

STATE OF HAWAII
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Testimony in SUPPORT of (HB 1551 HD 1)
RELATING TO PUBLIC SAFETY

SENATOR CLARENCE NISHIHARA, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

Hearing Date: March 12, 2019

Room Number: 229

1 **Fiscal Implications:** Undetermined

2 **Department Testimony:**

3 The Department of Health (DOH) supports HB 1551 HD 1 which establishes
4 a four-hundred fifty (450) bed minimum-security facility for short term offenders as
5 outlined in this measure. The DOH has worked closely with the Department of Public
6 Safety (PSD) on the Hawaii Opioid Initiative and other related projects and welcomes
7 the opportunity to continue to work with PSD to address these target populations.

8 The DOH stands ready to assist the PSD in providing substance abuse
9 treatment, support services, cognitive behavioral intervention and transitional
10 programs.

11 Thank you for the opportunity to provide testimony.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Senator Clarence Nishihara, Chair

Senator Glenn Wakai, Vice Chair

Tuesday, March 12, 2019

1:15 pm

Room 229

OPPOSITION TO HB 1551 HD1 - CORRECTIONAL TREATMENT PRISON

Aloha Chair Nishihara, Vice Chair Wakai 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.

Again, this is another bill that was mentioned by the community representative on the task force, Prosecutor Keith Kaneshiro and recently "retired" MCCC Warden, James Hirano, however, it was **never discussed as an option**. Their remarks centered around MCCC's Track 4, prison for people who relapse in Drug Court. Community Alliance on Prisons contacted the head of the Maui Drug Court to ask if there was any evaluation done on Track 4. No response. When I asked several people from Maui and researchers who do evaluations if they ever saw an evaluation of Track 4, no one ever had seen one. We, therefore, can only conclude that there have not been evaluations of this program.

When Justice Wilson presented the final report of the HCR 85 Correctional Reform Task Force, he spoke about a correctional treatment facility. **THE HCR 85 TASK FORCE DID NOT RECOMMEND A CORRECTIONAL TREATMENT PRISON.**

Therefore, we find it troubling that this would be proposed with no information or research to support it. When Justice Wilson described a correctional treatment facility run by department of health, people in the community approached me after the presentation to ask what he was talking about since that was neither discussed at nor in the HCR 85 Correctional Reform Task Force recommendations.

This is another proposal that comes out of nowhere with no supporting data and one that has had no discussion by the task force, the legislature, or the community. What is going on???

Mahalo for this opportunity to testify.

HB-1551-HD-1

Submitted on: 3/11/2019 12:46:30 PM

Testimony for PSM on 3/12/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

March 11, 2019

OPPOSITION TO HB1551 HD1 Minimum security jail

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

FROM: Barbara Polk

I oppose HB1551 for the following reasons:

>This plan has had no public discussion or review before being introduced, despite being a major change and being very detailed in its prescriptions,

>**Rather than looking for ways to decrease incarceration, this proposal seeks to increase it** beyond the capacity of the jail that is under consideration. It is based on the assumption that people who have substance abuse or mental health issues should be locked up while being treated. **“Minimum security” is, nonetheless, incarceration.**

>**DPS is not the appropriate department to deal with health matters.** Most of the intended occupants of this facility should logically not be incarcerated or under the control of the Department of Public Safety. Bringing in the Department of Health in some vague way does not make it more acceptable

>**A facility designed to hold 450 people is not appropriate for treatment of substance abuse or mental health issues,** because it is much too big, and therefore must be too institutional. The facility sounds like a prison with some treatment involved, rather than a “housing program.” Ideally, treatment facilities should be smaller, more home-like and be true housing. The bill offers no concept of how people incarcerated there would be housed—in dorm type rooms? In cells? There has been no planning or discussion.

>**There is no reason why a “housing program” of any type should be located near a jail or prison.** The Halawa location would make it difficult for men on furlough to come and go independently. This sounds in many ways like starting a new State Mental Hospital, but this time under DPS rather than DOH

>**Drug and mental health treatment require facilities that provide social outlets and activities other than “treatment”.** There has been no discussion of what other facilities would be needed and what space would be required.

>**The bill assumes that such a facility can be designed, built and operated in a two year period,** when no discussion has been held or plans made as to how the facility would carry out its responsibilities. Section 5 appropriates funds to hire staff to run such a facility—starting in July!

>Although claiming to be an “alternative” to incarceration, it is described as incarceration **and does not show any evidence of incorporating the spirit of rehabilitation** recommended by the HCR 85 Task Force, which I encourage all committee members to read.

I urge the Committee to defer HB1551.

HB-1551-HD-1

Submitted on: 3/10/2019 11:30:06 AM

Testimony for PSM on 3/12/2019 1:15:00 PM

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

Comments:

Please do not build more jails. We must look to proven solutions (here and in other states) in the community. Everyone would be back into the community anyways, so a minimum security JAIL does not provide long term solutions.

ROBERT K. MERCE
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March 11, 2019

TO: Committee on Public Safety, Veterans & Military Affairs
RE: HB 1551, HD 1
HEARING DATE: Tuesday, March 12, 2019
TIME: 1:15 p.m.
CONF. ROOM: 229
POSITION: SUPPORT with comments

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

I am a retired lawyer and recently served as Vice Chair of the HCR 85 Task Force on prison reform.

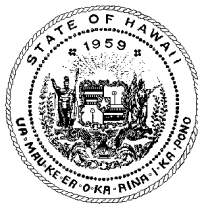
I support the intent of HB 1551, HD 1, which recognizes that drug addiction is a medical problem and that probation and parole violators who relapses while trying to recover from addiction do not necessarily benefit from incarceration.

My concern is that it will undoubtedly be very difficult to manage a facility that houses 400 men who have addiction problems and have previously engaged in criminal behavior. Before the State embarks on construction of a 400-bed facility, I believe it would make sense to consider whether some probation and/or parole violators could more appropriately be placed in an existing community based drug treatment program, and whether it would make more sense to build several smaller facilities on Oahu rather than a single large facility in Halawa Valley.

Thank you for allowing me to testify on this measure.

DAVID Y. IGE
GOVERNOR

LATE



STATE OF HAWAII
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No. _____

TESTIMONY ON HOUSE BILL 1551, HOUSE DRAFT 1
RELATING TO 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

Tuesday, March 12, 2019; 1:15 p.m.
State Capitol, Conference Room 229

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

The Department of Public Safety (PSD) supports House Bill (HB) 1551, House Draft (HD) 1, which would establish a 450-bed Minimum-Security facility for short term offenders. The target population includes short-term adult offenders who have violated probation; parole violators; furlougees who have violated terms of their furlough agreement by testing positive for the use of illicit substances; sentenced felon probationers; or sentenced misdemeanants identified as high risk for illicit substance use and/or recidivism.

Currently, individuals in the above-mentioned target group are held at the Department of Public Safety's Community Correctional Centers (Jails), contributing to overcrowding of community correctional facilities throughout the State. The facility proposed in HB 1551, HD 1 would serve to alleviate the jails' overcrowded conditions. PSD also recognizes the target population's need for specialized services and appreciates the Department of Health's commitment, expressed in testimony to the House Committee on Public Safety, Veterans, and Military Affairs, in a hearing on February 1, 2019, of providing continued assistance with substance

Testimony on HB 1551, HD 1
Senate Committee on Public Safety,
Intergovernmental, and Military Affairs
March 12, 2019
Page 2

abuse treatment, support services, cognitive behavioral intervention, and transitional programs.

Thank you for the opportunity to present this testimony.



LATE

**HB1551 HD1
RELATING TO PUBLIC SAFETY**

Senate Committee on Public Safety, Intergovernmental, & Military Affairs

March 12, 2019

1:15 p.m.

Room 229

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB1551 HD1, which would establish a housing facility and program for short-term adult offenders who may be struggling with substance abuse and addiction issues. OHA appreciates the intent of this measure to reduce recidivism and the incarcerated population through a minimum-security, treatment-oriented facility, and offers the following comments for the Committee's consideration.

Decades of a traditional criminal justice approach have led to mass incarceration in our State, levying tremendous corrections costs but producing poor results. Over recent decades, Hawai'i's prison population has increased to a historic high;¹ the Native Hawaiian community has been particularly impacted by this increase, making up nearly 40% of our prison population for at least the past ten years.² In its recently published 2018 report, the HCR85 Task Force on prison reform contended that our retributive approach to justice has resulted Hawai'i's mass incarceration phenomenon; the Task Force further found that this approach has broken individuals, families, and communities, but has not yielded acceptable outcomes in terms of recidivism or public perception.³

¹ From 1978 to 2016, the combined jail and prison populations increased 670% from 727 prisoners to 5,602. E. ANN CARSON & JOSEPH MULAKO-WANGOTA, BUREAU OF JUSTICE STATISTICS, COUNT OF TOTAL JURISDICTION POPULATION (generated using the Corrections Statistical Analysis Tool – Prisoners at www.bjs.gov) (2018).

² OHA's 2010 study found that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at every stage noting that Native Hawaiians made up "24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population." THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 10 (2010), available at http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf. Moreover, controlling for many common factors including type of charge, the study revealed that Native Hawaiians were more likely to be found guilty, receive a prison sentence, and receive a longer prison sentence or probation term than most other ethnic groups. *Id.* at 28-38. More recently, the HCR85 Task Force noted that Native Hawaiians continue to be overrepresented in our prison system, constituting just 21% of the statewide population, and just 18% of the adult population, but 37% of the incarcerated population. HCR 85 (2016) TASK FORCE, SUMMARY AND KEY RECOMMENDATIONS 2 (2018), available at https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR85Summary_FINALv2.pdf.

³ See generally, HCR 85 (2016) TASK FORCE *supra* note 2.

To mitigate the impacts of our traditional criminal justice approach, and to develop alternative approaches that can address our ever-growing incarcerated population and its tremendous costs, Hawai'i should envision creative solutions for the manifold social and public health problems that have been relegated to the criminal justice system. As this measure recognizes, many among Hawai'i's incarcerated population battle drug dependency; however, few receive treatment for what is effectively an issue of public health, and that may be key to breaking the cycle of incarceration such individuals may find themselves trapped in.⁴ The aforementioned HCR85 Task Force specifically noted that incarceration has proven ineffective at rehabilitating individuals struggling with addiction, and that “most of those prisoners will continuously cycle through the criminal justice system,” keeping recidivism rates and corrections costs perpetually high.⁵ The Task Force averred that **treatment courts are the most effective mechanism currently available in our system, and that expanding these as well as drop-in and residential drug treatment programs should be prioritized;**⁶ the Task Force also noted that these recommendations would specifically address the overrepresentation of Native Hawaiians in the criminal justice system.⁷ Accordingly, initiatives and programs that reflect well-established best treatment practices and incarceration alternatives for those struggling with addiction may provide significant relief to our mass incarceration challenges and costs, and reduce the burden of our criminal justice system on the Native Hawaiian community.

In light of the above, OHA appreciates that this measure seeks to balance competing objectives, needs, and philosophies by envisioning an intermediate approach between community-based alternative treatment programs and a rehabilitative correctional facility. **Notably, a facility dedicated to the treatment of a low-level offending population with complex needs would require the expertise, whole-hearted support, and integrated guidance of the Department of Health (DOH).** Therefore, we are encouraged that DOH has already committed its support to the immense effort envisioned by this bill.

The HCR85 Task Force, in its final report, set forth a framework to guide the conception of smaller, smarter, more humane future jail and prison facilities, and we

⁴ The NHJTF noted that “about half of state and federal prisoners meet criteria for drug abuse and/or dependence, yet fewer than 20% actually receive treatment.” *Id.* at not 35. Data demonstrating the proportion of Hawai'i's incarcerated population with drug dependency issues specifically is unavailable. However, the HCR85 Task Force noted that “74% of Hawai'i's prisoners are incarcerated for relatively low-level offenses (class C felonies and below), including non-violent and drug offenses.” *Id.* at 51. The HCR85 Task Force also found that 43% of the Honolulu Police Department's 16,000 arrests in 2016 were homeless people, and that 72% of these detainees were mentally ill or under the influence of drugs. HCR 85 (2016) TASK FORCE, CREATING BETTER OUTCOMES, SAFER COMMUNITIES: FINAL REPORT OF THE HOUSE CONCURRENT RESOLUTION 85 TASK FORCE ON PRISON REFORM TO THE HAWAII LEGISLATURE 66 (2018), available at https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf.

⁵ HCR 85 (2016) TASK FORCE *supra* note 4 at 41.

⁶ *Id.*

believe many of those principles would also apply to the facility contemplated here. Specifically, any minimum-security housing facility and program established as a result of this measure should:

- Maintain rehabilitation as its primary focus, and be designed to support its therapeutic programs and services;
- Employ evidence-based practices regarding comprehensive treatment of substance abuse co-occurring with mental health conditions, including individualized treatment plans and access to medically assisted detoxification and relapse prevention therapies;
- Offer culturally based programming;
- Be sited in a location with easy access to work furlough opportunities;
- Be designed to accommodate small units in accordance with population risks and needs to facilitate successful rehabilitative relationships and population management;
- Integrate normalcy principles to provide a therapeutic environment and reduce stress, anxiety, and anti-social behaviors by de-institutionalizing physical structures to avoid alienation, ensuring greater freedom of movement, and increasing access to natural environmental elements and private and collective spaces to replicate normal activities such as cooking, studying, recreating, and exercising; and
- Offer strong reentry planning and reintegration support services, including housing and human service resources and continuing access to substance abuse treatment, as needed, and healthcare after release.

Particularly with DOH's leadership, and with rehabilitation as a paramount priority, we believe the minimum-security housing program contemplated in this measure has the potential to realize the benefits of alternative approaches to our costly and ineffective traditional incarceration system.

Mahalo nui loa for the opportunity to testify on this measure.

HB-1551-HD-1

Submitted on: 3/11/2019 1:47:07 PM

Testimony for PSM on 3/12/2019 1:15:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Diana Bethel	Individual	Oppose	No

Comments:

HB 1551 HD1 seems to be a way to incarcerate more people rather than create community-based programs. This is not real criminal justice reform.

HB 1551 HD1 seems to acknowledge the failure of our criminal justice system to address the needs of Hawaii's incarcerated population. But adding more facilities to an already broken system will not fix it.

HB-1551-HD-1

Submitted on: 3/11/2019 2:48:34 PM

Testimony for PSM on 3/12/2019 1:15:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Anita Trubitt	Individual	Oppose	No

Comments:

HB-1551-HD-1

Submitted on: 3/12/2019 9:01:40 PM

Testimony for PSM on 3/12/2019 1:15:00 PM



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

Comments:

Dear Honorable Legislative Members,

I am writing this testimony today to support this bill. As a retired Dept of Public Safety Employee, and as Substance Abuse Specialist - 5, Certified Substance Abuse Counselor, and the Program Manager of Project Bridge for several years when I was working for the department; I do have some insight into the need for this 450 bed minimum (community based) facility to help convicted felons re-enter the community. The backlog for minimum custody felons to re-enter society through work furlough has always been problematic and is a major restricted funnel because there just is not enough room or programs to handle the need. Of course the funding, the staffing, and the location and facility needs to be reviewed and well thought out before any facility/program be allowed to start up. Additionally, contracting to private enterprise would not be advised as the need to insure that those monitoring and managing the offenders needs to have a correctional institutional background. Community Substance Abuse Treatment Agencies just do not have the correctional mindset, even when they work within the prison system. They don't have experience and training to be correctional officers.