of the chest. A sharp force injury of the left chest injured the left lung and the heart, causing massive bleeding into the left chest cavity.” In January 2016, this same prisoner was stabbed in the back by several prisoners at Holman.
- In August 2017, two prisoners got into a knife fight in the institutional yard at Staton. The fight apparently broke out because one prisoner stole a contraband cellphone from the other prisoner. The incident was discovered when the correctional officer in the tower observed a group of prisoners gathered by the volleyball court and called for assistance. When two other officers arrived, they deployed pepper spray to compel the prisoners to disperse and get down on the ground. At that point, they discovered that a prisoner had been stabbed in the chest. ADOC recovered an 11-inch knife with a four-inch handle and a 10-inch knife with a three-inch handle near the scene. The injured prisoner died four days later, and his death was classified as a homicide due to “[s]tab wound of the chest”.
- In July 2017, a prisoner at St. Clair was found tied up and strangled to death. The incident report listed the incident type as “Death – Inmate-on-Inmate” but contained no details about the nature of the death. The incident report said only that at 2:15 p.m., officers entered the cell and observed the prisoner lying unresponsive on the floor and when he was checked, “appeared not to be breathing.” The report stated that a nurse was escorted to the cell and reported that the prisoner “had no signs of life.” A photograph from the aftermath of the murder painted a different, gruesome picture. It clearly showed that the decedent's hands remained tied to a bedpost when prison officials found his lifeless body. The strangulation marks on his neck are clearly

visible. The autopsy classified the death as a homicide caused by “Asphyxia due to Ligature Strangulation.” It further noted the presence of ligature contusions to both wrists.

- In May 2017, a prisoner at Bibb was stabbed to death in the chest. The autopsy noted that the wound penetrated the prisoner’s heart: “The blade is seen to incise the heart at the AV junction on the right with an incision of the right atrium and ventricle approximately 1 inch in length. This wound is associated with a right hemothorax of approximately 2 liters.” The incident report classified the death as the result of an “Inmate-on-Inmate” assault. The incident report stated that at 10:50 a.m., an officer observed several prisoners fighting with a weapon and called for back-up. When his supervisor arrived, he noticed a prisoner bleeding from the chest and took him to the medical unit. From there, he was sent by ambulance to the hospital where he was pronounced dead.

3. ADOC Is Routinely Unable to Adequately Protect Prisoners Even When Officials Have Advance Warning.

ADOC is frequently unable to protect its prisoners from violence, despite having advance notice that the prisoners may be in danger. Our investigation uncovered numerous instances where prisoners explicitly informed prison officials that they feared for their safety and were later killed. In other cases, prisoners were killed by individuals with a lengthy history of violence against other prisoners.

- In February 2018, a prisoner was killed at Bullock—one day after expressing concern for his safety to prison officials. On the day prior to his death, the prisoner entered the Shift Commander’s office and informed officials that he had been threatened over a cellphone that another prisoner had stolen while he was guarding it. The prisoner said that he had been “slapped a few times” for nonpayment related to the missing cellphone, and was afraid. The autopsy classified his death as a homicide by blunt-force head trauma that caused intracranial bleeding, as well as hemorrhages in the brainstem.
- A prisoner was killed in a knife fight at St. Clair in February 2018, by another prisoner with an extensive history of being disciplined for possessing knives. The knife fight occurred in the front of a dormitory around 11:30 a.m. The victim was rushed to the hospital but was pronounced dead at 12:58 pm. The autopsy noted multiple stab wounds to the right lung, heart, liver, spleen, colon, and soft tissues. The assailant had been involved in a different knife fight at Holman in June 2016. He was found with knives in December 2016, and again in January 2017, when he was housed in segregation.
- In September 2017, a prisoner at Bibb died of stab wounds to the chest. The autopsy report described at least 22 puncture wounds. These included several stab wounds to the neck, a fact not referenced in the incident report. Since April 2017, the victim had been involved in at least two other physical altercations at Bibb with two separate

prisoners. And, in October 2016, while the victim was housed at Fountain, a correctional officer witnessed a different prisoner repeatedly stabbing him.

- A prisoner at St. Clair was strangled to death in May 2016. When officers found the prisoner, he was lying face down in his bed, and his face was flattened, indicating that he had been dead for quite some time. At some point, the assailants appeared to have urinated on the victim. Additionally, staff noted that the numbers “1636” had been carved post-mortem into the decedent’s ribcage. The victim was a known gang member, and the number 1636 is a gang-related reference to “cardinal sin,” indicating that the person is a traitor or snitch. Less than two weeks before his death, the victim had been assaulted over a debt. Following that assault, the victim was placed in segregation for his protection. He was released from segregation hours before he was killed.

4. ADOC Must Accurately Track the Deaths that Occur Within Its Custody.

In order to properly assess and respond to prisoner violence and dangerous conditions posed by drug trafficking and other contraband within Alabama’s prisons, it is essential to track and review prisoner mortalities and other serious incidents to identify necessary corrective actions. However, ADOC does not have a reliable system of tracking the deaths of prisoners that occur within its custody. In response to our subpoena, ADOC and its medical contractor separately produced spreadsheets compiling prisoner deaths from January 2015 through 2017. After comparing those spreadsheets with autopsy reports produced by other agencies, we identified at least 30 deaths that ADOC did not disclose to the Department. ADOC was unable to provide an explanation for these omissions. ADOC cannot address and prevent recurring harmful situations if it is unaware of the scope of the problems within Alabama’s prisons. As some of the following examples show, some of the missing deaths resulted from prisoner-on-prisoner violence:

- In May 2017, a prisoner at Bullock died after being stabbed multiple times by multiple fellow prisoners. The incident report described the prisoner “running towards the grillgate in Dormitory I1 bleeding from his facial area.” I&I investigated the matter as a murder. One prisoner informed I&I that he had witnessed an altercation earlier in the day when several prisoners were bullying the victim for having same-sex relationships. It is unknown why this prisoner’s death does not appear on the list of prisoner deaths that ADOC produced to the Department.
- In February 2017, a prisoner died at the Staton Health Care Unit. I&I investigated the matter and found that the victim and another prisoner began fighting near the officer cubical because the victim felt the other prisoner was standing too close to him. Once the two were separated, the victim followed the other prisoner back to the bed area. The assailant produced a homemade knife and another fight ensued in which the victim was stabbed and ultimately died. The autopsy detailed numerous stab wounds to the victim’s back and chest. ADOC could not explain why this prisoner’s death does not appear on the list of prisoner deaths that they produced to the Department, but does appear on a list of deaths that its private medical care provider tracked.

- In February 2017, a prisoner died two days after being assaulted by several prisoners at Elmore. An incident report described the prisoner as being “laid out on the floor” of the dormitory with a serious injury. The I&I Investigative Report indicates that the prisoner was fighting with another prisoner and was hit in the head, knocked out, and fell so that he hit his head again on the floor. The unconscious prisoner had to be carried to the health care unit and taken by helicopter to a local hospital where he died two days later. Elmore’s incident report classified the prisoner’s death as “Inmate Death – Natural.” In contrast, the I&I Investigative Report states that, according to the autopsy report, the cause of death was Blunt Force Head Trauma and the manner of death was Homicide.

In addition to not accurately tracking deaths within its custody, ADOC has acknowledged that it does not maintain a centralized repository for all autopsies that have been performed. And, even apart from maintaining autopsies and tracking deaths, ADOC has no other mechanism in place to identify patterns in causes of death. As discussed in more detail below, this is particularly troublesome given the level of contraband that is readily available within the system, including knives and a significant amount of illicit substances that have caused and/or contributed to a number of deaths.

5. *High Numbers of Life-Threatening Injuries Are Additional Strong Evidence that ADOC Is Not Adequately Protecting Its Prisoners.*

In March 2018, from his glass cube, an officer at Donaldson observed a prisoner come to the door of one of the two cellblocks he was responsible for observing. The cellblocks at Donaldson house approximately 96 prisoners each. The prisoner “appeared to be severely injured” and “was unable to talk due to the injuries to his mouth.” The officer manually opened the door of the dormitory from the cube and allowed the prisoner into the corridor, where the prisoner collapsed. The officer radioed a correctional sergeant for assistance. The sergeant arrived and found the prisoner lying on his back and severely injured. The prisoner was sent by ambulance to the nearest emergency room where, in addition to other observable injuries, it was discovered that a broomstick had been inserted into his rectum. Emergency surgery was necessary to remove the object. Four prisoners were identified as suspects and received disciplinary violations for Assault on an Inmate with a Weapon and Sexual Assault (forcible). Yet no ADOC staff member was aware of the assault until the seriously injured victim sought out a correctional officer for help

This incident is just one of hundreds of similar incidents that are documented by ADOC throughout Alabama’s prisons. Prisoner-on-prisoner violence is systemic and life-threatening. ADOC is failing to adequately protect its prisoners from harm, in violation of the Eighth Amendment. Prisoners have “a constitutional right to be protected from the constant threat of violence and from physical assault by other inmates.” *Zatler v. Wainwright*, 802 F.2d 397, 400 (11th Cir. 1986) (per curiam). Constitutional conditions of confinement include the requirement to “take reasonable measure[s] to ensure the safety of the inmates.” *Gates v. Cook*, 376 F.3d 323, 332 (5th Cir. 2004) (citing *Farmer*, 511 U.S. at 832). “[H]aving stripped [prisoners] of virtually every means of self-protection and foreclosed their access to outside aid, the

government and its officials are not free to let the state of nature take its course.” *Farmer*, 511 U.S. at 833.

Courts have held that protecting prisoners from violence requires adequate supervision and staffing. *Alberti*, 790 F.2d at 1225-28 (upholding district court’s order requiring specific staffing and hourly visual inspections by guards to address high violence and sexual assault at jail); *Smith v. Sullivan*, 553 F.2d 373, 380 (5th Cir. 1977) (upholding requirement for hourly guard visits, and disapproving not having a guard on each floor); *see also Swofford v. Mandrell*, 969 F.2d 547, 549 (7th Cir. 1992) (holding that while low staffing levels do not, by themselves, constitute due process violations, they provide support for a conclusion that the inmates are treated “recklessly or with deliberate indifference” to their safety); *Ramos*, 639 F.2d at 573 (“Violence and illegal activity between inmates . . . is further facilitated by the inadequacy of the staffing levels.”); *Tillery v. Owens*, 719 F. Supp. 1256, 1276-77 (W.D. Pa. 1989) (holding that officials failed to provide adequate security in violation of the Eighth Amendment largely on the basis that staffing shortages resulted in deficient supervision), *aff’d*, 907 F.2d 418 (3d Cir. 1990).

Evidence of prisoner-on-prisoner violence in Alabama’s prisons abounds—weekly in some prisons, daily in others—and is documented in ADOC’s incident reports. In many instances, prisoners were so gravely injured that they had to be airlifted or taken by ambulance to local hospitals for emergency treatment. The following are just a few examples from among the hundreds in ADOC’s incident reports:

- In March 2018, two Staton prisoners were involved in a fight. An officer ordered them to stop, but they refused, so the officer sprayed them with pepper spray. One prisoner then dropped a 10-inch long homemade knife. One of the prisoners had to be airlifted to an outside hospital due to a stab wound in his stomach.
- In October 2017, at Holman, a cubicle officer observed two prisoners yelling at each other in an open dormitory and called for assistance. When officers arrived, a prisoner was standing at the gate of the housing unit bleeding from his stomach and face. The victim was transported to a local community hospital where he was then taken by helicopter to a larger medical center where he was successfully treated.
- In September 2017, at St. Clair, when a lieutenant was conducting rounds in two open dormitories, he observed two prisoners fighting with box cutters and homemade knives. The lieutenant radioed for assistance and waited for other officers to arrive. As two officers escorted one of the prisoners to the health care unit, a third prisoner quickly approached and stabbed the escorted prisoner in the back. Officers sprayed the third attacker with pepper spray while a fourth prisoner tried to stab the third attacker with a knife and he too was sprayed with pepper spray. One of the prisoners was taken by ambulance to an outside emergency room for treatment of his stab wounds.
- In July 2017, at Elmore, an officer working alone in an open dormitory observed a prisoner stab another prisoner. He radioed for help and ordered the attacker to drop the knife. The prisoner refused and ran away with the knife in his hand. He only stopped

when another officer responded to the call for assistance and sprayed the attacker in the face with pepper spray. The victim was taken by helicopter to an outside emergency room for treatment.

- In March 2017, at St. Clair, an officer saw a prisoner being stabbed by two other prisoners and radioed for help. The two prisoners had attacked their victim from behind while he was on the way to the dining hall. When the officer yelled for them to stop, one of the assailants ran from the officer, while the other continued stabbing the victim. Four other officers eventually arrived and stopped the assault. The victim was transported to an outside emergency room for treatment of stab wounds to the back, a perforated lung, and a stab wound to the head.

Many of ADOC's incident reports document life-threatening injuries to prisoners—only discovered by officers after the injury occurred. These incident reports demonstrate a strong pattern of evidence of deficient supervision and ADOC's systemic failure in its duty to “provide humane conditions of confinement” and to “take reasonable measures to guarantee the safety of the inmates.” *Farmer*, 511 U.S. at 832-33. The following are a few of the hundreds of grave injuries to prisoners that were inflicted out of the sight of ADOC correctional officers:

- In April 2018, a Bullock prisoner, his shirt covered in blood, approached an officer and stated that he had been stabbed by several other prisoners. He had to be airlifted to an outside hospital for treatment.
- In April 2018, an officer at Kilby noticed a crowd of prisoners gathered in the back of an open dormitory. When the officer approached, he discovered a prisoner with a bleeding, partially detached ear. He had been fighting with another prisoner who tried to bite off his ear. The prisoner was ultimately taken to an outside hospital for treatment.
- In March 2018, a prisoner at Kilby approached an officer with visible burns on his body. The prisoner told the officer another prisoner had thrown hot shaving cream on him—hot enough to cause second degree chemical burns. The prisoner was taken to an outside emergency room, but his condition was so bad that he had to be transported by ambulance to a hospital an hour and a half away.
- In February 2018, a Fountain prisoner was stabbed 10 times by another prisoner, including stab wounds to his medial lower elbow through the fascia, left upper shoulder, left bicep, left inner upper arm, left palm, left upper thigh, left upper medial calf, lower medial calf, and behind his right knee. He was airlifted to an outside hospital. A search recovered a homemade weapon that was approximately nine inches long.
- In February 2018, a Holman officer noticed a prisoner walking toward the gate of his housing unit with blood on his clothes. He had been stabbed 22 times by two other prisoners, with wounds to his back and head, and had to be airlifted to an outside hospital.

- In January 2018, a Holman prisoner came to the gate of his housing unit, bleeding. He had been stabbed 22 times, including to his chest, upper arm, thigh, back, buttock, foot, and face, by six other prisoners.
- In January 2018, a cubicle officer at Holman noticed a prisoner walking towards the shower area covered in blood. He had been attacked by two prisoners with a knife, resulting in a facial laceration that severed an artery. The prisoner had to be airlifted to an outside hospital due to arterial bleeding.
- In December 2017, at Holman, a cubicle officer observed a prisoner standing at the housing unit gate bleeding from his arm and chest. The prisoner had been assaulted and stabbed by multiple prisoners, suffering puncture wounds to his back, chest, arm, and head, as well as lacerations to his arm and head. Due to the severity of his injuries, the prisoner had to be airlifted to an outside hospital.
- In November 2017, a Holman prisoner was stabbed in the head, back, shoulders, and both arms and legs. He had to be transported to an outside hospital for emergency surgery. An officer only became aware of the stabbing when he heard several prisoners banging on the cell bars and shouting to get his attention, then saw other prisoners carrying the victim, who was bleeding profusely, toward the unit's door.
- In November 2017, at Holman, a cubicle officer observed a prisoner walking towards the gate of an open dormitory with blood on his clothing, and called for assistance. When officers arrived, they found a prisoner with a bloody face. The prisoner, and another witness to the assault, confirmed he had been stabbed in the eye and beaten by two prisoners for resisting a sexual assault. The victim was sent by ambulance to an outside emergency room.
- In October 2017, St. Clair officers noticed a prisoner leave his unit and enter the prison yard wearing only a blanket and socks. Only then did staff discover that the prisoner "had been assaulted and severely beaten," appearing to have been bound and taped around his hands, ankles, mouth, and head, and had a fresh burn mark on his face.
- In September 2017, at Easterling, a prisoner was attacked in the prison yard by three prisoners and stabbed multiple times. But no ADOC staff were aware of the assault until an officer saw several prisoners carrying the victim toward the health care unit.
- In July 2017, at Elmore, an officer observed a gathering of prisoners at the back of the dormitory and saw that one prisoner was bleeding from his chest. He radioed for assistance and the prisoner was escorted to the health care unit. The prisoner was taken by helicopter to an outside emergency room. The stabbing happened when the victim tried to intercede and stop a fight between two other prisoners.
- In July 2017, a prisoner at Kilby approached the shift commander to let him know that he had been stabbed in the chest by two other prisoners. The prisoner was sent by

ambulance to an emergency room for treatment. Later, a homemade knife was found under the mattress of one of the suspected attackers.

- In April 2017, at Elmore, a prisoner informed an officer in an open dormitory that he had just been stabbed in the back. The prisoner was taken by ambulance to an outside hospital where he underwent emergency surgery for a punctured lung. The weapon used to stab the victim could not be found.
- In April 2017, an officer at Limestone saw a prisoner standing in the day room with multiple injuries to his head. The prisoner was escorted to the health care unit and then taken to an outside hospital for treatment for facial lacerations. The prisoner reported he had been attacked by another prisoner over a missing jug of julep (a prison-made alcoholic mixture).
- In February 2017, at Bibb, an officer saw a prisoner with blood running from his face. He escorted the prisoner to the health care unit where he was immediately transported to an outside emergency room. Later video review showed that the prisoner had been assaulted by two other prisoners with a mop. The victim required numerous stitches, and because of a cut to his lung, he had to be hospitalized overnight at an outside hospital.

Another pattern that emerges in ADOC's incident reports is the prevalence of drugs in the facilities, and the effect that has on prisoner-on-prisoner violence. ADOC management, staff, and prisoners all reported that prisoners on drugs often "wig out" and harm others, and the inability to pay drug debts has led to beatings, stabbings, and homicides. The following are some of the many examples documented in ADOC incident reports:

- In April 2018, an officer observed that a Donaldson prisoner had blood on his clothing. The prisoner was transported to the hospital with multiple stab wounds. The investigation revealed that the victim "was likely under the influence of narcotics" when he began poking another prisoner, who was asleep, with a knife. That prisoner woke up, grabbed the knife, and stabbed the first prisoner several times.
- In September 2017, officers were called to a Draper dormitory due to one prisoner bleeding from multiple stab wounds and another bleeding from the crown on his head. The prisoner who had been stabbed admitted that he had been high on Suboxone for two days. While he was high, the prisoner had bleach poured on him, was beaten with a broken mop handle, and was stabbed several times. The drugged prisoner also assaulted another prisoner with a lock on a string.
- In August 2017, a Bibb prisoner stabbed another prisoner in the back multiple times while high on drugs. The victim had to be airlifted to an outside hospital. Officers recovered the assailant's knife. Despite noting that the assailant had slurred speech and "appeared to be on an unknown substance," there is no indication that ADOC officers conducted a search for contraband drugs.

- In April 2017, a Bibb prisoner was stabbed in the back and left temple while asleep, and had to be airlifted to an outside hospital. This prisoner had a history of drug debts and had previously tested positive for drugs. His attacker explained that the victim owed him a \$200 debt and was not going to pay, so he “got it in blood.”
- In February 2017, an Elmore prisoner was killed because of a failed drug transaction. Multiple prisoners attacked the victim while he lay asleep in bed, then he was dragged on a blanket to the common room, where a correctional officer eventually discovered him. He was airlifted to an outside hospital for emergency surgery due to a brain hemorrhage. He died two days later.

Yet another pattern that emerges is the prevalence of contraband, especially homemade weapons, which appear to be very easy for prisoners to produce or procure. Many of the incidents already described demonstrate the widespread availability of such weapons, as do the following, which also illustrate just how dangerous these weapons can be:

- In April 2018, a prisoner at Ventress attacked another prisoner with a homemade hatchet. The victim was taken to an outside hospital with excessive blood loss and a possible punctured lung. ADOC described the “hatchet like weapon” as having a foot-long broom handle with a “lawn edging blade” attached to the top.
- In February 2018, an officer noted a St. Clair prisoner running down the hallway and stopped him. The prisoner turned and showed the officer that he had a knife embedded in his head. The prisoner had to be transported to an outside hospital for the removal of an eight-inch, metal homemade knife from the back of his head.

An effective prison system encourages prisoners and staff to report threats and/or violence, so that management can properly discipline assailants and seek to ensure that violence is averted. In Alabama, staff instead sometimes discipline the very prisoners who report threats or are themselves victims of assaults. For example, when a prisoner voluntarily admits to a minor rule infraction, such as accruing a debt to another prisoner, while seeking assistance or protection from violence, staff will indiscriminately discipline the very prisoners who report threats or are themselves victims of assaults. While ADOC has an interest in enforcing institutional rules, the disciplinary system should be implemented in a way that allows for discretion and avoids subjecting victims to unnecessary disciplinary actions for minor infractions voluntarily admitted when they are seeking assistance or protection from ADOC due to threatened or actual violence. A system that punishes prisoners who report violence if the victim bears any fault or has engaged in any misconduct will necessarily discourage prisoners from reporting and make it more difficult for ADOC to prevent violence in Alabama’s prisons. By focusing on the reporting victim’s past misconduct instead of his allegations of abuse, ADOC misses the opportunity to prevent violence while simultaneously discouraging other prisoners from coming forward. In each of the examples below, the prisoners who reported being assaulted or sought protection from ADOC were subjected to discipline because they voluntarily admitted to having accrued debts to other prisoners:

- In April 2018, a drug treatment counselor at St. Clair reported to a captain that a prisoner feared for his safety because of debts he owed to gang members. The captain questioned the prisoners he had named, all known gang members, who denied the allegations. The prisoner who made the report was disciplined for intentionally creating a security/safety/health hazard and placed in restricted housing for admitting to having accrued a debt.
- In March 2018, a prisoner at Elmore reported to the administrative lieutenant that he was in fear for his life because he owed money to four prisoners who were threatening him. The lieutenant questioned the named prisoners about the allegation, which they denied. Although those prisoners were not disciplined, the reporting prisoner was ordered to provide a urine sample and transferred pending disciplinary action for intentionally creating a security/safety/health hazard. The incident report confirms that “no further action” was taken.
- In January 2018, a Bibb prisoner approached staff to report that he had been assaulted by multiple other prisoners over a drug debt. A medical examination showed he sustained several bruises and scratches to the facial area. Video surveillance footage confirmed the assault. While the assailants were cited for assault on an inmate, the reporting prisoner was also disciplined for intentionally creating a security/safety/health hazard because he admitted to the drug debt.

In some cases, it appears that ADOC disciplines prisoners simply for refusing to name the individuals who they fear may harm them, which requires the prisoner to choose between discipline and the danger he may face from retaliation if he identifies his assailant.

- In October 2017, a prisoner at Bibb entered the health care unit, bleeding. The prisoner had sustained two puncture wounds to the back of his neck, a bite mark to the base of his skull, and multiple scratches to his mid- and lower back. Because the prisoner declined to name the person who had assaulted him, he was given a disciplinary for intentionally creating a security/safety/health hazard. He was then reassigned to the Hot Bay.
- In September 2017, a prisoner from Draper died at Jackson Hospital. His cause of death was listed as “Inmate Death – Natural” on the facility’s incident report. Two days earlier, he was found unresponsive on his bunk in a dormitory at Draper. The autopsy, however, indicated that he died of “[s]ynthetic cannabinoid toxicity (5F-ADB).” Several months prior to his death—in July 2017, while housed at Holman—the decedent had requested to be placed in segregation because he feared for his life. Although the incident report notes no wrongdoing on the part of the victim, he was subjected to discipline for intentionally creating a security/safety/health hazard after he failed to name the prisoners he feared. The decedent had expressed similar fears in August 2016, and was subject to discipline at that time as well, after failing to provide names.

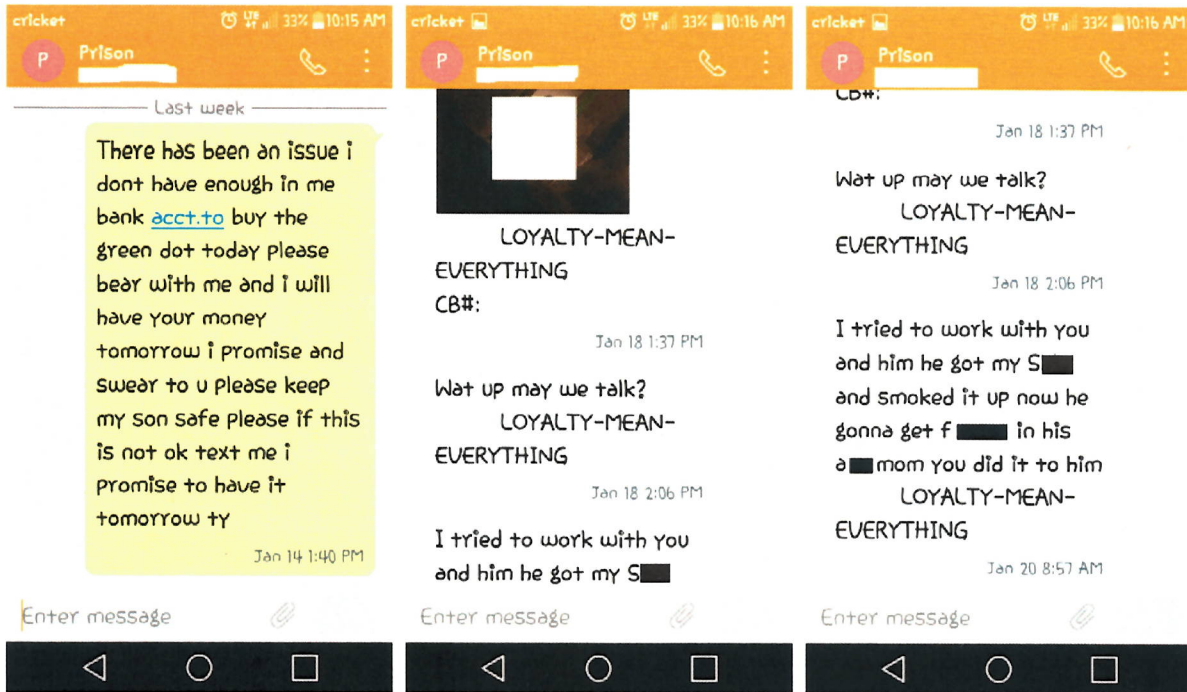
The violent incidents discussed in this section of the report were all culled from ADOC's own incident reports. We have reasonable cause to believe that ADOC does not record all violent incidents in incident reports. First, high-level management in ADOC admitted to us that not all incidents are recorded in incident reports. Second, we interviewed many prisoners and received hundreds of calls to our dedicated toll-free number from prisoners and concerned family members, many of whom reported to us specific details about contemporaneous events. When we searched for evidence in ADOC's incident reports to confirm or refute what we had been told, for many of the allegations, there were no corresponding incident reports. Because ADOC did not produce most of the subpoenaed investigative files, it is possible and perhaps likely that the violence and harm to prisoners in ADOC prisons is even greater than that which we report.

6. *Unchecked Extortion Presents a Risk of Serious Harm.*

Extortion of prisoners and family members of prisoners is common in Alabama's prisons. Extortion by fellow prisoners is commonly reported by prisoners calling the toll-free number established by the Department. Investigators with ADOC's I&I confirmed extortion of family members and prisoners is a significant problem in Alabama's prisons. Alabama's inability to prevent and address the extortion of prisoners and prisoners' family members leads to a substantial risk of serious harm. *Marsh*, 268 F.3d at 1028 (holding that correctional facility conditions that provide the opportunity for harm and fail to allow for adequate supervision pose a substantial risk of serious harm). For example:

- In August 2018, a prisoner at Bibb called the Department's toll-free number to report that he was forced into nonconsensual sex acts with other prisoners while being extorted for drug money. He reported that he was constantly sleeping in other dormitories to escape the prisoners. He told us that when he reported the matter to Bibb's PREA resource officer, the officer told him that because he was in debt to another prisoner, nothing could be done.
- In May 2018, a prisoner at Bibb called the toll-free number to report that in February of that year, he had been held hostage in an open dormitory over the course of several days over a money debt and was severely beaten by several prisoners. When he was finally able to escape and notify a correctional officer, an incident report confirmed the severity of his beating by noting that he was immediately sent to an emergency room and required two facial surgeries.
- Over the course of several days in February 2018, a prisoner at St. Clair was repeatedly physically and sexually assaulted at night by his cell mate, as evidenced by fresh and healing bruising on his body. When he finally approached an officer, he reported that his cell mate had been extorting him to pay \$1,000 and was forcing him into sex and payment of four packs of tobacco each day until he satisfied the \$1,000 debt. ADOC placed both prisoners in restricted housing.
- In January 2018, the mother of a prisoner at Ventress called our toll-free number to report that she and her son were being extorted for money to pay off an alleged \$600 debt to another prisoner. Because of his failure to pay, the victim was beaten and

threatened with rape. His mother later called to report that she was being extorted by a prisoner at Ventress who texted her photos of a prisoner's genitals from a cell phone. Through texts, he threatened to chop her son into pieces and rape him if she did not send him \$800. In February 2018, the inmate called our toll-free line and affirmed what his mother had reported. The following screenshots were sent to us:



Text messages attempting to extort a prisoner's family member

- Similarly, in December 2017, a woman reported that her brother, a prisoner at Donaldson, was being held hostage inside a cell. When a correctional sergeant sought the prisoner out, he was found with several bruises on his face and it was determined he had been assaulted. The prisoner told the correctional officers that he and his family were being extorted by his captor for money. During the investigation, the alleged perpetrator admitted that the victim had been “short on his payment,” and was placed in segregation pending disciplinary action. The victim was placed in the Restricted Privileges cell.
- In October 2017, a prisoner at Staton was moved by security staff to Bibb because he was physically assaulted and extorted for \$10,000 by four prisoners who were members of the Crips Gang. The gang members targeted the victim after learning that he received an inheritance following his mother's death earlier that year.
- In November 2017, a prisoner at Bullock called the Department's toll-free number to report that he believed he would soon be killed over a debt. Later that day, a correctional captain questioned the prisoner about his call. The prisoner told the captain he was indebted to other prisoners and could not pay and wanted protection.

The prisoner refused to provide the names of the prisoners who were extorting him. ADOC then required the victim to provide a urine sample and moved him to restricted housing while giving him a disciplinary action for intentionally creating a Security/Safety/Health Hazard.

7. *Access to Dangerous Weapons Contributes to Serious Violence.*

ADOC does not effectively control the introduction, manufacture, and use of weapons. This leads to a substantial risk of violence. While the majority of weapons recovered inside Alabama's prisons are "homemade," some weapons appear to be commercially manufactured and smuggled into the facilities. One way control could be accomplished is to require all staff to undergo screening prior to entering a facility, as the federal Bureau of Prisons has required since 2013. Enhanced screening of visitors would also evidence a commitment to addressing this problem.

The Constitution requires that prison officials adequately monitor prisoners and confiscate weapons and other dangerous contraband to ensure prisoners' health and safety. *Hudson*, 468 U.S. at 527 ("[Prison officials] must prevent, so far as possible, the flow of illicit weapons into the prison . . ."). Our review of incident reports for the year 2017 revealed that in hundreds of incidents reports, weapons of some kind were used and subsequently confiscated. And any given incident report may include the collection of more than one weapon from more than one individual. It is clear from interviews with staff and prisoners that weapons are ubiquitous in Alabama's prisons. And, as the examples recounted previously demonstrate, stabbings are frequent throughout the system.

At Bibb, a captain estimated that perhaps 200 prisoners possess homemade knives, also known as shanks. He told us that in May 2017, security staff collected 166 shanks at one time. He told us that prisoners were making weapons from metal cut from fences in the yard, light fixtures, dish racks, and elsewhere. And at least one Bibb prisoner recounted seeing a correctional officer watching a weapon being made without intervening. Prisoners at Bibb said that "everyone" has knives, and prisoners need a weapon to stay alive. One prisoner stated that "Bibb is a place where you have to fight the day you arrive or you'll be a bitch, so you get a knife." Another recounted being warned by officers when he arrived at Bibb that he would need a knife for protection.

From interviews with prisoners at multiple facilities, it was clear that many prisoners felt they needed a weapon for self-defense. At facilities we visited, shift commanders estimated that anywhere from 50-75% of prisoners were armed with some sort of weapon. Prisoners at Draper and Holman stated that knives are "everywhere." At Holman, three different lieutenants said "all" prisoners have a weapon of some sort. One prisoner stated that it was just "good common sense" to have one in that environment. Another stated that no security measures can get rid of all the knives hidden in the open dormitories.

Multiple prisoners interviewed at different facilities confirmed that knives are pervasive. One prisoner at Donaldson recounted seeing knives as big as machetes. A weapon that was essentially a small sword was recovered at St. Clair in 2017.



Correctional officer holding a weapon recovered at St. Clair in 2017

The number of prisoners we interviewed who had either been stabbed or had stabbed another prisoner was overwhelming—for example, one prisoner recounted that he had been stabbed 11 different times since he arrived in prison and he was currently in segregation for stabbing someone. And many of these stabbings go unreported to security staff. It is clear from these reports and from the level of violence and stabbings indicated in ADOC’s own incident reports that whatever measures are in place to prevent the creation and introduction of weapons, those measures are failing.

8. *Ineffective and Unsafe Housing Assignments Increase the Risk of Violence.*

ADOC fails to implement effective classification and housing policies, which results in violence by commingling prisoners who ought to be kept separate within the same, under-supervised housing units. *See Marsh*, 268 F.3d at 1014 (lack of classification and risk assessment system constitutes deliberate indifference where inmates were harmed by other inmates because housing assignments did not account for the risk violent prisoners posed). ADOC’s classification process has not been validated for effectiveness. In addition, classification specialists handle a large number of prisoners, limiting effectiveness. For example, at Bibb, each classification specialist handles a caseload of 360 prisoners.

While ADOC makes some attempt to separate potential predators from potential victims, prisoners can and do frequently thwart attempts to keep prisoners separate by wandering from housing unit to housing unit without staff intervention or knowing how to break into compromised cell doors. A review of incident reports from 2017 revealed over 1,100 incidents

of prisoners being in an unauthorized location. The initial screening for determining a prisoner's custody level, and corresponding facility assignment, is done centrally. Housing unit and bed assignment is done at the facility-level. There is inadequate screening for prisoners' risks of being violent or sexually abusive, or for potential vulnerabilities, as is required by PREA. And prisoner transfers are ubiquitous and numerous; almost every prisoner we talked to had been transferred to many different prisons throughout their time in the ADOC system. Segregation is used to house prisoners who do not want to stay in general population and are fearful for their life or safety. But segregation is also used to house prisoners being punished for rule infractions and prisoners placed there for being a threat to safety, which results in a dangerous mix of predatory and vulnerable prisoners in the same unit with inadequate supervision.

It is a common correctional practice to assign prisoners who have received disciplinary infractions to a disciplinary housing unit where they are subject to higher security measures, including segregation or reduced out-of-cell time and curtailed privileges. ADOC utilizes a disciplinary dormitory at several of its facilities, also known as the Hot Bay, for prisoners who receive a disciplinary action for misconduct. Most often, that misconduct involves violence, resulting in these dormitories housing a high percentage of violent prisoners. Although some ADOC disciplinary units are termed "Behavior Modification" units, there is no additional staffing or behavioral programming offered in these units. Prisoners are commingled and under-supervised, but still housed in an open dormitory. They are also being denied access to programming and visits to the canteen. Food is brought to them on trays. They are only given access to the yard if there are enough officers to supervise outside time, which rarely happens. These deprivations raise tension levels within the unit. However, unlike disciplinary units in other correctional systems, which require increased correctional staffing and supervision, prisoners and staff reported that there is little supervision in ADOC's Hot Bays, greatly contributing to the high level of violence in these units. In fact, during one facility visit, when we entered the Hot Bay, a captain muttered, "Enter at your own risk."

During our tour of Bibb, also referred to by prisoners as "Bloody Bibb," we learned that to gain the attention of correctional staff, who are rarely present in the Hot Bay, prisoners must bang on the door or chain on the door until someone responds. Prisoners reported that rapes, torture, and physical assaults occur in the back of the dormitory, where there are blind spots preventing the line of sight for correctional staff to view activities through the windows. Many prisoners stated that officers do not ever enter the Hot Bay, with one noting, "unless someone is killed and they have to come clean up the aftermath." Since we inspected Bibb and informed ADOC of our initial findings that the Hot Bay was critically dangerous, ADOC closed the Hot Bay there, but similar "Behavior Modification" dormitories continue to operate at other facilities.

9. *ADOC's Failure to Protect Prisoners from Harm Also Negatively Impacts the Safety of Correctional Staff.*

ADOC's failure to provide adequate supervision and staffing harms not just its prisoners, but also its officers working within the prisons. The same underlying causes of prisoner-on-prisoner violence—understaffing, overcrowding, and prisoners' unfettered access to weapons and drugs—also leads to violence against correctional staff.

We interviewed a former ADOC warden who discussed with us the dangerous staffing levels at the prisons. He called the staffing levels “barbaric” and concluded that both prisoners and correctional officers in Alabama’s prisons “are in extreme danger.” Less than a month before we notified Alabama of our investigation, a correctional officer, Kenneth Bettis, was killed at Holman. Officer Bettis was stabbed in the head by a prisoner while working in the dining hall. The prisoner was angry that Officer Bettis refused to allow him to get a second food tray. At the time, he was the only officer working inside the cafeteria. Shortly after his death in 2016, correctional officers at all facilities were issued stab vests for their protection. Despite the addition of stab vests, correctional staff continue to be harmed by prisoner violence, as the examples listed below show:

- In March 2018, at St. Clair, seven prisoners surrounded a correctional officer with homemade knives drawn. One prisoner cut the officer in his stomach with a knife before help arrived and the prisoners were handcuffed.
- In March 2018, at Fountain, several correctional officers were performing a contraband search. They informed a prisoner that they were going to pat search him, and he refused. When the officers tried to place the prisoner in handcuffs, he punched a lieutenant in the face and then kicked him in the chest. Other officers were able to subdue and handcuff the prisoner. He was searched, and found to have on his person a five-inch box cutter with a razor blade attached.
- In February 2018, at Donaldson, a prisoner attacked a correctional officer with a lock tied to a sock. Once he was subdued and handcuffed, officers found a handmade knife on his person.
- In February 2018, at Ventress, a correctional officer observed a prisoner with a handmade knife, approximately six inches long, in his hand. The officer ordered the prisoner to drop the knife, and the prisoner complied. But when the officer ordered the prisoner to turn around to be handcuffed, the prisoner punched the officer in the face. The officer was eventually able to handcuff the prisoner. A pat search of the prisoner revealed two more handmade knives.
- In February 2018, at Staton, a prisoner ran at a correctional officer, swinging and hitting the officer in his face. A scuffle ensued, and after spraying the prisoner with his chemical agent, the officer was able to subdue the prisoner. A search of the prisoner’s jacket revealed two homemade knives, each about eight inches in length.
- In January 2018, in the Behavioral Modification Dormitory at Draper, a correctional officer was in a bathroom area when he noticed a prisoner starting a fire in a trashcan. When the officer went to extinguish the flames, several prisoners surrounded him and told him to leave. One prisoner came from behind the officer and tried to take the officer’s baton. The officer was then hit in the back of the head with a hard object.

- In December 2017, at St. Clair, a correctional officer directed several prisoners to exit a dormitory. One prisoner hit the officer several times in the face with his fist and stabbed him in the face with a prisoner-made ice pick.
- In November 2017, at Easterling, a correctional officer ordered a prisoner to return to his dormitory. The prisoner failed to comply, grabbing the officer around his neck and striking him twice in the face with his fist. A subsequent pat search of the prisoner yielded a handmade knife.
- In October 2017, at St. Clair, a correctional officer ordered a prisoner to put a shirt on. The prisoner left the area and returned with a 26-inch-long prisoner-made knife. He began chasing the officers in the area, attempting to strike four officers.
- In August 2017, at Bullock, a lieutenant entered a dormitory to conduct a search on a prisoner. The lieutenant discovered a cell phone in the prisoner's pants pocket. When the lieutenant reached for it, the prisoner slapped it out of the lieutenant's hand. The lieutenant then grasped the prisoner by his shoulders and threw him to the floor. The incident quickly escalated. While on the floor, the lieutenant observed multiple prisoners with broomsticks gathering behind him. The lieutenant retrieved his pepper spray and pointed it at the group of prisoners, ordering them to move back. He called for assistance, and four more officers arrived. A prisoner attempted to attack the lieutenant, but another officer restrained and subdued him. While the officers were attempting to depart the dormitory, another prisoner struck an officer in the face. The officers pepper sprayed that prisoner and placed him in handcuffs. Soon after, two prisoners ran towards the officers swinging broomsticks while yet another swung his fists. The officers pepper sprayed these prisoners, eventually subduing them.
- In July 2017, at Bullock, an officer observed a prisoner walking through a door to the Receiving Unit. He asked the prisoner why he was there, and the prisoner stated, "They are going to kill me." The prisoner attempted to force his way into the Receiving Unit. The officer grabbed his left arm in an attempt to stop him. The prisoner then retrieved two handmade knives from his pocket and attempted to strike the officer. The officer moved out of the way and was unharmed. He called for assistance via radio and grabbed the prisoner, ordering him to drop the knives. The prisoner refused, continuing to attempt to strike the officer. Two officers arrived to assist. During the officers' attempt to subdue the prisoner, the prisoner stabbed another officer in the upper right side of his back and attempted to stab the third officer in the chest but failed to puncture the skin. Four additional officers arrived to assist. After a protracted altercation, which included the use of physical force, a baton, and pepper spray, the officers finally subdued the prisoner. Three officers were sent to an offsite hospital for further treatment.
- In July 2017, at Bibb, a prisoner approached an officer from behind and began to stab him in the back with a prisoner-made knife. Another officer saw the stabbing and issued an emergency call for assistance, and additional staff arrived at the scene and

assisted in subduing the prisoner. The officer who was stabbed was transported to Bibb Medical Center for further treatment.

- In June 2017, at Draper, a correctional officer ordered a prisoner to stand for a pat search. The prisoner stood, but informed the officer that he was not going to be pat searched. He then reached behind his back to retrieve a knife, and swung toward the officer. The officer and another officer deployed pepper spray in an attempt to subdue the prisoner, but the prisoner ran away and began swinging his knife at another prisoner. The officer was able to apprehend the prisoner after using pepper spray a second time.
- In May 2017, at Bibb, a prisoner assaulted a captain conducting routine security rounds in the Hot Bay. The prisoner struck the captain in the face several times. When the captain fell to the ground, the prisoner plus two other prisoners began stomping on the captain's head.
- In April 2017, at Ventress, a sergeant and an officer became involved in an altercation between two prisoners, one swinging a piece of metal towards another. One of the prisoners threw the piece of metal down and picked up a broken broomstick. The sergeant ordered the prisoner to drop the broomstick. The prisoner refused and struck the sergeant across the top of his head twice and on the forearm once, causing an eight-centimeter laceration at the center of the sergeant's head.
- In April 2017, at Donaldson, several officers responded to a radio call regarding a prisoner with a weapon, and discovered an officer lying on the dormitory floor. The responding officers assisted the officer while other officers tried to restrain the prisoner, who was swinging a knife. The prisoner continued to fight the officers, but eventually dropped his knife and was restrained. The officer on the floor was placed on a gurney, taken to the infirmary, and later taken to a hospital for further treatment.
- In April 2017, at Bullock, a prisoner who refused to comply with an officer's orders to return to the dormitory pulled a handmade knife from his pocket and attempted to stab the officer in the abdomen. The officer jumped out of the way, sprayed the prisoner with pepper spray, and called for help. The prisoner attempted to stab the officer a second time. The officer took the prisoner to the ground but the prisoner continued to fight, stood back up, and tried to run to the dormitory. Four additional officers responded to the scene and took the prisoner to the ground. The prisoner continued to resist being handcuffed, but eventually he dropped the knife.

D. ADOC's Failure to Prevent Illegal Drugs Within Alabama's Prisons Results in Prisoner Deaths and Serious Violence.

Dangerous and illegal drugs are highly prevalent in Alabama's prisons, and ADOC appears unable or unwilling to prevent the introduction and presence of drugs in its prisons. These drugs contribute to the ongoing violence and pose a substantial risk of future violence. ADOC prisoners are dying of drug overdoses and being subjected to severe violence related to

the drug trade in Alabama's prisons. Agents of ADOC's I&I Division, including the I&I Director, stated that "drugs are the biggest problem in prison" because prisoners are "wiggling out" and harming others. One ADOC investigator stated that "drugs are the biggest driver of violence in Alabama's prisons." Another investigator saw five or six prisoners laid out in a hallway at Bullock after smoking the same drug and thought it looked like "triage in a warzone."

The presence of synthetic cannabinoid, frequently referred to as 5F-ADB, within Alabama's prisons presents a particularly serious health risk for prisoners. According to the World Health Organization's Expert Committee on Drug Dependence, this substance can cause "severe and fatal poisoning," and its effects may include "rapid loss of consciousness/coma, cardiovascular effects . . . , seizures and convulsions, vomiting/hyperemesis, delirium, agitation, psychosis, and aggressive and violent behavior."

A review of autopsies from 2017 and the first half of 2018 revealed that the substance was present in many facilities, including Bibb, Bullock, Draper, Elmore, Fountain, and Staton. An I&I investigation into a prisoner death at Bullock in December 2016 revealed that these drugs were readily and cheaply available inside the prison. Indeed, a review of autopsy reports from prisoner deaths dating December 2016 through August 2018 revealed that at least 22 were caused by "synthetic cannabinoid toxicity" overdoses. And since we opened our investigation into Alabama's prisons, the problem has become worse—there were three deadly overdoses in 2016 and nine in 2017. The first half of 2018 (after which ADOC stopped producing documents to us) was especially deadly; during that timeframe, at least 10 deaths were attributed to synthetic cannabinoid toxicity.

To the extent contraband is introduced by staff, it is contributing to the problem. ADOC staff, who are not screened for contraband upon entry to a prison, have been consistently identified by ADOC leadership as contributing to the contraband problem. Requiring all individuals—management and line staff—to be screened at entry, would ensure ADOC takes seriously the need to prevent and address contraband within Alabama's prisons.

Often, ADOC's incident reports list the cause of overdose deaths as "Natural," and although autopsies later reveal the true cause of death, ADOC does not centrally collect or track these autopsies and is thus unable to distinguish overdose deaths from other non-homicide deaths and to fully understand the deadly effects of such dangerous contraband within its system. The following are only a few examples of the deaths associated with synthetic cannabinoid:

- In May 2018, a prisoner at Fountain died of synthetic cannabinoid toxicity. Incident reports list the cause of death as suspected drug overdose. Approximately two years before his death, this same prisoner was stabbed at Holman in a drug-related altercation.
- In March 2018, at Easterling, a prisoner died from the "[t]oxic effects of 5F-ADB." The incident report, which listed his death as accidental, stated that a correctional officer on a security check observed the prisoner lying on his bed. The officer tapped him on the shoulder but received no response. Despite efforts to resuscitate him, the prisoner was pronounced dead within an hour.

- In March 2018, a prisoner at Bibb was found lying on his bed unresponsive during a count. He died at Bibb that same day. The autopsy listed “[s]ynthetic cannabinoid (5F-ADB) toxicity” as the cause of death. It further noted that the prisoner “was seen earlier in the day to be smoking what was believed to be spice.” In July 2016, this prisoner was reprimanded after he was identified as one of four prisoners shown in a social media video of men at Bibb lying on the floor under the influence of “flakka.”
- In February 2018, a prisoner at Bibb died from synthetic cannabinoid toxicity. The autopsy report notes that the prisoner was observed “smoking a substance and then collapsing to the floor.” The autopsy also mentions the existence of video surveillance footage showing the prisoner “sitting on his bed smoking and then collapsing to the floor.” The incident report lists his cause of death as “Natural.”
- In February 2018, a prisoner at Bibb died from “[s]ynthetic cannabinoid toxicity (5F-ADB).” He was found unresponsive and lying on his bed during an institutional count. CPR was administered by a nurse, and he was eventually pronounced dead at an outside hospital. The incident report listed his cause of death as “Natural.”
- In January 2018, a prisoner died at Bullock from “[s]ynthetic cannabinoid toxicity.” According to the incident report, which listed the death as “Natural,” another prisoner thought that the overdosed prisoner had smoked a “stick” possibly two hours prior.
- In October 2017, a Staton prisoner was found unresponsive while lying on his bed. The autopsy noted that he was “found unresponsive in his cell after smoking a synthetic cannabinoid.” It further concluded that “the cause of death is ascribed to synthetic cannabinoid (5F-ADB) toxicity with hypertensive and atherosclerotic cardiovascular disease and cirrhosis as significant contributing factors.” ADOC’s incident report, however, classified his death as “Inmate Death – Natural.”

In addition to the synthetic drug overdoses, another four deaths in 2018 and one in 2017 were attributed to mixed drug toxicities resulting from methamphetamines or Fentanyl, as well as complications from the intravenous use of methamphetamine, or even an unknown “white powder.” For example:

- In May 2018, a prisoner at Bibb died from “Acute fentanyl toxicity.” According to the autopsy, a postmortem toxicology report revealed “the presence of Fentanyl and 4-Anilino-N-Phenethylpiperidine (4-ANPP). The presence of 4-ANPP, an intermediate chemical precursor in the synthesis of fentanyl, is an impurity in non-pharmaceutical fentanyl, highly indicating illicitly manufactured fentanyl.” No incident report was located related to this prisoner’s death.
- In February 2018, an Easterling prisoner died from “mixed drug (Methamphetamine, synthetic opioid U-47700) toxicity.” The incident report classified his death as “Natural” and noted that he was found “laying on the floor in the front of [his] bed.” This prisoner previously tested positive for methamphetamine and buprenorphine

(Suboxone) in November 2015 while at Staton, and again on May 14, 2017 when he was at Elmore. He was also caught at Staton with Suboxone on his person in January 2017.

- In October 2017, a prisoner at Kilby died of an overdose from an unknown drug. The prisoner was found face down and unresponsive on the floor next to his bed. A piece of plastic containing a white powder, initially identified as “no-show,” was found next to him. The prisoner was taken to the Kilby emergency room where he was pronounced dead.

Synthetic drugs and methamphetamines have also been mentioned in the autopsies of homicide victims. In 2018 alone, autopsies revealed the presence of synthetic drugs in two victims, methamphetamines in two others, and one prisoner who had both synthetic drugs and methamphetamines in his system.

Many of the prisoners we interviewed painted a portrait of a system where drugs are ubiquitous, dangerous, and contribute to violence. Over 70% of the prisoners we interviewed specifically mentioned the prevalence of drug use within the prisons. Many prisoners thought that part of the danger from drugs is that drug usage leads to drug debts, which leads to violence and sexual abuse when prisoners are unable to pay. Prisoners at different facilities reported seeing other prisoners smoke something, “wig out,” fall on the ground, pass out, or vomit. A common theme in our interviews of prisoners was that correctional officers observe the drug use and take no action.

It is difficult to know the exact number of prisoners using drugs in Alabama’s prisons, as drug tracking and testing is inconsistent. In 2017, there were over 375 incident reports documenting prisoners possessing drugs, but many of these reports reflect that more than one prisoner was in possession of drugs. Many prisoners referred to the drug problem as an “epidemic.” In fact, several prisoners we interviewed had either been stabbed by someone “wiggling out” on drugs, or had stabbed another prisoner while on drugs. One shift commander said that more than once a day she encounters a prisoner passed out or acting violently after using drugs. Two shift commanders of death row and segregation at Holman estimated that 50-60% of their prisoners were using drugs. One shift commander over general population at Holman estimated that 95% of that facility’s prisoners were using drugs.

There are varying explanations for how the drugs are getting into ADOC’s prisons. During one facility tour, leadership admitted that drugs were arriving a variety of ways—through staff, from prisoners returning from other places, individuals throwing bags over the fence, and visitors. Prisoners corroborated these same avenues by which drugs were entering the prisons. An I&I investigator interviewed at ADOC headquarters, whose job includes investigating staff corruption, stated that, “without a doubt” the number one way contraband is getting into prisons is “by staff smuggling it in.” A former ADOC warden told us the same thing. Another investigator pointed to a recent I&I investigation into staff corruption that had already ensnared 11 officers at one prison. The investigator stated that he had not yet uncovered the end of the corruption. In another investigation at a different prison, I&I discovered that a staff member

made \$75,000 bringing in contraband and his accomplice, a prisoner, made \$100,000. Clearly, current ADOC policies have been unable to control or limit the drug trade in its prisons.

E. ADOC Is Not Adequately Protecting Prisoners from Sexual Abuse by Other Prisoners.

Sexual abuse in Alabama’s prisons is severe and widespread, and is too often undetected or prevented by ADOC staff. We reviewed over 600 incident reports from late 2016 through April 2018 that ADOC classified as “Sexual Assault – Inmate-on-Inmate.” The majority of these incident reports described sexual abuse allegations of forced anal or oral sex. Medical examinations and ADOC investigations substantiate a significant number of the allegations of sexual abuse. In reviewing hundreds of reports, we did not identify a single incident in which a correctional officer or other staff member observed or intervened to stop a sexual assault. Because of inadequate supervision, correctional officers do not observe the rampant sexual abuse, they do not intervene, and the cycle of abuse continues. As such, ADOC fails to protect prisoners from the harm of sexual abuse. *Farmer*, 511 U.S. at 833 (holding that prison officials have a duty to protect prisoners from violence at the hands of other prisoners, including sexual assault).

1. Sexual Abuse Is Highly Prevalent in ADOC Correctional Facilities.

ADOC documents a high level of sexual abuse within Alabama’s prisons. ADOC produced 313 incident reports classified as “Sexual Assault – Inmate-on-Inmate” from the year 2017. ADOC produced 257 such incident reports from 2016. Many of the incident reports confirm that ADOC substantiated the allegations. Indeed, in 2016, the Survey of Sexual Victimization data that ADOC publicly reported pursuant to the National Standards for the Detection, Prevention, and Punishment of Prison Rape, 28 C.F.R. § 115 (“PREA standards”), confirmed that ADOC substantiated nearly 25% of all allegations of “inmate-on-inmate nonconsensual sexual act.”⁶ ADOC substantiated over 30% of allegations of “inmate-on-inmate abusive sexual contact.”⁷ Nationwide, prisons substantiate an average of 6.3% of allegations of

⁶ Ala. Dep’t of Corrs., Survey of Sexual Victimization, 2016, at 2, <http://www.doc.state.al.us/docs/PREA/SSV2016.pdf>. The number of substantiated incidents is likely even higher, as the investigations for 20% of the allegations of “Nonconsensual Sexual Acts” had not yet been completed at the time of publication. *Id.* “Nonconsensual Sexual Acts” are defined as:

“Sexual contact of any person without his or her consent, or of a person who is unable to consent or refuse; AND [c]ontact between the penis and the vulva or the penis and the anus including penetration, however slight; OR [c]ontact between the mouth and the penis, vulva, or anus; OR [p]enetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.”

Id.

⁷ *Id.* at 3. “Inmate-on-inmate abusive sexual contact” is defined as: “Sexual contact of any person without his or her consent, or of a person who is unable to consent or refuse; AND [i]ntentional touching, either directly or through the

“inmate-on-inmate nonconsensual sexual act,” and 11.7% of allegations of “inmate-on-inmate abusive sexual contact.” In its Survey of Sexual Victimization data for 2017, ADOC reported substantiating only 1 out of 162 allegations of “inmate-on-inmate nonconsensual sexual act” and only 1 out of 65 allegations of “inmate-on-inmate abusive sexual contact.” In ADOC’s 2017 Annual PREA Report, ADOC reported 227 incidents of “Inmate on Inmate Sexual Victimization,” with two reports substantiated, 95 unsubstantiated, 20 unfounded, and 46 open at the time of reporting. ADOC’s PREA Coordinator is the ADOC official responsible for production of data on sexual abuse, but she was unable to explain the variations and discrepancies in the 2016 and the 2017 data. While certain Alabama prisons reported more sexual abuse than others, the incidents of prisoners being sexually abused by other prisoners are widespread across the system.

In addition, it is likely that the levels of sexual abuse are actually higher than what ADOC reports. In every “Sexual Assault – Inmate-on-Inmate” incident report we reviewed, the sexual abuse was reported by the victim or a prisoner witness afterwards. Because many prisoners do not report abuse out of fear of retaliation, shame, or because they do not believe that ADOC’s system to address complaints of sexual abuse will result in any changes, the incident reports coded as “Sexual Assault” do not capture the complete picture of prisoner-on-prisoner sexual abuse in the ADOC system. Moreover, we did not identify any incidents where a correctional officer or other staff member observed or intervened to stop a sexual assault in progress—leading us to conclude officers are either failing to report abuse or failing to monitor prisoners. Because correctional officers are not observing the incidents of sexual abuse, if the victim or a witness does not report it, the abuse will not be recorded or addressed.

Moreover, one of our experts reviewed numerous incident reports in which a prisoner reported an allegation of sexual abuse, but the ADOC staff member writing the incident report failed to categorize the incident as a “Sexual Assault” because staff dismissed it as consensual “homosexual activity.” There is no indication that these incidents were investigated or referred to the Inspector General’s office. Because they were not categorized as “Sexual Assault,” they would not be included in ADOC’s publicly reported PREA data. This is in violation of the PREA standards, which require that correctional agencies investigate all allegations of sexual abuse, 28 C.F.R. § 115.71(a), and results in further under-reporting of sexual abuse in Alabama’s prisons.

Despite the mischaracterization of some incidents of sexual abuse and likely under-reporting, the incident reports that ADOC does code as “Sexual Assault Inmate-on-Inmate” demonstrate a pattern of undeterred systemic sexual abuse in Alabama’s prisons.

2. Inadequate Supervision Allows Sexual Abuse to Continue Undeterred.

ADOC’s incident reports document sexual abuse occurring in the dormitories, cells, recreation areas, the infirmary, bathrooms, and showers at all hours of the day and night.

clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.” *Id.* at 2. “[I]ncidents in which the contact was incidental to a physical altercation” are excluded. *Id.*

Staffing ratios are so low in some dormitories that ADOC is essentially providing no security for prisoners. Our experts found that the physical plant designs and layout of ADOC's housing units make visibility difficult, which, when coupled with deficient staffing levels, results in inadequate supervision. Large open living units with multiple bunks or stacked bunks contain many blind spots that make it impossible for the limited staff to provide adequate safety and security. There are very few convex mirrors to increase visibility. The cameras that are present are not monitored sufficiently to augment supervision by housing unit officers. Prisoners interviewed and incident reports frequently reference sexual assaults occurring in bunks that have sheets or towels hung up to conceal activity, often referred to as "the hump." The "Sexual Assault" incident reports do not document correctional officers making any effort to remove these sight barriers. Although the PREA standards require that ADOC "designate an upper-level, agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards," 28 C.F.R. § 115.11, ADOC's PREA Coordinator reported that she does not have the authority to direct wardens to address blind spots that pose a threat to prisoners' sexual safety within their facilities.

As discussed above, the incident reports confirm that ADOC is only alerted to prisoner sexual abuse when a victim or witness reports the incident afterwards. The fact that hundreds of documented incidents of sexual abuse occur unobserved demonstrates an unconstitutional lack of supervision in housing units throughout ADOC. *LaMarca v. Turner*, 995 F.2d 1526, 1535 (11th Cir. 1993) (holding that "evidence presented at trial of an unjustified constant and unreasonable exposure to violence" in a prison "inflicted unnecessary pain and suffering" under the Eighth Amendment standard); *Harris v. Thigpen*, 941 F.2d 1495, 1505 (11th Cir. 1991) (citing *Ramos*, 639 F.2d at 575) (suggesting that inadequate staffing may rise to the level of deliberate indifference as to prisoner safety).

For example, in February 2017, a prisoner at Fountain was gang raped inside his dormitory during the evening meal. Two prisoners held him down while a third "penetrated his anus," then they "forced him to perform oral sex." A nurse's examination at the facility noted "several tears to his anus," and he was transported to the Sexual Assault Nurse Examiner's Center for further treatment. ADOC substantiated the incident. Yet no ADOC staff reported the assault. Prior to the victim giving a nurse a note stating that he had been raped the day before, ADOC staff did not report the incident. Either ADOC staff responsible for monitoring the dormitory did not observe the incident, or they observed it but did not report it.

Sexual abuse of prisoners is often connected to the drug trade and other contraband problems that result from inadequate supervision and corruption in Alabama's prisons. Our experts' on site interviews of captains and lieutenants revealed that many ADOC staff appear to accept the high level of violence and sexual abuse in ADOC as a normal course of business, including acquiescence to the idea that prisoners will be subjected to sexual abuse as a way to pay debts accrued to other prisoners. Many prisoners report that they were sexually assaulted because of debts they owed (or that the assailants said they owed), often related to drugs or other contraband. For example:

- In January 2018, a Correctional Sergeant and the Institutional PREA Compliance Manager separately questioned a prisoner at Bullock about "an incident that took place"

a few days earlier. The prisoner admitted that he had been sexually abused. He stated that he was in debt to several prisoners and one of them told another prisoner “he could fuck me for what I owe him.” He told his assailant “no,” but the prisoner sexually assaulted him anyway. Because the victim refused medical treatment, stated that he did not want to press charges, and signed a Release of Responsibility, ADOC determined that no further action would be taken and released the victim to his original dormitory unit.

- In August 2017, a prisoner at Bibb reported to a lieutenant that he had been sexually assaulted because he was indebted to another prisoner and could not pay the debt. The other prisoner forced him to perform oral sex as payment.
- In June 2017, a prisoner at Bibb reported that he had been raped because he owed seven “Tops,” or packets of cigarettes, to several unidentified prisoners. The prisoner was transported to an outside hospital and ADOC substantiated the allegation based on the evidence from the resulting sexual assault kit.
- In April 2017, a prisoner at Bibb reported that he was anally raped by another prisoner to whom he owed money. While the victim was waiting at the Health Care Unit for transportation to an outside hospital, he cut his wrist with a razor.
- In March 2017, a prisoner at Fountain reported to a nurse that he had been physically assaulted and raped the night before. He was transported to the Sexual Assault Nurse Examiner’s Center for further assessment and reassigned to segregation, pending the outcome of the investigation. During his interview, the victim stated that he owed a debt to another prisoner, and he “assumed [he] was raped due to the debt owed.”
- In November 2016, a prisoner at Fountain reported to a Mental Health Site Administrator that another prisoner had extorted him to engage in anal and oral sex over a period of two months. The victim was placed on suicide watch and the alleged aggressor was permitted to remain in general population. One month later, ADOC sent the victim a letter confirming that the allegation had been substantiated.

The theme of sexual abuse as a consequence of debt is so common that some incident reports specifically highlight a prisoner’s debt history. For example, in February and March of 2018, separate prisoners at Ventress each reported sexual assaults. The incident reports each note that a review of the victim’s incident history “revealed that he has not made any previous PREA related allegations,” but does reflect a history of drug use and debt. Interviews with ADOC staff revealed an understanding that debt, particularly drug debt, can result in sexual abuse. This was a common point raised by the prisoners we interviewed on site. Submission to sexual abuse under the threat of violence resulting from the drug trade does not indicate consent.

Many prisoners also report that they were sexually abused after being drugged, becoming incapacitated by drugs they took voluntarily, or when the assailant was under the influence. Some of the drugs that are widely available in Alabama’s prisons can have the effect of

immobilizing an individual or rendering him unconscious, which makes him vulnerable to sexual abuse. For example:

- In March 2018, a prisoner at Holman reported that he had been raped after he had passed out from smoking “flakka.” He awoke to one prisoner punching him in the eye and then four or five prisoners put a partition around his bed and took turns raping him.
- In February 2018, a prisoner at Bibb reported to a mental health professional that he had been raped. At approximately 1:00 a.m. in a dormitory unit, an unidentified prisoner propositioned him to smoke a marijuana cigarette. While smoking, the victim “became incoherent” and awoke with the unidentified prisoner penetrating him from the rear.
- In December 2017, a prisoner at Limestone reported that two prisoners attempted to force him to perform oral sex, which resulted in a physical altercation, with a third prisoner coming to his aide. The incident was substantiated and the incident report notes that when one of the assailants was interviewed following the altercation, he had slurred speech and smelled of alcohol.
- In January 2017, a prisoner at Donaldson reported that a prisoner offered him a cigarette and, upon smoking it, he began “to feel funny and could not move.” Two prisoners then took him into the shower and sexually assaulted him. ADOC substantiated this incident.
- In January 2017, a prisoner at Draper reported that he had voluntarily used methamphetamine and blacked out. When he regained consciousness, he was experiencing anal pains and other prisoners indicated that he had been sexually assaulted.

Many of the assaults happen at knifepoint, with no indication that ADOC conducted a comprehensive weapons search in response. For example:

- In April 2018, a prisoner at Ventress reported that he had been forced at knifepoint to perform oral sex on another prisoner. The incident report notes that the victim was reassigned to another dormitory and the victim and assailant received mental health referrals, but there is no mention of a housing change for the alleged assailant or a search of his dormitory for weapons. The incident report does note that a previous PREA-related allegation had been made against the assailant.
- In April 2018, ADOC officers interviewed a prisoner at Elmore after his mother called to report that he had been sexually abused. The prisoner stated that he had been raped at knifepoint because he owed his assailant \$250. The incident report notes that the alleged assailant “submitted a written statement and was allowed to return back to population without incident.” There is no mention of a search for the weapon.

- In February 2018, a prisoner at Staton reported that the night before, two prisoners had held knives to his neck while a third prisoner forced him to perform oral sex. The victim alleged that the whole dormitory was aware of the attack. The victim was escorted to the health center for a medical examination and then transferred to a holding cell while the alleged assailants remained in the dormitory. There is no mention of a search for weapons.
- In December 2017, a prisoner at Staton reported that he was jumped in the shower by a prisoner who held a knife and penetrated him from behind. ADOC transported the victim to the Sexual Assault Nurse Examiner Center and ultimately referred this incident to the County District Attorney's Office. There is no mention of a search for the weapon.
- In January 2017, the chaplain at Draper notified ADOC that a prisoner had reported to him that he had been raped that morning. At approximately 5:30 AM, three prisoners forced the victim into the shower area of the dormitory. Two of the assailants had knives. A blanket was hanging from the wall, blocking the area from view. The prisoner stated that the dormitory officer was in the hall outside of the dormitory escorting prisoners back from breakfast, which had been late that morning. One prisoner held a knife to the victim's neck and another waved a knife in his face while the third penetrated him anally. The incident report confirms the victim's transport to the Sexual Assault Nurse Examiner's Clinic and that I&I would interview the victim and secure the forensic evidence from his examination, but there is no mention of searching the dormitory for weapons.

Some prisoners suffer sexual abuse in retaliation for having reported previous sexual abuse. For example:

- In March 2018, a prisoner at Ventress reported that he had been sexually assaulted on the gym porch by a prisoner whose cousin had previously sexually assaulted the victim at Bullock. The victim reported that his assailant told him he was going to get him back for telling on his cousin. A week later, the victim reported another attack by the same assailant, which required an outside Sexual Assault Nurse Examiner assessment. However, the second incident report makes no mention of the first report.
- Also in March 2018, a correctional lieutenant "received information" that a prisoner was "being tortured" in a dormitory at Ventress. The lieutenant located the prisoner and escorted him to the Health Care Unit. The prisoner reported that he was "tied up, burned, and tortured for two days and that a broom handle was stuck up his rectum." The prisoner stated that the torture was in retaliation for his documented report of a prior sexual assault in February 2018.

3. Deficiencies in ADOC's PREA Screening and Housing Contribute to the Unsafe Environment.

The unsafe environment created by ADOC's deficient supervision and overcrowding is exacerbated by failings in ADOC's PREA screening, classification, and housing of prisoners. The PREA standards require that all prisoners be assessed during intake screening and upon transfer to another facility for their risk of being sexually abused by, or sexually abusive toward, other prisoners. 28 C.F.R. § 115.41(a). The PREA standards also require that ADOC use information from the risk screening "to inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive." 28 C.F.R. § 115.42(a).

While ADOC has basic policies in place to conduct PREA risk screenings, ADOC fails to use the information from the screenings to house prisoners safely and, even if an appropriate housing assignment is made, the classification system is defeated by lax supervision that allows prisoners to wander throughout the prison facilities without authorization. ADOC's knowledge of, and failure to comply with the PREA standards, is further evidence of ADOC's subjective recklessness with regard to prisoner safety. *Farmer*, 511 U.S. at 843; *see also Crawford v. Cuomo*, 796 F.3d 252 (2d Cir. 2015) (finding PREA and other such legislative enactments to be reliable evidence of contemporary standards of decency, and thus relevant in evaluating whether specific acts of sexual abuse or sexual harassment rise to an Eighth Amendment claim).

ADOC classification staff reported that the initial classification determines only a prisoner's security level, which informs his assignment to a particular prison. Once he arrives at the prison, an Inmate Control Services officer assigns the prisoner to a housing unit and bed. While the Inmate Control Services officer should have access to a prisoner's classification and screening information, it is unclear how and if this information is used, especially given the degree of overcrowding at some ADOC prisons. Documents provided from a PREA audit at Draper indicated that for three quarters of 2016, Draper had zero occurrences of a prisoner screening for risk of victimization or abusiveness, and did not use the PREA screening information for three quarters of 2016. At some facilities, ADOC case managers conduct the initial PREA screening. At Bibb, we noted that the screening setting was not private, so other prisoners could hear confidential information a prisoner reported during his screening, which could discourage prisoners from answering truthfully. When conducting and scoring the screening, case managers had no access to a prisoner's previous screening results. ADOC's PREA audits demonstrated a need for corrective action in the adequacy of PREA risk screening and the use of the screening information to house people safely within the facilities.

In addition, while ADOC's facility PREA Compliance Managers have ultimate responsibility for the PREA risk screening and for monitoring prisoners identified as potential victims or aggressors, ADOC's facility PREA Compliance Managers did not have sufficient information to accomplish these important tasks.

The PREA standards identify Lesbian, Gay, Bi-Sexual, Transgender, and Intersex ("LGBTI") prisoners as being at a heightened risk for sexual abuse. Accordingly, the PREA

standards include several provisions specifically aimed at increasing sexual safety for LGBTI prisoners.

ADOC is refusing or failing to comply with the PREA standards. For example, only one of the PREA Compliance Managers we interviewed on-site was able to give specific information about the LGBTI prisoners housed at that prison. The other PREA Compliance Managers had little or no information about LGBTI prisoners. If ADOC's PREA Compliance Managers have no knowledge of the vulnerable prisoners within the population, they cannot comply with their duties to provide a reasonable level of safety to those prisoners.

Regardless of whether prisoners receive a safe housing assignment based on an appropriate PREA screening and classification, supervision is often deficient such that prisoners can roam from housing unit to housing unit without intervention. A review of ADOC incident reports from January 2015 to early April 2018 at Bibb alone indicated 553 incidents of prisoners being cited for being in an "unauthorized location." Some of the "Sexual Assault – Inmate-on-Inmate" incident reports indicate that either the aggressor or the victim was not in his assigned housing unit at the time of the attack, but make no reference to discipline or remedial action for prisoners accessing unauthorized areas of the facility. By allowing potential predators to commingle with potential victims without adequate staff supervision, ADOC fails to effectively protect prisoners from harm of sexual abuse.

4. ADOC's Sexual Abuse Investigations Are Incomplete and Inadequate.

If a correctional agency does not adequately investigate allegations of sexual abuse, it will be unable to determine the factors that enable abuse to occur and the corrective actions necessary to address the problem. *See Jacoby v. PREA Coordinator*, No. 5:17-cv-00053-MHH-TMP, 2017 WL 2962858, at *5 (N.D. Ala. April 4, 2017) (citing *Farmer*, 511 U.S. at 833) (noting that failure to investigate can be a constitutional violation if the failure prevents prison officials from protecting prisoners). The PREA standards require that correctional agencies investigate all allegations of sexual abuse "promptly, thoroughly, and objectively[.]" 28 C.F.R. § 115.71(a), even if victim or witness is challenging or unwilling to cooperate. To conduct a thorough investigation, investigators must "gather and preserve direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data," and must "interview alleged victims, suspected perpetrators, and witnesses." 28 C.F.R. § 115.71(c). Although we have been unable to review I&I files related to sexual abuse because ADOC refused to produce them, we are able to make the following conclusions based on the incident reports and other evidence in our possession. And based on this evidence, ADOC fails to follow these standards and dismisses many incidents as unsubstantiated without a thorough investigation.

For example, in August 2017, a prisoner at Bibb entered the Shift Commander's office and reported that he had been held hostage and physically and sexually assaulted over the past few weeks. The sergeant "observed several bruises and abrasions to the facial area" of the prisoner. However, when the incident was closed as "unsubstantiated," the report incredibly notes that "no evidence was found to substantiate [the prisoner's] claims that he was physically assaulted."

In addition, ADOC's incident reports confirm that many allegations are declared "unsubstantiated" on the basis that the victim declined to press criminal charges or otherwise cooperate with the investigation, which is not a sufficient reason for reaching such a conclusion in an administrative investigation. For example:

- In February 2018, a prisoner at Bibb notified the facility PREA Compliance Manager that he had been "forcibly sexually assaulted" two days prior and that he had not bathed, so the perpetrator's semen was still inside him. The prisoner was examined by the facility nurse and upon completion of the medical examination, the prison physician advised that the prisoner should be transported to an outside hospital for a Sexual Assault Kit. Although the prisoner named his rapist, the incident report confirms that upon conclusion of the investigation, the victim "stated that he did not desire to prosecute and signed a waiver of prosecution. Therefore, this allegation is unsubstantiated."
- In May 2017, "several" prisoners reported to a captain that two other prisoners were held and assaulted in a dormitory unit at Fountain over the weekend by a group of four or five prisoners. One of the identified victims provided a written statement of allegations of sexual assault, while the other reported a physical assault. ADOC provided the first victim with written confirmation that the allegation of sexual assault was "found to be unfounded and exceptionally cleared due to your lack of cooperation with the prosecution of [his assailant] for reported Sexual Assault and you[r] signing of a Prosecution Waiver Form."

Although a victim's refusal to press charges could complicate an attempt to criminally prosecute an assailant, it is not a valid reason to find an administrative investigation unsubstantiated, particularly where there are other indicia of sexual abuse. Indeed, some incident reports confirm that ADOC has other options. For example:

- In March 2017, a prisoner at Donaldson reported that he had been sexually assaulted in his cell the night before. He was transported to the Sexual Assault Nurse Examiner's Clinic for an assessment. Although the victim refused to provide a written statement to I&I, the I&I Director substantiated the allegation of sexual assault based on the facts presented.
- In December 2016, a prisoner at Bibb reported that a prisoner in his dormitory had raped him at knifepoint. When the other prisoner responded to the allegation by claiming that he had consensual sex with the victim, the victim "became belligerent and refused to cooperate with the investigation." Ultimately, ADOC deemed the allegation "substantiated but cleared as refusal to cooperate or prosecute."

When ADOC dismisses reports of sexual abuse as unsubstantiated on the sole basis of a victim's refusal to pursue criminal charges, it also fails to take action to prevent future abuse. For example, multiple incident reports from St. Clair in late 2017 confirm not only that the report of sexual abuse "had been concluded with a disposition of 'unsubstantiated'" that is "based on"

the victim's refusal to prosecute, but go on to state that a "sexual abuse incident review" was conducted and no "further action" would be taken. Indeed, despite the high number of sexual abuse reports documented by ADOC, there is no record of meaningful corrective action to address the problem in ADOC's prisons.

5. ADOC Discourages Reporting of Sexual Assaults.

Many ADOC incident reports reflect conduct that likely discourages additional reports of sexual abuse. As discussed above, ADOC has a tendency to dismiss claims of sexual abuse by gay prisoners as consensual "homosexual activity" without further investigation, implying that a gay man cannot be raped. Some victims are given a Release of Liability to sign after reporting sexual abuse.

In other cases, in addition to the trauma of a sexual assault, the victim is subjected to disciplinary action for facts he discloses as part of the investigative process. For example, in February 2017, a prisoner at Donaldson reported that he had been raped two days earlier, and named his assailant. He was transported to the Sexual Assault Nurse Examiner Clinic for an assessment and returned to Donaldson at approximately 10:00 PM. The next morning at 4:45 AM, he was interviewed by the PREA Compliance Manager and stated that he was in debt to the prisoner who had raped him and several other prisoners, but "was adamant" that he had been sexually assaulted. The PREA Compliance Manager advised the victim that he would receive a disciplinary action for "Intentionally Creating a Safety, Security and/or Health Hazard" for admitting that he had accrued debt to other prisoners.

As noted with regard to prisoners who report violence, while ADOC has an interest in enforcing institutional rules, it should implement its disciplinary process in a way that avoids discouraging victims from reporting sexual abuse. ADOC should give due consideration before subjecting victims of sexual abuse to disciplinary actions if, in the context of seeking assistance or protection from ADOC, they voluntarily admit to past, minor rule infractions. Experts confirm that the current practice, which appears to punish victims for any wrongdoing they may confess while seeking assistance or protection, has a chilling effect on reporting. Especially given that the rampant sexual abuse in Alabama's prisons is almost never reported by correctional officers, a system that punishes prisoners who report violence if the victim is not blameless will discourage victims from reporting and allow sexual abuse to continue unabated in Alabama's prisons.

6. ADOC Improperly Subjects Victims of Sexual Abuse to Segregation.

ADOC commonly places a victim in segregated restricted housing after he reports sexual abuse, often in response to a prisoner's request for protection from harm, which can subject the victim to further trauma. While accommodating a prisoner's request for segregated housing is not inappropriate, due to the seriously unsafe conditions that exist in Alabama's prisons, ADOC has created a situation where vulnerable prisoners who have already suffered sexual abuse have no other choice if they want to stay safe from further sexual abuse. For example:

- In April 2018, a prisoner at Bullock reported that over three days, he had endured extortion; punching, kicking, and beatings with a stick; and anal and oral rape by a group of four prisoners. He finally reported the abuse after one of the prisoners told him “he had more work to do.” Although ADOC identified all of the perpetrators, after the victim returned from the Sexual Assault Nurse Examiner Center, he was placed in segregation “per inmate’s request.”
- In January 2018, a prisoner at Bullock resorted to cutting his wrist after an attempted sexual assault and physical assault “because he feared being in population and needed to be placed in a single cell.” He reported that two nights prior, two prisoners had attempted to rape him but were unable to penetrate him because he defecated during the assault. The prisoners then poured hot water on him, causing burn marks to his buttocks and the back of his head. ADOC placed the victim in segregation and allowed the perpetrators to remain in general population. The incident report notes that the perpetrators would receive “disciplinary actions for assault,” and that no further action would be taken.
- In December 2017, a prisoner at Bibb sent a letter to the Assistant PREA Compliance Manager stating that he had been sexually abused at knife point. The victim reportedly requested placement in segregation because he feared for his safety, so the victim was placed in segregation while his alleged assailant remained in his assigned living area. ADOC substantiated this allegation.

While incident reports often note that the victim is being placed in segregation at his own request, if a victim of sexual abuse has no other realistic way to stay safe, a request for segregation may be the product of a lack of other, more suitable options. Restricted housing in Alabama’s prisons houses prisoners seeking protection, as well as prisoners being punished for rule infractions and prisoners who are a threat to safety. Subjecting victims of sexual abuse to segregation can inflict further trauma. This is why the PREA standards require that victims of sexual abuse not be involuntarily segregated for their own protection unless “an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers.” 28 C.F.R. §§ 115.43(a), 115.68. Alternatives utilized by other correctional facilities include vulnerable persons units that provide a safe environment for prisoners whose screening indicates they are at risk for being abused or protective custody units that do not result in a restriction of privileges. By failing to offer these or other options to keep victims of sexual abuse safe from further abuse, ADOC is not adequately presenting such victims with a reasonable alternative to segregation.

In addition, the size of ADOC’s prison system presents the opportunity to transfer prisoners between facilities to protect victims from retaliation. For example, in February 2017, a prisoner at Elmore reported that he was raped at knife point in the dormitory shower area. Following an examination at the Sexual Assault Nurse Examiner’s Clinic and an interview by I&I, the victim was transferred to Draper “at his request.” However, in the vast majority of incident reports, there is no indication that ADOC is making a determination that no safe alternative exists before placing victims of sexual abuse into segregation. Because ADOC has no alternate means of keeping victims of sexual abuse safe from harm, ADOC requires

vulnerable prisoners to subject themselves to the punitive conditions of segregation and the potential trauma that may entail, so that the prisoners can obtain the reasonable level of safety guaranteed by the Constitution.

F. Facility Conditions in Alabama’s Prisons Violate the Constitution.

The Constitution requires that officials provide prisoners with adequate shelter, which includes maintaining facility conditions in a manner that promotes prisoner safety and health. *See Helling*, 509 U.S. at 32. The Eighth Amendment’s prohibition of cruel and unusual punishments imposes a duty on corrections officials to “provide humane conditions of confinement” and to “take reasonable measures to guarantee the safety of the inmates.” *Farmer*, 511 U.S. at 832-33 (quoting *Hudson*, 468 U.S. at 526-27).

ADOC prisons do not provide adequate humane conditions of confinement. They have a number of significant physical plant-related security issues that contribute to the unreasonable risk of serious harm from prisoner violence. These problems include defective locks; insufficient or ineffective cameras; a lack of mirrors; deteriorating electrical and plumbing systems; as well as structural design issues and weaknesses with the buildings and their perimeters. These problems allow prisoners to leave secure areas, obtain contraband, and improperly associate with or assault other prisoners. Even if no single one of these conditions of confinement would be unconstitutional in itself, “exposure to the cumulative effect of prison conditions may subject inmates to cruel and unusual punishment.” *Rhodes*, 452 U.S. at 363 (quoting *Laaman v. Helgemoe*, 437 F. Supp. 269, 322-23 (D.N.H. 1977)). ADOC’s failure to correct these issues poses a serious risk to prisoner safety and health.

For example, at Bibb, there was a tall chain link fence separating the two halves of the facility, and both halves could only be exited through a gate opened and closed with a physical key. We heard from several prisoners that victims of stabbings had waited for an extended time at the gate, often bleeding profusely, while staff searched for the key to open the gate. Visibility in the back of large dormitories containing bunkbeds is also an issue, as reflected in the large number of violent incidents that happen unobserved in the back of such dormitories.

Short of new facilities or drastic renovations, there are relatively simple physical plant corrections that could increase safety in the facilities. For example, there were few convex mirrors in the living units we visited. Adding such mirrors would increase the visibility of areas within the units, especially given the many large open living units in the prisons. Yet ADOC has not made this easy fix. In addition, many incident reports reference assaults occurring in bunks in which sheets or towels are hung to conceal prisoner activity, but there appears to be no concerted effort by security staff to remove these visibility barriers.

The deficiencies in the facilities’ infrastructure are well-known to ADOC officials. In February 2019, the Governor noted that the physical condition of ADOC’s prisons have been described as “deplorable,” “horrendous,” and “inadequate.” Just one month earlier, Commissioner Dunn commented publicly that repairs and renovations are needed because facilities have outlived their usefulness. These concerns have been acknowledged for years. In 2017, for example, Commissioner Dunn noted the system’s “outdated, outmoded, and overgrown

infrastructure.” He has said that over 70% of the prisons “are well beyond their useful life and must be replaced.” Yet, despite this knowledge, ADOC has been unable to improve its infrastructure.

It should be noted that while we did not visit every prison in Alabama, those that we did visit were in incredibly poor physical shape, and—based in part on the Governor’s and Commissioner’s public statements—are largely representative of the prison system as a whole. The Governor and Commissioner Dunn have frequently discussed the “crumbling infrastructure” within ADOC prisons. As one of our experts opined, the physical structure of the prisons we visited is “severely worn,” which leads to dangerous conditions for prisoners and staff alike. Another expert commented that she was “shocked and dismayed at the state of the . . . prisons we visited.” The prisons are old and have not undergone serious renovation, and thus have deteriorated significantly. The physical conditions of ADOC prisons present a safety risk. A February 2017 inspection by engineering consultants hired by ADOC noted that not a single facility has a working fire alarm.

Based on our site visits, hundreds of prisoner interviews, and public statements made by ADOC officials, it is clear that decrepit conditions are common throughout Alabama’s prisons. During facility visits, we observed makeshift showers created because the original showers were not functioning. We also saw numerous showers and urinals that were leaking or broken. Because the facilities house far more prisoners than they were designed to hold, there is enormous strain on plumbing, electrical systems, ventilation, showers, sinks, and toilets, leading to unsanitary conditions. We heard repeatedly about showers covered in mold, and without hot water. Numerous prisoners mentioned toilets, sinks, and showers that leak, get stopped up, or are otherwise broken. One prisoner told us that a mop sink was being used as a urinal because the toilets were backed up.





Images of bathroom facilities at Donaldson, Draper, and Holman

In February 2017, nearly eight months before we toured Draper, Commissioner Dunn provided a tour of Draper to the press. In a video of that tour, he pointed out the poor condition of portions of the kitchen floor, which had become so compromised that the concrete subfloor was all that remained. We noticed similar conditions in the kitchen floors at Donaldson and Holman. In the video from Draper, Commissioner Dunn went on to say that the kitchen at Draper would be closed, and that food would be cooked offsite at Staton, and be shipped back to Draper.

Prisoners with whom we spoke throughout ADOC consistently told us about the poor state of the facilities. Some mentioned that spiders and other bugs would regularly fall from the ceilings. More than one prisoner discussed seeing rats and bugs in the kitchen and food storage areas. Prisoners in segregation described especially poor conditions. One prisoner described large cockroaches in segregation. Several told us that a plate covered the only window in their unit, so that they could never see out and there was little ventilation. Numerous prisoners described having no light in their cell. Some mentioned broken toilets and sinks, as well as leaky roofs, and a lack of heat.

While new facilities might cure some of these physical plant issues, it is important to note that new facilities alone will not resolve the contributing factors to the overall unconstitutional condition of ADOC prisons, such as understaffing, culture, management deficiencies, corruption, policies, training, non-existent investigations, violence, illicit drugs, and sexual abuse. And new facilities would quickly fall into a state of disrepair if prisoners are unsupervised and largely left to their own devices, as is currently the case.

G. Evidence Suggests Some ADOC Officials Are Deliberately Indifferent to the Risk of Harm.

Federal law precludes corrections officials and staff from acting with “deliberate indifference” to the substantial risk of serious harm posed to prisoners. *Farmer*, 511 U.S. at 828. An official acts with deliberate indifference when she or he “knows of and disregards an excessive risk to prisoner health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.” *Id.* at 837. A court may conclude that “a prison official knew of a substantial

risk from the very fact that the risk was obvious.” *Id.* at 842. In other words, “an official responds ‘in an objectively unreasonable manner if he knew of ways to reduce harm but knowingly declined to act or if he knew of ways to reduce the harm but recklessly declined to act.’” *Johnson v. Boyd*, 701 F. App’x 841, 847 (11th Cir. 2017) (quoting *Rodriguez v. Sec’y for Dep’t of Corrs.*, 508 F.3d 611, 620 (11th Cir. 2007)).

In determining whether conduct violates the deliberate indifference standard of the Eighth Amendment, there must be persuasive evidence of the following: (1) facts presenting an objectively substantial risk to prisoners and awareness of these facts on the part of the officials charged with deliberate indifference; (2) the officials drew the subjective inference from known facts that a substantial risk of serious harm existed; and (3) the officials responded in an objectively unreasonable manner. *Doe v. Ga. Dep’t of Corrs.*, 248 F. App’x 67, 70 (11th Cir. 2007); *Marsh*, 268 F.3d at 1028-29.

ADOC has long been aware that conditions within its prisons present an objectively substantial risk to prisoners. Yet little has changed. As early as 1975, a federal court enjoined ADOC from accepting any new prisoners, except escapees and those who had their paroles revoked, into four of its prisons until the population in each was reduced to design capacity. *James v. Wallace*, 406 F. Supp. 318 (M.D. Ala. 1976). In 2011, that same court found that ADOC facilities were understaffed and overcrowded. *Limbaugh v. Thompson*, No. 2:93cv1404–WHA (WO), 2:96cv554–WHA, 2011 WL 7477105 (M.D. Ala. July 11, 2011). Indeed, language from a 2002 federal court opinion related to Alabama’s prison housing women indicates that ADOC is aware of its Eighth Amendment obligations and of the specific types of conditions that run afoul of the Eighth Amendment. In *Laube*, the U.S. District Court for the Middle District of Alabama found that conditions at Julia Tutwiler Prison for Women were unconstitutionally unsafe as a result of overcrowded and understaffed open dormitories:

The sheer number of inmates housed in open dorms pose a significant security problem. Idleness is less of a safety concern when each inmate is confined to her own cell or shares a cell with just a few other inmates. In dormitories, however, idleness heightens the potential for disruptive behavior because each potentially aggressive inmate now has other inmates whom she may target, as well as other potentially aggressive inmates with whom she may congregate. Dorms at Tutwiler hold 60 to 228 inmates, and some of these inmates sit idly during the day. While the evidence submitted does not reveal the extent to which inmates are idle at Tutwiler, even limited periods of idleness can engender safety problems. Open dorms are particularly dangerous when a facility is also plagued by, among other things, inadequate supervision, increased violence, and inmate access to weapons, as discussed below.

Laube, 234 F. Supp. 2d at 1233.

Our investigation into the violence, contraband, corruption, and harm occurring in Alabama’s prisons evidences issues previously known to ADOC. For instance, several years before we initiated our investigation, ADOC was acutely aware of extensive problems at St. Clair. In 2014 alone, there were at least three publicly reported prisoner-on-prisoner homicides.

In April 2014, the Equal Justice Initiative (“EJI”) urged ADOC to investigate, among other violence, the fatal and non-fatal stabbings that were escalating at St. Clair. Following another homicide in June 2014, EJI renewed its formal request that ADOC address the violence. In the face of ADOC’s inaction and yet another homicide, in October 2014, a group of prisoners incarcerated at St. Clair filed a class action lawsuit in federal court. The suit alleged an extraordinarily high rate of violence at St. Clair, including six homicides in the preceding three years. The plaintiffs asserted that the violence in the severely overcrowded facility could be traced to poor management, noncompliance with protocols and procedures, the prevalence of drugs and other contraband, and corruption. Three years later, in November 2017, the plaintiffs and ADOC reached a settlement. ADOC promised many reforms in the settlement. For instance, ADOC promised to ask the Alabama Legislature for funding to install video cameras for monitoring at the prison. ADOC did not make good on that promise. By June 2018, ADOC had not satisfied several of the settlement requirements. The parties went back into mediation in June 2018—only eight months after ADOC made all of its promises to reform St. Clair.

ADOC management is acutely aware of the substantial risk of harm caused by its critically dangerous understaffing. Alabama officials, from the Governor to ADOC’s Commissioner, have recently reiterated that overcrowding and understaffing continue to plague the system. In ADOC’s most recent Annual Report, Commissioner Dunn even highlighted “critical shortages in correctional officer staffing” as a major challenge. And, in early 2019, he explicitly acknowledged the direct link between the levels of violence in Alabama’s prisons and the understaffing: “We are still down to 50 percent or lower staffing at many facilities. There’s a direct correlation between the shortage of officers and violence.”

Due to the extreme staffing shortages, correctional officers are tired, and there are simply not enough individuals to adequately and safely staff Alabama’s prisons. Incident reports from 2017 reveal numerous instances of correctional officers not showing up for work or refusing to work mandated overtime. We also found numerous incident reports where correctional officers were found sleeping in cubicles, in hospitals, and in perimeter security vehicles. These security problems have persisted despite ADOC’s awareness of our investigation and our numerous on-site inspections of several facilities. In fact, the majority of the examples of unconstitutional conditions described throughout this letter occurred *after* we began our investigation.

Throughout this investigation, ADOC has not responded consistently when alerted to serious issues within its prisons. On multiple occasions, we notified ADOC legal counsel of calls we received from prisoners afraid for their lives and physical safety. We received little information as to what was being done by ADOC to address these calls. On occasion, we learned that a prisoner was transferred to another facility; however, we often received follow-up calls from fearful prisoners stating that ADOC had taken no meaningful action. Additionally, following our site visits of each facility, we coordinated calls with ADOC and prison management to share our experts’ preliminary conclusions. In these calls, our experts outlined specific conclusions about the unsafe conditions in the prisons that we visited. During these calls, ADOC officials rarely, if ever, asked substantive questions of our experts. And the violence in Alabama’s prisons has only increased since our inspections and those calls took place.

In other ongoing litigation, ADOC has admitted that its prisons are dangerously understaffed. In *Braggs v. Dunn*, the plaintiffs sued ADOC for failing to provide adequate medical and mental health care, and for discriminating against prisoners with disabilities. The court ordered ADOC to determine how many correctional officers were needed to adequately staff its prisons. In February 2019, ADOC filed a report indicating that it needs to hire over 2,200 correctional officers and 130 supervisors over the next four years in order to adequately staff its men's prisons. These staggering staffing deficiencies were determined by ADOC's own experts. A former ADOC warden told us that he did not think it would be possible to hire and train over 2,000 correctional officers with "the proper education, the proper sense of duty, and with the proper mindset" in the next four years. Our corrections consultant opined that ADOC will require more than two years to overcome its current staffing deficiencies, even with its best efforts and under ideal conditions.

V. MINIMAL REMEDIAL MEASURES

To remedy the constitutional violations identified in this Notice, we recommend that ADOC implement, at minimum, the remedial measures listed below. We recognize ADOC has begun to make some positive changes in recent years. For example, in 2015, ADOC hired its first ever Inspector General to conduct security audits and inspection of facilities, teach and train employees, and provide assistance to employees. As of December 2017, the Inspector General had conducted one security audit using ADOC staff. In 2018, after revising its state code, ADOC addressed compensation issues for staff, providing a location pay differential for correctional officers and a pay raise to assist with recruitment and retention. And in November 2018, ADOC announced that 35 new correctional officers had graduated from its correctional academy. Recently, after ADOC's head of operations retired after being placed on administrative leave pending the outcome of a misconduct investigation, ADOC hired a new Deputy Commissioner for Operations with experience at the federal Bureau of Prisons. ADOC is again proposing a pay increase for correctional staff to be addressed in the current legislative session. Finally, ADOC announced on February 28, 2019, that it is conducting a joint operation with other law enforcement agencies targeting contraband at St. Clair and plans to conduct similar operations at other prisons in the future.

In addition, ADOC has made some changes in response to conditions we identified during our investigation. For instance, shortly after we visited Draper and shared our observations about its overall deplorable conditions, we learned that ADOC closed that prison. Additionally, after we visited Bibb and our experts reported to ADOC their shock at the critically dangerous conditions present in Bibb's Hot Bay, ADOC closed the Bibb Hot Bay. Nevertheless, these efforts have been inadequate, as evidenced by the serious issues that continue to plague the prisons, described above. The following remedial measures are necessary.

A. Immediate Measures

1. Understaffing and Overcrowding. ADOC should:

- Immediately deploy resources to staff and electronically monitor the perimeters of Alabama's prisons and assist in screening anyone entering facilities.
- Within one month, consult a nationally recognized expert, approved by the Department, with experience realigning low-risk, nonviolent prison inmates to local oversight, to assess such feasibility in Alabama.
- Within two weeks, contact the Acting Director of the National Institute of Corrections ("NIC") to arrange a joint conversation among ADOC, NIC, and the Department to discuss the areas in ADOC prisons that need immediate attention. Within the confines of its fiscal resources, NIC will provide follow up with an action plan of both sequential and overlapping elements to address the areas that need immediate attention, consistent with the Department's findings. Any direct technical assistance that is able to be provided by NIC will be done at no cost to the state of Alabama. NIC will also identify other federal resources that may be available to Alabama in addressing the identified issues.
- Within time frames identified with NIC, properly screen, hire, and fully train 500 corrections officers. Determine how many of these new officers will be assigned to each facility, based on current vacancy rates. Within six months, in consultation with NIC, staff prisons with at least 500 additional individuals to provide security.
- Within six months, commission a study to examine the feasibility of transferring prisoners to non-ADOC facilities in numbers sufficient to provide adequate staffing for the remaining prisoners.
- Within six months, assess the leadership skills of all Wardens (I, II, and III) and institutional coordinators, in a process overseen by ADOC's Commissioner, Inspector General, and the Director of Operations, in concert with NIC. Based on this assessment, make determinations about staffing all Warden (I, II, and III) positions and implement those determinations within the next three months. Provide ongoing professional development for all personnel in supervisory and leadership positions.

2. Violence. ADOC should:

- Immediately revise ADOC's disciplinary process to avoid subjecting victims to unnecessary disciplinary actions for conduct unrelated to the instant abuse, when they seek assistance or protection from harm.

- Within two months, in consultation with NIC, and with the aid of a consultant approved by the Department, review all relevant ADOC, and individual facility, policies and procedures. Based upon the review, ADOC should, within two months, make appropriate changes to ADOC's—and to each individual prison's—policies and procedures.
- Within six months, provide remedial training on security measures, with a curriculum approved by the Department, to all correctional staff. Thereafter, provide at least 40 hours of in-service training to all staff annually.
- Within two months, ensure that security rounds are conducted in all living areas at least once every hour, and at least once every half hour in any special management population areas (segregation, mental health housing, etc.), or more frequently as required for prisoners on suicide watch. These rounds should be documented in a bound log book maintained on each housing unit, as well as a master log for each prison, and the documentation should be reviewed at least weekly by facility leadership and not less than quarterly by ADOC leadership. Deficiencies in complying with these requirements should be addressed immediately.
- Within two months, develop a centralized system that will contain autopsies of all prisoners who die in ADOC custody. ADOC should conduct an interdisciplinary administrative and medical post mortem following each death and, at least quarterly, assess the system for patterns and trends, and implement remedial measures to correct any identified issues.

3. Contraband. ADOC should:

- Immediately implement shakedowns such that at least 15% of all housing units are searched every day, with congregate areas searched weekly; written documentation showing the results of those shakedowns must be maintained. ADOC should immediately implement daily searches of the interior of the perimeter, the yard, and congregate feeding and recreation areas before and after each use by prisoners, and searches of visiting rooms (including restrooms) before and after every visiting period, with the results of these searches documented. Those results should be analyzed for patterns and trends. ADOC should implement plans to address any patterns or trends discovered.
- Within one month, draft a policy requiring the screening of *every* individual who enters a facility (staff, visitors, volunteers, etc.). Once the policy has been submitted to the Department and approved, implement the policy system-wide within one month.
- Within two months, ensure that each facility has working metal detectors at every entrance, and that each facility has implemented a procedure to use them on all persons entering the prison.

- Within one month, consult with a nationally recognized expert, approved by the Department, to determine other methods of detecting illegal drugs and other contraband being brought into the facilities, for those drugs that will not be detected by metal detectors. Include recommended measures in ADOC policy on screening.
- Within six months, implement any reasonable additional screening procedures for illegal drugs and other contraband that cannot be detected by a metal detector.
- Within two months, provide adequate medical treatment, using evidence-based treatment, for all prisoners detoxifying as illegal drugs and other contraband are reduced and eventually eliminated from the facilities.

4. Sexual Abuse.

ADOC should:

- Immediately revise ADOC's disciplinary process to avoid subjecting victims to unnecessary disciplinary actions when they seek assistance or protection from ADOC due to threatened or actual sexual abuse.
- Immediately institute a process whereby every allegation of sexual abuse is investigated and the investigation is properly documented. In order to do so, ADOC should ensure a professional investigation unit is in place with the training, skills, and sufficient staffing to investigate every allegation within 60 days.
- Within one month, hire a nationally recognized expert on PREA, to be approved by Department, who will produce a report within two months of hiring. The report should suggest immediate and long-term remedies to address the sexual safety issues in Alabama's prisons. ADOC should implement all immediate measures within three months of receiving the report.
- Within three months, reclassify every prisoner for sexual safety issues, and ensure that potential predators are separated from potential victims.

5. Facility Conditions. ADOC should:

- Within one month, identify all broken locks in Alabama's prisons, and identify how they will be repaired or replaced. Within a month after that, secure funds for such repairs or replacement, and hire a contractor to perform the job within 30 days.
- Within six months, ensure that at least 80 percent of toilets, sinks, and showerheads at each prison are in working condition.

- Within six months, install cameras throughout all prisons that will remain open for more than one year, with locations to be approved by the Department. All video should be retained for 90 days unless an assault on a prisoner or staff occurs in an area surveilled, in which case the video should be preserved until the matter is fully investigated and prosecuted or dismissed by authority of the Commissioner. Wardens should review video at least monthly. Any out-of-service video equipment should be replaced within 72 hours.
- Within 90 days, identify the three prisons in the worst physical condition and take preliminary steps to ensure remedies are initiated which provide humane living conditions.

B. Long-Term Measures

ADOC should:

- By 2020, staff Alabama's prisons consistent with the requirements of the *Braggs* staffing orders.
- Establish competitive base starting salaries and benefits packages for employees.
- Ensure that applicants for ADOC employment can apply and interview in their local area, and provide frequent testing for applicants.
- Continuously track correctional officer turnover by year, breaking out exits by years of service, age, gender, ethnicity, and facility, and use information learned through this tracking to remedy reasons for attrition.
- Employ systematic exit interviews of correctional officers and report annually on reasons for departures, cross-tabulated by age, gender, ethnicity, and facility.
- Ensure that prisoner housing areas are adequately supervised, through direct supervision, whenever prisoners are present.
- Ensure that prisoners are tested for synthetic drugs on a regular, but random, basis. Each prisoner should be tested at least every six months, and the testing should be documented and the results reviewed by ADOC administrators.
- Develop a plan and implement a policy for detecting and reducing the amount of contraband throughout ADOC facilities, including the appointment of a Chief Interdiction Officer for contraband interdiction.
- Ensure that ADOC has, and is following, policies and procedures for an appropriate, objective classification system that separates prisoners in housing

units by classification levels in order to protect prisoners from unreasonable risk of harm.

- Discontinue the use of “behavior modification” dormitories (“Hot Bays”) unless mental health professionals play a role in both the assignment of prisoners to such placements and are involved in the treatment provided.
- Ensure that every prisoner-on-prisoner assault is documented and investigated, and that staff is trained on how to prevent and address such incidents.
- Comply with PREA and its implementing regulations, the National Standards to Prevent, Detect, and Respond to Prison Rape (28 C.F.R. §§ 115 *et seq.*).
- Develop and implement a policy on prevention, detection, reporting, and investigation of prisoner-on-prisoner and staff extortion of prisoners and their families.
- Develop a written institutional plan to coordinate actions taken in response to an incident of physical abuse, sexual abuse, and/or extortion among staff first responders, medical and mental health practitioners, investigators, and facility leadership.
- Develop an effective substance abuse disorder program.
- Develop and implement an effective grievance process. In the event that a grievance is filed against a staff member, the submission process must allow for options of submission that are neither seen by, nor referred to, the staff member who is the subject of the complaint.
- Develop and implement a plan to prevent prisoners from entering housing units other than the ones to which they are assigned.
- Implement procedures to ensure sanitary prisons.

VI. CONCLUSION

The Department has reasonable cause to believe that ADOC violates the constitutional rights of prisoners housed in Alabama’s prisons by failing to protect them from prisoner-on-prisoner violence, prisoner-on-prisoner sexual abuse, and by failing to provide safe conditions.

We are obligated to advise you that 49 days after issuance of this letter, the Attorney General may initiate a lawsuit pursuant to CRIPA to correct deficiencies identified in this letter if State officials have not satisfactorily addressed our concerns. 42 U.S.C. § 1997b(a)(1). The Attorney General may also move to intervene in related private suits 15 days after issuance of

this letter. 42 U.S.C. § 1997c(b)(1)(A). Please also note that this Notice is a public document. It will be posted on the Civil Rights Division's website.