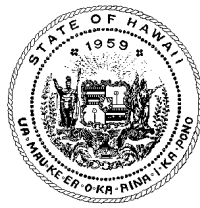


DAVID Y. IGE  
GOVERNOR



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

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 1552, HOUSE DRAFT 2  
RELATING TO PUBLIC SAFETY.

by

Nolan P. Espinda, Director  
Department of Public Safety

House Committee on Finance  
Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair

Thursday, February 21, 2019; 12:30 p.m.  
State Capitol, Conference Room 311

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Department of Public Safety (PSD) supports House Bill (HB) 1552, House Draft (HD) 2, which collapses the Reentry Commission and the Corrections Population Management Commission into a single, independent oversight commission, to be established in the Office of the Governor. The Hawaii Correctional System Oversight Commission will be responsible for overseeing the State's correctional system and facilitating its transition to an increasingly rehabilitative and therapeutic model.

The Department welcomes the advent of incorporating additional Native Hawaiian culture-based programs, with an emphasis on healing and reducing recidivism for the inmate population. PSD looks forward to the Oversight Commission's recommendations for additional best practices to help effectuate a more effective correctional system.

Thank you for the opportunity to present this testimony.

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 HOUSE BILL 1552, HD2  
A BILL FOR AN ACT RELATING TO PUBLIC SAFETY  
BY

HAWAII PAROLING AUTHORITY  
Edmund "Fred" Hyun, Chairman

House Committee on Finance  
Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair

Thursday, February 21, 2019, 12:30 p.m.  
State Capitol, Conference Room 308

Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Hawaii Paroling Authority (HPA) supports the intent of this House Bill 1552, HD2, which seeks to establish the Hawaii Correctional System Oversight Commission. However, the HPA has concerns regarding the stated proposed powers and duties of the Hawaii Correctional System Oversight Commission as outlined in subparagraph (3) on page 6 (line 8 through 16) and subparagraph (4) on page 6 (line 17 through 20 and continued on page 7 line 1 and line 2).

The HPA is a separate quasi-judicial board that is attached to the Department of Public Safety (DPS) for administrative purposes only. As such, the DPS neither monitors the work of the HPA nor has the authority to review decisions of the HPA. Therefore, the HPA respectfully requests that all references to the HPA and the parole population be removed from this measure.

Thank you for the opportunity to provide testimony on House Bill 1552, HD2.



**HB1552 HD2**  
**RELATING TO PUBLIC SAFETY**  
Ke Kōmike Kumuwaiwai

Pepeluali 21, 2019

12:30 p.m.

Lumi 308

The Office of Hawaiian Affairs **SUPPORTS** HB1552 HD2. This measure would establish the Hawai'i Correctional System Oversight Commission, to subsume the responsibilities of two other commissions and further develop a much-needed and long-awaited strategy to reduce the State's incarcerated population, reduce corrections spending, and reinvest in public safety and recidivism reduction. It would also create a position for an oversight coordinator to oversee the administration of the Hawai'i Correctional System Oversight Commission, and assist in transitioning our correctional system from a punitive model to a rehabilitative and therapeutic one.

OHA has long advocated for criminal justice reform that would thoroughly examine and effectively implement evidence-based corrections policies and incarceration alternatives that can successfully rehabilitate pa'ahao, reduce recidivism, improve public safety, and save taxpayer dollars. We support the efforts represented by this bill and are prepared to 'auamo the kuleana of assisting the Hawai'i Correctional System Oversight Commission in every way we can. We look forward to continuing to represent the interests of overrepresented pa'ahao in this important discussion, and we further hope to work collaboratively with the Legislature, Administration, and Judiciary toward the expeditious implementation of the recommendations of the Native Hawaiian Justice Task Force and the HCR 85 Task Force, which also seek to transform our criminal justice system from a punitive model to a rehabilitative and therapeutic one.

Therefore, OHA urges the Committee to **PASS** HB1552 HD2. Mahalo nui loa for the opportunity to testify on this important measure.

**HB-1552-HD-2**

Submitted on: 2/19/2019 12:04:20 PM

Testimony for FIN on 2/21/2019 12:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kat Brady	Community Alliance on Prisons	Support	Yes

Comments:

THE CIVIL BEAT  
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701  
Honolulu, HI 96813

Office: (808) 531-4000  
Fax: (808) 380-3580  
info@civilbeatlawcenter.org

House Committee on Judiciary  
Honorable Sylvia Luke, Chair  
Honorable Ty J.K. Cullen, Vice Chair

**RE: Testimony Commenting on H.B. 1552 H.D. 2, Relating to Public Safety**  
Hearing: February 21, 2019 at 12:30 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit testimony **with comments on H.B. 1552 H.D. 2.**

As it concerns the proposed correctional system oversight commission, new section -3(c) provides: "The commission may hold public meetings it deems necessary and may exercise the exemptions in section 92-5." The intent of that provision is unclear.

By normal operation of law, the proposed commission would be a "board" under the Sunshine Law. HRS § 92-2. As a consequence, all the requirements and exceptions of the Sunshine Law would apply to the new commission, regardless whether any reference such as section -3(c) is made to the Sunshine Law in the commission's statutory authority.

Section -3(c) should be removed from the bill to avoid potential confusion or clarified as to its intended purpose.

Thank you again for the opportunity to testify concerning H.B. 1552 H.D. 2.

**HB-1552-HD-2**

Submitted on: 2/20/2019 11:30:43 AM

Testimony for FIN on 2/21/2019 12:30:00 PM

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

Comments:

## TESTIMONY IN SUPPORT OF HB 1552, HD 2

TO: House Committee on Judiciary

FROM: Nikos Leverenz  
Grants, Development & Policy Manager

DATE: February 21, 2019 (12:30 PM)

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Chair Luke, Vice-Chair Cullen, and Members of the Committee:

Hawai'i Health & Harm Reduction Center (HHRC) **supports** HB 1552, HD 2, establishing the Hawai'i Correctional System Oversight Commission, which would assume all rights, powers, functions, and duties of the Reentry Commission and Corrections Population Management Commission.

HHRC works with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. Incarceration for any length of time for those with undiagnosed or undertreated behavioral health conditions compounds human suffering and is neither wise nor compassionate public policy.

To the extent that the creation and operation of this commission will modify current correctional practices, it can be a key component of reducing the numbers of persons who are incarcerated and under correctional supervision. This Legislature should also directly consider active, direct oversight of the Department of Public Safety, and enact substantive sentencing reform, probation reform, and parole reform. The Hawai'i State Auditor has uncovered an administrative culture that does not operate in the best interests of this state's taxpayers or families of those persons who are directly impacted by over-incarceration and protracted correctional supervision.

The [final report of the HCR 85 Task Force on Prison Reform](#), which called for “a new and more sustainable correctional model” that employs “greater use of community-based alternatives to incarceration,” noted the unsustainability of continued over-incarceration: “If we continue on the path we have been on for the past four decades, we can expect the same poor outcomes and high recidivism rates we have experienced in the past, and our communities will not be safer despite the hundreds of millions of dollars we will spend on corrections.”

Last month, the Robert Wood Johnson Foundation [issued a report that surveyed the deleterious long-term effects of incarceration on a person’s health](#):

People who are incarcerated face greater chances for chronic health conditions, both while confined and long after their release. Incarceration exposes people to a wide range of conditions, such as poor sanitation and ventilation and solitary confinement, that are detrimental to long-term physical and mental health. After release, previously incarcerated individuals often face higher mortality rates and experience limited opportunities for gainful employment, stable housing, education, and other conditions needed for good health.

As such, Hawai’i should increase its capacity to provide low-threshold, evidence-based care and medical treatment for those who need it apart from the criminal justice framework. The continued criminalization of behavioral health concerns under existing law and prevailing prosecutorial and correctional practices is not conducive to individual or public health.

Thank you for the opportunity to testify on this measure.



**HB-1552-HD-2**

Submitted on: 2/19/2019 4:05:35 PM

Testimony for FIN on 2/21/2019 12:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
E. Ileina Funakoshi	Individual	Support	No

Comments:

I am e. ileina funakooshi writing to strongly support HB1552 with amendments. Thank you for considering this bill which will provide an independent oversight commission. Possiblyf the commission can also look at how families will be able to talk to their loved ones or visit them while they're hospitalized to alleviate the anxiety they face not knowing the condition of their loved ones.

As chair of the Public Safety Committee of Pearl City Neighborhood Board #21, i will be asking for the board's support of this bill with amendments.

Thank you for your consideration and I humbly ask for passage of this bill with amendments.

February 20, 2019

TO: Committee on Finance  
RE: HB 1552 HD 2  
HEARING DATE: Thursday, February 21, 2019  
TIME: 12:30 PM  
CONF. ROOM: 308  
POSITION: **SUPPORT**

Dear Chair Luke, Vice Chair Cullen, and members of the committee:

HB 1552, HD 2 is an extremely important bill that would vastly improve Hawaii's correctional system by implementing two of the most important recommendations of the House Concurrent Resolution 85 Task Force on Prison Reform: (1) independent oversight and (2) the gradual transition from a punitive to a rehabilitative correctional system.

### **Independent Oversight**

Independent oversight is a correctional best practice and an essential element of the effort to ensure the constitutional treatment of prisoners and preserve the integrity of correctional systems.<sup>1</sup> Professor Michele Deitch of the University of Texas at Austin, one of country's leading experts on oversight, explains it this way:

Prisons and jails are closed institutions, both literally and symbolically, and they operate far away from public view. In such closed environments, abuse is more likely to occur and less likely to be discovered. Staff members and inmates with malicious intent often find they can act with impunity, while those with more benign objectives may find their plans thwarted by a lack of resources or an institutional culture that is unsupportive of their efforts or content with the status quo. Insular environments tend to put prisoners at risk of abuse, neglect, and poor conditions, and the lack of outside scrutiny provides no challenge to this treatment.<sup>2</sup>

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<sup>1</sup> See Michele Deitch, *The Need for Oversight in a Post-PLRA World*, *Federal Sentencing Reporter*, Vol. 24, No. 4 (April 2012) accessed January 31, 2019  
<https://www.equitasproject.org/wp-content/uploads/2018/01/Deitch-The-Need-for-Independent-Prison-Oversight-in-a-Post-PLRA-World-Federal-Sentencing-Reporter-April-2012.pdf>

<sup>2</sup> Michele Deitch, "The Need for Independent Prison Oversight in a Post-PLRA World," *Federal Sentencing Reporter*, vol. 24, no. 4, (April 2012): 236–244.

## **ROBERT K. MERCE**

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The type of oversight that would be provided by HB 1552, HD 2 is exactly what professor Dietsch has recommended, and many of the key elements of the bill are based on her scholarly writing. By adopting HB 1152, HD 2 Hawaii would be taking an important step forward in reforming and improving its correctional system.

### **Transitioning to a Rehabilitative Correctional System**

The single most important recommendation of the HCR 85 Task Force is that Hawaii should transition from a punitive to a rehabilitative correctional system. The coordinator position described in HB 1152, HD 2 would ensure that this transition takes place, and that it occurs in a timely, effective, and orderly manner.

### **Other Matters**

HB 1152, HD 2 would merge two existing but narrowly focused oversight commissions on reentry and prison population management into a single new oversight commission. This consolidation makes sense, and in my view would make oversight of the correctional system more efficient and effective.

Thank you for the opportunity to comment on this very important bill.

**LATE**

February 20, 2019

To: **HOUSE COMMITTEE ON FINANCE**  
Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair

Re: **HB 1552 HD2 — CORRECTIONAL SYSTEM OVERSIGHT COMMISSION; COORDINATOR (\$)**

***STRONG SUPPORT***

Aloha Chair Luke, Vice Chair Cullen and members of your committee,

If properly staffed and monitored, the oversight commission as proposed in this bill will be a game changer for corrections in Hawaii. My questions may seem odd, but I need to ask: Will you and your fellow legislators hold the commission genuinely accountable? Will the Department of Public Safety be compelled to respect the commission's findings and honor the conclusions of the commission's and coordinator's work?

I ask these with great hope, just as I served with great hope for many years on the Corrections Population Management Commission. Like this group, it was mandated to do certain things, but despite the presence of smart, savvy professionals, it didn't do them. We just counted bodies going through the prison gates, many more bodies than the facilities could hold, and patted ourselves on the back for a job well done. In retrospect, I am ashamed.

This month marks 20 years since Mackey Feary died in Halawa. Men and women are still dying, and our corrections' policies and practices are at least in part to blame. Let us hope that sometime in the near future, when we hear "Nightbird" or "Moon and Stars," we can whisper to Mackey that things have changed.

Mahalo nui loa.

Aloha,



Peter Gellatly



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

**HB-1552-HD-2**

Submitted on: 2/21/2019 10:45:25 AM

Testimony for FIN on 2/21/2019 12:30:00 PM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Diana Bethel	Individual	Support	No

Comments:

I support HB 1552 HD2 because Hawaii's correctional system seems to have so many problems, many of which would be alleviated with oversight and accountability.

This needs to happen as soon as possible to avoid making unwise decisions that will plague the state for years to come - both in terms of the human and financial cost.

It will be necessary to make sure that the new Commission is not overburdened with too many responsibilities, such as including in its tasks responsibility for the Corrections Population Management Commission.