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**THE HONORABLE GREGG TAKAYAMA, CHAIR
THE HONORABLE CEDRIC ASUEGA GATES, VICE CHAIR
HOUSE COMMITTEE ON PUBLIC SAFETY, VETERANS AND MILITARY AFFAIRS
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii**

February 1, 2019

RE: H.B. 634, RELATING TO RESTORATIVE JUSTICE

HEARING: Friday, February 1, 2019, 10:00 A.M., Conference Room 430

Good morning Chair Takayama, Vice Chair Gates and members of the House Public Safety, Veterans, and Military Committee, the Department of Prosecuting Attorney provides the following testimony **in opposition to H.B. 634**, which proposes to establish a five year pilot “Restorative Justice” program within the Judiciary.

The proposed pilot program runs afoul of established Restorative Justice principles from the very start by characterizing the program as “Restorative Justice”. True Restorative Justice is victim centered, driven by victims, and primarily for the benefit of crime victims. The proposal outlined in H.B. 634 is offender centered, initiated by offenders, and primarily for the benefit of offenders. Furthermore the proposal contemplates dismissal of criminal charges against participating defendants thus depriving victims of any ability to enforce restitution and relieving the offender’s obligation to pay the Crime Victim Compensation fee. In addition, while the bill attempts to eliminate the program’s application to “violent crime” by referencing HRS Section 351-32 it is still applicable to many crimes that are not only violent in nature but involve, by their very nature, victim intimidation. Offenses such as terroristic threatening, harassment by stalking, and violations of temporary restraining orders and protective orders would still be considered eligible under this bill.

If you truly want to create a program which is restorative for victims then fund a program within the Judiciary devoted to improving the enforcement of the collection of restitution for victims. If your desire is to create a rehabilitative program for offenders, then by all means do so, but please do not misappropriate the term Restorative Justice as that is not what this program is. For all of

the above reasons we urge your opposition to H.B. 634. Thank you for your time and consideration.

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**TESTIMONY IN STRONG OPPOSITION OF
HB 634 - RELATING TO RESTORATIVE JUSTICE**

Justin F. Kollar, Prosecuting Attorney
Diana Gausepohl-White, Victim/Witness Program Director
County of Kaua'i

House Committee on Public Safety, Veterans, & Military Affairs
February 1, 2019, 10:00 a.m., Conference Room 430

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

Restorative justice is a powerful, meaningful and beneficial process for both victims and offenders when it is victim-centered. There are several models practiced in Hawai'i and all of them have two fundamental components - the process is **initiated** by the victim and it occurs **after** an offender has been sentenced. This helps address the concern of outside influence or pressure, especially when the victim and offender are related

Victim-centered restorative justice can be achieved when the goal of the offenders is to repair the harm they caused. There is intrinsic value in accepting responsibility for one's actions regardless of the outcome. Incentives like having charges dismissed call into question the motivation of offenders which can undermine the process even when they genuinely want to make amends. Moreover, established diversion programs already exist for offenders who are at low risk for recidivism and willing to participate in service programs.

Language in this bill such as "the court shall inform each eligible defendant of the **right** to request restorative justice" exemplifies how it is offender driven and places a degree of onus on victims to participate which is unacceptable.

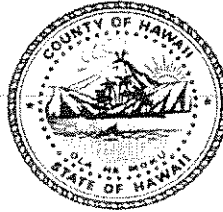
Accordingly, we are in STRONG OPPOSITION OF HB 634. We request that your Committee does not pass the Bill.

Thank you very much for the opportunity to provide testimony on this Bill.

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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN OPPOSITION TO HB 634

A BILL FOR AN ACT RELATING TO RESTORATIVE
JUSTICE

HOUSE COMMITTEE ON PUBLIC SAFETY, VETERANS AND MILITARY AFFAIRS

Rep. Gregg Takayama, Chair
Rep. Cedric Asuega Gates, Vice Chair

Friday, February 1, 2019, 10:00 a.m.
State Capitol, House Conference Room 430

Honorable Chair Takayama, Honorable Vice Chair Asuego, and Members of the Committee on Public Safety, Veterans and Military Affairs, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in OPPOSITION to House Bill No. 634.

Any program utilizing restorative justice principles addresses the following three questions: 1) Who has been harmed? 2) How can these harms be repaired, and 3) Who should address or repair the harms? Restorative Justice is a victim centered, victim initiated, victim led process. Without those components it is not restorative justice.

It is because of the underlying principles above, that we are in opposition of House Bill 634. It is clear from the language throughout the bill that the program being considered is offender driven and offender led. Section 2(b) outlines the right of eligible defendants to request restorative justice. In the narrative in the beginning of the bill, it states, "the legislature further finds that typically, a restorative justice program begins when an incarcerated person requests restorative justice ...". Restorative Justice isn't a right. It is a victim initiated process to address harm done to a victim. Section 2(d) incentivizes the process by dangling the carrot of dismissal of charges for participation in a success restorative justice process. Rather than addressing repair of the harms to the victim, this bill addresses benefits to the defendant.

We do not argue that there are positive outcomes for defendants who participate in these programs. But we argue that these outcomes come from a victim who wishes to meet with an offender to address the harm that was done to them, and an offender who has willingly participated in the process at no benefit to him or herself. Why do offenders choose to participate then? Some do to express remorse directly to victims; while others do so in an effort to "make up" or "do whatever is necessary" in order to help the victim. The program as briefly outlined in the bill places an unfair burden on the victim to participate in the program. True restorative justice

practices work to develop a victim centered comprehensive/restorative response to harm that honors victims, holds offenders accountable and strengthens community – leaving a community stronger, rather than weaker after crime occurs.

While we have no doubt the intention behind the bill is to incorporate restorative justice practices within the judicial system, it is imperative that the philosophy behind these practices be clearly understood before establishing a program. In 2015 the Hawaii County Office of the Prosecuting Attorney established a program to offer restorative justice options to victims of crime. Every juvenile case is reviewed for possible consideration into the program. The victim is the first person contacted to see if this is something they want to participate in. We currently provide Victim Impact Classes at Hawaii Community Correctional Facility. The classes consist of 14 sessions that examine a range of crimes from property damage to homicide, and explore how victims are personally impacted. These classes are provided because victims of crime wanted an opportunity to speak to offenders and have their voices heard. We have also started VOCARE Victims, Offenders, Community – A Restorative Justice Experience: a surrogate group dialogue option for victims and offenders to come together and discuss the impact of a particular type of crime. Three inmates, three victims, and three community members are guided by two highly skilled facilitators in this discussion over the course of a weekend. There have been two VOCARE weekend sessions at Kulani Correctional Facility, both focused on murder.

Restorative Justice practices are currently occurring in our Islands, and we are excited about the possibility of providing more opportunities for victims of crime to participate in these programs. At this point, however, the Bill as written does not follow the principals of true victim centered restorative justice practices, and as such we cannot support it.

The Office of the Prosecuting Attorney, County of Hawai'i, opposes the passage of House Bill No. 634. Thank you for the opportunity to testify on this matter.



HB634
RELATING TO RESTORATIVE JUSTICE
House Committee on Public Safety, Veterans, & Military Affairs

February 1, 2019

10:00 a.m.

Room 430

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend that the Board of Trustees **SUPPORT** HB634, which would establish a restorative justice pilot program within the Judiciary, to explore creative approaches to improve public safety outcomes, address the needs of victims and the accused alike, and reduce the State's reliance on mass incarceration along with its attendant economic and social costs.

Hawai'i's traditional criminal justice approach has now led to mass incarceration in our State, at tremendous cost to prisoners, their communities, and our society as a whole. Over the last several decades, Hawai'i's prison population has skyrocketed to a historic high.¹ In its recently published 2018 report, the HCR85 Task Force on prison reform noted that the current, retributive approach to justice that has contributed to this unprecedented prison population has broken individuals, families, and communities, while failing to yield acceptable outcomes in terms of reduced recidivism or public perception.² Unfortunately, the Native Hawaiian community has been particularly impacted by our criminal justice approach, making up nearly 40% of our prison population for at least the past ten years.³ Accordingly, it is now clear that Hawai'i must

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

³ OHA's 2010 study found that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at every stage noting that Native Hawaiians made up "24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population." 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.

seek criminal justice reform as well as implement evidence-based incarceration alternatives to reduce the incarcerated population, more effectively rehabilitate pa‘ahao, reduce recidivism, improve public safety, and save taxpayer dollars.⁴

OHA believes that a broadly accessible restorative justice program, such as the pilot program proposed under this measure, provides opportunities to both promote successful criminal justice outcomes, and avoid the significant costs of incarceration. **Restorative justice practices balance the needs of victims, offenders, and communities, empowering these parties to actively engage in the justice process and collaboratively develop creative resolutions to the harm caused by delinquent acts, ultimately contributing to much more satisfactory outcomes for all participants.** The Native Hawaiian Justice Task Force (NHJTF), in its 2012 report, noted that western restorative justice models align well with Native Hawaiian cultural practices of remediation, which may further inform and enhance the effectiveness of a restorative justice program;⁵ HB634 acknowledges this confluence by including “native Hawaiian reconciliation practices such as ho‘oponopono” among the types of treatment to be offered in its proposed program.

Notably, existing examples of restorative justice programs similar to those envisioned by this measure suggest a high potential for success. For example, restorative justice programs in other jurisdictions⁶ as well as indigenous models employing similar principles in several countries⁷ have demonstrated great success in achieving participant satisfaction and reduced recidivism rates. A popular restorative justice reentry pilot program implemented at the Waiawa Correctional Facility has also proven remarkably successful, resolving over 90 cases with a 100% satisfaction rating among offender, victim, and community participants. **A pretrial restorative justice program as envisioned by the pilot program in HB634 will likely result in similar positive outcomes, which would in turn provide a potential diversion from incarceration and further interaction with the criminal justice system, improve judicial efficiency, and save associated corrections costs.**

⁴ The NHJTF recommended several options to address systemic issues resulting in overrepresentation of Native Hawaiians in the criminal justice system. These included reconsidering several proposals from the 2011 Justice Reinvestment Initiative legislation that were not originally passed or implemented, investing in early intervention programs, increasing public defender funding, expanding implicit bias training, strengthening supervised release programs, executing compassionate release consistently, supporting indigenous models of healing alternatives such as pu‘uhonua, and bolstering reintegration programs and services to better prevent recidivism. OFFICE OF HAWAIIAN AFFAIRS, *NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT* (2012), http://19of32x2yl33s8o4xza0gf14.wpengine.netdna-cdn.com/wpcontent/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

⁵ *Id.* at 9.

⁶ See Sandra Pavelka, *Restorative Justice in the States: An Analysis of Statutory Legislation and Policy*, Vol. 2 JUSTICE POLICY JOURNAL No. 13 (2016).

⁷ *Supra* note 4 at 9, 24.

Finally, OHA notes that the NHJTF⁸ and the HCR85⁹ Task Force have both urged the legislature to invest in restorative justice programs and indigenous cultural remediation models. HB634 would provide a step towards fulfilling these recommendations, and realizing the profound potential benefits restorative justice models can offer to our criminal justice system.

Therefore, OHA urges the Committee to **PASS** HB634. Mahalo nui loa for the opportunity to testify on this important measure.

⁸ *Id.* at 10, 29.

⁹ HCR 85 (2016) TASK FORCE *supra* note 2 at xix, 88.



COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS
Rep. Gregg Takayama, Chair
Rep. Cedric Asuega Gates, Vice Chair

DATE: Friday February 1, 2019
TIME: 10:00 AM
PLACE: Conference Room 430

Dear Honorable Committee Members,

Strong support for HB 634 with amendments – Relating to Restorative Justice

Mahalo for your public service contributions and your support for institutionalizing restorative justice practices.

This bill in its current form combines two restorative justice programs that should be managed separately: 1. *reentry planning circles* normally provided in prisons and jails; and 2. *pono kaulike* provided mainly through courts.

We support the legislature funding two separate five-year restorative justice pilots. The department of public safety (PSD) should assist a non-profit in coordinating a restorative reentry planning circle program and the judiciary should assist a non-profit in coordinating a restorative pono kaulike program as described below.

History of RJ

Ho‘oponopono and other ancient talking circle practices that indigenous people developed and use today are restorative. Modern restorative justice (RJ) is a relatively new field that began as a movement in the 1970s after restitution and mediation were introduced to the justice system. Albert Eglash, an American psychologist working with incarcerated men first used the words “restorative justice” in the 1950s (*What’s Restorative About Teen Court?* 2018, Walker, Rodgers & Umbreith, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3294303).

The first modern RJ practices, which brought an individual harmed in a specific incident of wrongdoing to meet with the person who harmed them, were provided simultaneously in Canada and Minnesota (*Restorative Justice Today: Practical Applications*, van Wormer & Walker, 2013). It was after the modern restorative movement began that people noted indigenous people, as well as ancient Europeans, had used restorative methods to deal with wrongdoing.

Hawai‘i Friends of Restorative Justice (HFRJ) has developed a number of RJ practices since the late 1990s that are described in over 40 papers and books. HFRJ’s RJ reentry circle model has been replicated in other countries including Brazil, Hungary, France, and Bermuda, and states including New York, Pennsylvania, California, Washington DC, and Alaska.

Ho‘oponopono

HFRJ believes that the best source of information about ho‘oponopono and how it can best be provided should come from respected Hawaiian peacemaking practitioners (haku). HFRJ is not qualified to comment on best practices of ho‘oponopono as it relates to this bill, but supports its appropriate applications as the haku determine.

Reentry Planning Circles Development and Process

In 2004 HFRJ collaborated with Kat Brady and Ted Sakai at Waiawa prison to develop the *reentry planning circle* restorative process, now called *huikahi*, which are provided today at the women’s prison (WCCC) through the assistance of PSD staff. Section one of HB 634 generally describes the reentry circle model in which

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1

individuals apply for a huikahi circle to meet with loved ones to make amends and address how they might repair harm they caused for others, including the community at large. An incarcerated person during a reentry circle makes amends with loved ones, and plans how they might also reconcile with any unrelated people harmed by their wrongdoing. After addressing reconciliation, the incarcerated individual, with the help of their supporters and a prison staff person participating in the circle, makes a plan for meeting their other needs for a successful law abiding life in the community, e.g., housing, employment, transportation, maintaining physical and emotional health, etc.

Reentry circles are generally provided for any incarcerated individual with any security level convicted for most types of crimes from murder to substance abuse, as long as the person takes responsibility and is accountable for their actions. An interview with the applicant for a reentry circle is provided to ensure their accountability, and to explain the circle process.

RJ has been shown to reduce crime more effectively for serious and violent crimes rather than less serious crimes (*Restorative Justice: The Evidence*, Sherman & Strang, 2007, http://www.iirp.edu/pdf/RJ_full_report.pdf).

In addition to providing the reentry circles for women in WCCC, they have been piloted since 2015 for incarcerated federal defendants and federal probationers in Hawai'i. They have also been provided for youth in the Hawai'i Youth Correctional Facility.

Two people who were convicted, but who were innocent of the charges for which they were incarcerated, have also had reentry circles. The two took responsibility for looking forward and facing how their incarceration harmed their loved ones and how injustice could be addressed (*Re-entry Circles for the Innocent: The Psychological Benefits of Restorative Justice and Taking Responsibility in Response to Injustice*, Walker, 2015, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2801554).

Research Shows Reentry Circles are Healing and Reduce Recidivism

HFRJ has provided 161 reentry circles mostly for people incarcerated in Hawai'i prisons and 12 federal defendants and their loved ones. To date 711 people have participated in the circles HFRJ provided and 100% of them have reported the process was positive. The circles have been researched and found to increase healing for the children of parents who have them (*Benefits of Restorative Reentry Circles for Children of Incarcerated Parents in Hawai'i*, Walker, Tarutani & McKibben, 2015, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2666828). Dr. Janet Davidson also evaluated the reentry circles in a well done quasi experimental study in 2016, and found that the circles reduce recidivism more than twenty-five percent compared with a carefully matched control group (*Restorative Justice Reentry Planning for the Imprisoned: An Evidence-Based Approach to Recidivism Reduction*, Walker & Davidson, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3291843).

Data Needed from PSD to Show the Cost Savings of Reentry Circles

Professor James Richardson, Ph.D., with the Shidler College of Business, University of Hawai'i, has volunteered to measure the costs and savings of the reentry circle's recidivism reduction. In August 2018, Dr. Richardson requested the data from the department of public safety to do an evaluation, but to date he has not received the necessary data. HFRJ also requested help from the department of attorney general, which PSD has reported is reviewing the data request. To date the data needed to determine the costs and savings of the reentry circles has not been provided, which should be.

PSD Should Collaborate to Provide a Five Year Pilot Reentry Circles at Prisons & Jails

PSD is in the best position to collaborate in providing access to the reentry circles. The reentry circles are driven by the incarcerated individual who is accountable and wants to make amends with her or his loved ones and make a plan for law abiding behavior. The courts could inform defendants sentenced to prison and jail about the

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availability of the reentry circles, as currently done by the Honolulu federal court. But it makes more sense for PSD, not the judiciary, to collaborate with a non-profit that can provide the circles to people imprisoned in Hawai'i state jails and prisons.

Pono Kaulike Restorative Justice Pilot in State District Court

A court centered restorative justice pilot called *pono kaulike* was conducted from 2003 until around 2007 (*Pono Kaulike: A Hawai'i Criminal Court Provides Restorative Justice Practices for Healing Relationships*, Walker & Hayashi, 2007, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2137967).

The Pono Kaulike pilot provided three different types of facilitated restorative group processes that are listed in Section 2(g) of HB 634: restorative conferences, restorative dialogues and restorative sessions.

The restorative conference or circle process most often includes the people directly harmed by wrongdoing in criminal cases along with their supporters. Since 1996 EPIC 'Ohana Conferencing in Hawai'i (<http://epicohana.net/oc.aspx>) in collaboration with the judiciary and department of human services, has provided families with restorative conferences to successfully deal with claims of child abuse and neglect (*A Cohort Study of 'Ohana Conferencing in Child Abuse and Neglect Cases*, Walker, 2005, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2137955). Retired judge Michael Town, and parole board member today, was the driving force that created 'Ohana Conferencing, which has helped thousands of children and families in our state.

Restorative dialogues in criminal cases are the similar to restorative conferences or circles. Except dialogues only include the person harmed and the one who did the harming, none of their supporters participate. Restorative sessions only include one of the parties and a facilitator. All three processes address how a defendant can repair the harm caused by their crime.

The Judiciary Should Collaborate to Provide a Five Year Pono Kaulike Program Pilot

HB 634 should be amended to clearly state the judiciary should provide a pilot of the Pono Kaulike program for both circuit and district courts with sufficient funding. All defendants including those charged and or convicted of "class A or B felon[ies]" and "violent crime[s]" should also be eligible to apply for restorative interventions and Section 2(a) should be amended to state this.

HRFJ is Willing To Help Revise HB 634

Hawai'i Friends of Restorative Justice is willing to assist the legislature in amending this bill so it makes sense and works to serve our community effectively. We need to learn from the problems other states have had in enacting RJ (*Realizing Restorative Justice: Legal Rules and Standards for School Discipline Reform*, Nussbaum, 2017, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3039752). We need to write the clearest law that we can to successfully institutionalize RJ in Hawai'i.

Please contact me at (808) 218-3712 or lorenn@hawaiiifriends.org with any questions and for further information about our strong support for this measure with amendments as discussed above.

Mahalo again for serving our community.

Aloha,

Lorenn Walker, JD, MPH

Director, Hawai'i Friends of Restorative Justice

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The Judiciary, State of Hawai'i

**Testimony to the House Committee on Public Safety,
Veterans, and Military Affairs**

Representative Gregg Takayama , Chair
Representative Cedric Asuega Gates, Vice Chair

Friday, February 1, 2019, 10:00 a.m.
State Capitol, Conference Room 430

By

WRITTEN TESTIMONY ONLY

Rodney A. Maile
Administrative Director of the Courts

Bill No. and Title: House Bill No. 634, Relating to Restorative Justice.

Purpose: The bill requires the Judiciary to establish a 5-year pilot program for restorative justice. It also requires the judiciary to inform various criminal attorneys of the existence of the pilot program. Appropriates funds.

Judiciary's Position:

The Judiciary respectfully supports the intent of this bill to bring the victim and defendant together in a safe environment that allows the victim to express him/herself and provide the offender an opportunity to learn the impact his/her actions has had on the victim/community. However, the Judiciary has identified several concerns with this bill that can be addressed by a task force or working group.

The bill proposes that the defendant will have the "right" to request to participate in a restorative justice program with the court and victim(s) consent. Considering defendants' constitutional right to a speedy trial, these "rights" may conflict. Upon successful completion of the restorative justice process, the bill provides that the court may dismiss the charges with approval from the court and the victim. This may place a victim in a difficult situation as a



House Bill No. 634, Relating to Restorative Justice
House Committee on Public Safety, Veterans, and Military Affairs
Friday, February 1, 2019, 10:00 a.m.
Page 2

defendant's case dismissal may rest with the victim agreeing to participate and get the charge(s) dismissed. This may cause additional harm to the victim.

Pursuant to this bill, a defendant who has been charged with a class A or B felony or that is a violent crime shall not be eligible to participate in the pilot program. Thus, defendants charged with a Class C felony, misdemeanor, or petty misdemeanors that are not violent crimes pursuant to HRS §351-32 may be eligible. This means that defendants charged with Terroristic Threatening I & II, as well as Violation of an Order for Protection/Temporary Restraining Order will be eligible to participate. Although these charges are not classified violent crimes according to HRS §351-32, the victims may feel afraid of repercussions regardless of their choice to participate in restorative justice or not.

Perhaps clarifying that the presiding judge could determine whether a restorative justice approach is appropriate in a given case would be helpful.

Also, the bill requires the court to inform each eligible defendant of the right to request restorative justice during or prior to a pretrial conference. It appears that participation in a restorative justice program is pre-adjudication and if the defendant participates in restorative justice and the victim and prosecuting attorney agree, the court may dismiss the charges. The judiciary does not have jurisdiction in the cases until adjudication and as such the judiciary may not be the appropriate entity to implement a restorative justice program.

The Judiciary is willing to convene a task force, pursuant to this measure, and offers the Judiciary's Center for Alternative Dispute Resolution's assistance in facilitating the task force. The task force would include a core group of community partners (Judiciary, prosecutor, defense attorney, attorney general, public safety, etc.) to serve as a working group tasked to research and identify existing restorative justice models; identify goals and objectives specific to Hawai'i's needs; research resources available on each island; develop policies and procedures; develop findings and recommendations for potential pilot programs and/or services, including the procurement of services, reporting requirements to track outcomes and evaluate programmatic issues and strengths; and the attendant costs and personnel required to implement a sustainable restorative justice program.

Thank you for the opportunity to comment on this measure.

HB-634

Submitted on: 1/31/2019 8:20:08 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments:

Strongly Support Restorative Justice

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COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Asuega Gates, Vice Chair

Friday, February 1, 2019

9:30 am

Room 430

SUPPORT for HB 634 - RESTORATIVE JUSTICE

Aloha Chair Takayama, Vice Chair Gates and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of 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 5,400 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 supports restorative justice in our correctional system to give incarcerated persons the opportunity to take responsibility and repair the harm that their wrongdoing caused. In 2005, Hawai'i Friends of Civic Law and Education (now called Hawai'i Friends of Restorative Justice) and Community Alliance on Prisons started the restorative circle process at Waiawa Prison.

Currently, the Women's Prison is the only place where these circles happen now. Research has shown that the participants in the circle process have a lower recidivism rate than those who did not have one.

The process is really transformative for all involved and the satisfaction rate among attendees is high. This is because the process, which is solution focused, allows participants to express their feelings in a space that is made safe. Sometimes people discuss deeply personal feelings that might not have ever been expressed before.

In short, restorative justice is all about healing and we need this in all our correctional facilities, schools and other institutions where trauma is an every-day occurrence. Please listen to Lorenn Walker's testimony. She has been a restorative justice practitioner for decades and has trained many of us.

Mahalo for this opportunity to testify.



O`ahu County Committee on Legislative Priorities (OCCL)

COMMITTEE ON SAFETY, VETERANS & MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Asuega Gates, Vice Chair

DATE: Friday, February 1, 2019

TIME: 10:00 a.m.

PLACE: Conference Room 430, State Capitol

RE: HB 634 Relating to Restorative Justice

Aloha mai kakou Chair Takayama, Vice Chair Gates, and Members of the Committee on Safety, Veterans & Military Affairs:

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai`i (DPH) hereby submits its testimony in **SUPPORT of HB 634 relating to Restorative Justice.**

HB 634 requires the Judiciary to establish a 5-year pilot program for restorative justice. Requires the judiciary to inform various criminal attorneys of the existence of the pilot program. HB 634 appropriates funds for this pilot program.

DPH have been inspired by the movements for criminal justice that directly address the discriminatory treatment of Native Hawaiians, Pacific Islanders and other disadvantaged ethnicities to rebuild trust in the criminal justice system. *Democratic Party of Hawai`i Platform (2018), p. 8, ln. 51-53.* Instead of investing in more jails and incarceration, we need to invest more in jobs and education and end the school-to-prison pipeline. We will remove barriers to help formerly incarcerated individuals successfully re-enter society by “banning the box.” *Democratic Party of Hawai`i Platform (2018), p. 8, ln. 34-36.*

At the same time, DPH supports comprehensive services for survivors and increase prevention efforts in our communities. . . . We will provide comprehensive support to survivors and ensure a fair process . . . in the criminal justice system. *Democratic Party of Hawai`i Platform (2018), p. 15, ln. 22-27.*

For the foregoing reasons, i.e., to rebuild trust in the criminal justice system and to provide comprehensive support to survivors and ensure a fair process in the criminal justice system, OCCLP supports HB 634 and urges its passage out of the Committee on Safety, Veterans & Military Affairs.

Mahalo nui loa

Me ka `oia`i`o

/s/ Melodie Aduja

Melodie Aduja

Chair, O`ahu County Committee on Legislative Priorities
of the Democratic Party of Hawai`i

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Date: February 1, 2019

To: The Honorable Gregg Takayama, Chair
The Honorable Cedric Gates, Vice Chair
House Committee on Public Safety, Veterans, and Military Affairs

From: Justin Murakami, Policy Research Associate
The Sex Abuse Treatment Center
A Program of Kapiolan'i Medical Center for Women & Children

RE: Testimony in Opposition to H.B. 634
Relating to Restorative Justice

Good morning Chair Takayama, Vice Chair Gates, and members of the House Committee on Public Safety, Veterans, and Military Affairs:

The Sex Abuse Treatment Center (SATC) respectfully opposes H.B. 634.

Restorative justice is a victim- and community-oriented movement to reform criminal justice procedures, with a goal of repairing and healing harm caused by crime. It is important to avoid practices that appear on their face to be restorative, but in fact center programs on benefits to the perpetrator or utility to the criminal justice system.

We note that the program that would be created by H.B. 634 is not clearly defined. The definition of "restorative justice" at page 4 lines 15-19 would allow the Judiciary to utilize "any type of restorative justice group process." This is concerning, as not all restorative justice group processes are the same, and variations in the practices employed and the manner in which they are carried out can have different outcomes. It is also not apparent how, if at all, crime victims and other stakeholders would be engaged to ensure that the adopted practices do not have unintended non-reparative or harmful consequences.

Additionally, H.B. 634 centers the pilot program on benefit to the perpetrator by offering, in return for their participation, an opportunity to have charged offenses dismissed at page 3 lines 13-16. This strongly impugns the sincerity with which the perpetrator would engage in the process and risks participation that is merely performative in exchange for a reward. It also places a heavy, unfair pressure on victims to participate, especially where a perpetrator commits a crime against a family member or someone of their same community.

We are also concerned about the scope of the crimes that perpetrators can commit while remaining eligible for the program. Although page 3 lines 4-6 provide that a perpetrator charged with a class A or B felony or a violent crime, as defined by H.R.S. Section 351-32, is not eligible, a perpetrator could commit a range of sexually violent offenses, many which are graded as class C felonies or misdemeanors, and

related crimes, such as aggravated harassment by stalking (a class C felony), and remain eligible to participate in this program.

We appreciate this opportunity to provide testimony, and ask that the Committee please defer H.B. 634.

HB-634

Submitted on: 1/31/2019 7:50:42 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

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

Comments:

January 30, 2019 To Hawaii Legislature House PVM Committee Testimony

HB 634

I support the restorative justice bill HB 634 because it provides a much needed alternative in our legal system to have restorative justice. Restorative justice is a system of interventions that allow the victim of a crime to get the much needed answers and healing around the offender and the crime. This should be an option for victims and it is completely voluntary and often involves the victim meeting with the offender in a structured and safe way and may not involve meeting the offender at all. The aim of the restorative justice system is to discover what harm has been done and what needs and obligations arise out of the harm that has been done and then work to find ways to make things as right as possible to bring things back to pono; to try to restore relationships and community in ways that the usual justice system does not and is not set up to do. This is a well-established and safe system and it is not a mediation in a traditional sense. The principals of restorative justice do allow for culturally appropriate solutions such as Hooponopono to be used. Many states across the country are passing laws similar to this and the effect of restorative justice systems is to build community and to have fewer people in prison and lower the likelihood of future offenses. Those are things that are measurable but the unmeasurable healing for the victim and the community and the offender is a central part of restorative justice systems. This does not mean to imply that the offender will not be held accountable for the harms that result in the obligations to others; both the victim and the community. This law allows us to offer this in our justice system and I believe it will be a welcome addition and improve the community in Hawaii and encourage nonviolence and resolution and ultimately you have fewer people in prison and more people participating in community with less likelihood of repeat offenses. I encourage you very strongly to pass this legislation as it

is much needed alternative and further allows a more culturally appropriate solution in our justice system for Hawaii.

Sincerely, Dr. Scott Young M.D. CM FRCSC Hand Surgery

411 Huku Li'i Place #303, Kihei Hi 96753

HOW IS RESTORATIVE THINKING DIFFERENT?	
Conventional Thinking:	Restorative Thinking:
Focused on the rules broken	Focused on the people harmed
Accountability equals punishment	Accountability means repairing the harm
Focus on Past	Focus on Future
Focused on offender	Focused on community
Offender defined by their crime	Offender seen holistically
Justice is focused on establishment of guilt/innocence	Justice is focused on needs and responsibilities of all involved
All behavior is motivated by punishments and rewards	All behavior is motivated by basic universal human needs
Challenging behavior is used to get things (e.g., attention) or escape / avoid things (e.g., work, responsibility).	Behind most challenging behavior is: a problem to be solved and skills to be trained.
Behavior is a matter of the child's will	Behavior is a matter of skills
Focused on "what" people are	Focused on "how" people are
Outside interventions (court, police)	Community interventions (people most affected by harm)
Focus on control/compliance	Focus on connection/influence/skills
Focused on behavior	Focused on problem-solving
Power over/under	Power-with
Based on moral judgments	Based on values judgments
External motivation	Internal motivation

1. What is participation in court-imposed justice based on?

- Obligation: in criminal cases, the state presses charges, which requires the victim to participate in the process while the offender does not have a choice
 - A profession of guilt or non-guilt that is based on a legal description of the crime, not what was personally perceived by either the victim or the offender
 - A solution provided by a judge or other third party, usually in the form of jail time or a fine
 - An outcome that satisfies laws, but often does not satisfy the needs of the victim or the offender
1. What is participation in restorative justice conferencing based on?
- Choice: it is a process that is strictly voluntary for the victim and partially voluntary for the offender
 - An admission of harm done or wrongdoing that acknowledges not just the legal offense, but the perception of the victim
 - A willingness to problem solve
 - Awareness that a participant may choose to stop at any time
 - Participants deciding the outcome
1. **How can these two systems work together?**
- The criminal justice system focuses on the laws
 - Restorative justice focuses on the people
 - Each system is critical to the justice process as a whole, but neither can completely meet the needs of the victim or the offender
 - In order to meet these needs, it is necessary to rely on both systems together

Case Studies-

“I am filled with utter gratitude because the man who killed my father cares about what he did. His actions and words express that, and that matters to me.”

- Margot Van Sluytman, a Restorative Justice participant

Case 1: Home burglarized by teenage boy (Fresno, CA)

The offender, a teenage boy, was convicted of taking property from the victims' house. The case was referred to VORP (Victim Offender Reconciliation Program) by the Fresno county juvenile court. Initially the offender just wanted to pay the victims, but not meet with them be

because he was afraid they would look down on him. Eventually, he agreed to mediate.

At the outset of the mediation, there were moments of anger and raised voices. However, it soon subsided and was replaced by **apologies, understanding and sympathy**. When the **victims showed their forgiveness** and constructive intention for the offender's future, the environment shifted from tense to emotional. The **offender expressed his remorse**, committed to pay the victims for the lost items and to participate in a community service project recommended by the victims: mentoring youth in the VORP program. The offender's goal will be to change another youth's life by mentoring and sharing his own experiences. The offender and his father admitted that youth counseling failed him in the past. But mediation worked because they had the **opportunity to listen** to each other and together they **find the best solution to their conflict**.

Source: VORP News, Volume 23, Issue 3; May 2005(Victim Offender Reconciliation Program of the Central Valley, Inc.)

Case 2: Young boy vandalizes teacher's car (Chaska, MN)

The victim's car was vandalized by a young boy whom she had taught for two years. She elected to participate in a courthouse conference in lieu of the usual juvenile court proceedings.

Instead of asking that the offender pay to have the damage to her car repaired, the victim, aware of the offender's past troubles with alcohol and drugs, requested that he enter chemical dependency treatment. The offender apologized, but was not initially interested in seeking treatment. However, the conference had a significant impact on the offender's father, who forced him to participate in the program. Sometime after the mediation, the victim called the offender and learned that he had been in treatment for about a month and was attending support meetings. The offender apologized again and the victim noted that, "he sounded so much more mature and confident...he never would have sounded that way or said those things [before]".

Source: Star Tribune, Article: "Programs bring offenders and victims face to face", October 1995,

Case 3: Young girl raped by intruder (Wooroloo, Australia)

When she was 7 years old, the victim was raped by a man who broke into her home. Years later, she participated in The Sycamore Tree Project®, which brings indirect victims and offenders together for a series of in-prison meetings to discuss crime and its impact.

For years after the attack, the victim suffered from an extreme fear of being home alone, the inability to sleep through the night and the feeling that there was something shamefully wrong with her. The anxiety she felt prior to the first session was surprisingly replaced with empathy as she watched the offender walk into the room looking “ashamed and weighted down by guilt”. After the first session was over, the victim was in tears and shaking for two days. This reaction led her to discuss the attack with her husband and her mother in more depth than she ever had. The emotional aftermath of the first session **broke down barriers that had kept her silent for years.**

The subsequent sessions, which the victim described as the most emotionally taxing, focused on taking responsibility for behavior called for offenders and victims to pair off in a one-on-one encounter to tell their stories. The victim felt anger when the offender described other crimes similar to her experience, but also noticed shocked reaction to her description of the **impact of such crimes on her life and the lives of others.**

By the conclusion of the program, the victim had **lost the constant level of fear** that had previously engulfed her life for so many years as well as the feeling that there was something shameful about her.

Source: Restorative Justice Online (www.restorativejustice.org), October 2007 edition, Article: “Real People, Real Stories: Victims Face Fear and Find Healing in Prison”

Case 4: Man killed by drunk driver (Kent, England)

The offender, a 61 year-old man, was convicted of drunk driving after he hit a motorcycle with his car, killing the driver. The wife of the victim agreed to meet with the offender as part of a restorative justice initiative.

The victim’s wife explained that although the court informed her that the offender had written a letter of apology, she felt she **needed to see him in person to know that his remorse was sincere.** She also wanted to be able to ask him questions and find out what led to the death of her husband. When she visited the offender in prison, she did not know what to expect, although she imagined she would be extremely angry. She was surprised to find that she was not. Instead, she felt **relief** that she was able to say

things to him that she couldn't say to other people (such as her children, parents and other family members). As for the offender, she believes that he gained from the meeting as well. In her words, he "realized the effect it had on [her] family and **made him face up to what he had done**". While she feels that **she is able to forgive him** for what he did to her, she still is unsure if she can forgive him for the pain his actions have caused her children. However, she did add that she **no longer holds any resentment towards him**.

Source: BBC News Online; Video: "More crime victims to get apology to stop re-offending", February 9, 2010

Restorative Justice/Principles Resources:

Websites:

The International Institute for Restorative Practices

<http://www.iirp.edu>

Restorative Justice Online

<http://www.restorativejustice.org>

Restorative Justice International

<http://rjinternational.org>

The Youth Restoration Project

<http://www.youthrestorationproject.org>

Julia Steiny (Local RJ Advocate and writer) <http://juliasteiny.com>

Restorative Circles (Dominic Barter) <http://www.restorativecircles.org>

Victim Offender Mediation Association

www.voma.org

National Association for Community Mediation

www.nafcm.org

Community Mediation, Inc.

(203) 782-3514

www.community-mediation.org

Articles:

Balanced and Restorative Justice for Juveniles: A Framework for Juvenile Justice in the 21st Century: <https://www.ncjrs.gov/pdffiles/framwork.pdf>

School-based restorative justice as an alternative to zero-tolerance policies: Lessons from West Oakland

-over-

Books:

Restorative Justice Dialogue: An essential guide for research and practice

By Mark Umbreit and Marilyn Peterson Armour (2010)

Restorative Circles in Schools: Building Community and Enhancing Learning

By Bob Costello (IIRP) (2010)

Building and Restoring Respectful Relationships in Schools: A Guide to Using Restorative Practice

By Richard Henry (2009)

Discipline that Restores

By Ron and Roxanne Claassen (2008)

Peacemaking Circles and Urban Youth: Bringing Justice Home

By Carolyn Boyes-Watson (2008)

Returning to the Teachings: Exploring Aboriginal Justice

By Rupert Ross (2006)

Juvenile Justice Reform and Restorative Justice: Building Theory and Policy from Practice

By Gordon Brazemore and Mara Schiff (2005)

Just Schools: A Whole School Approach to Restorative Justice

By Belinda Hopkins (2004)

Peacemaking Circles: From Crime to Community

By Kay Prannis, Barry Stuart and Mark Wedge (2003)

Restorative Justice for Juveniles: Conferencing, Mediation and Circles

Edited by Allison Morris and Gabrielle Maxwell (2001)

The Handbook of Victim Offender Mediation

by Mark Umbreit (2001)

Restorative Juvenile Justice: Repairing the Harm of Youth Crime

Edited by Gordon Bazemore and Lode Walgrave (1999)

Changing Lenses: A new Focus for Crime and Justice

By Howard Zehr (1990)

The Little Book Series:

The Little Book of...:

- *Restorative Justice*, by Howard Zehr
- *Family Group Conferences, New Zealand Style*, by A. MacRae and H. Zehr
- *Circle Processes*, by Kay Pranis
- *Restorative Discipline for Schools*, by L. Amstutz and J. Mullett

HB-634

Submitted on: 1/30/2019 8:22:00 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Stefan J. Malecek, Ph.D.	Individual	Support	No

Comments:

I support HB 634 as it presents an opportunity for Hawaii to join a growing number of other states as well as other countries where Restorative Justice (RJ) has been put to great use in healing the often terrible emotional aftereffects of crime that are otherwise being adjudicated by the Criminal Justice (CJ) system. In this way, RJ has the possibility of being the type of effort that has the possibility of being healing for all parties and has been repeatedly shown (generally) to reduce recidivism as restore at least some sense equanimity to both individuals and communities as well as prepare them for post-incarceration homecoming to communities. I strongly urge the Legislature to pass this ground-breaking bill into law for our Zstate.

HB-634

Submitted on: 1/29/2019 10:08:31 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Autumn Ness	Individual	Support	No

Comments:

HB-634

Submitted on: 1/30/2019 11:57:23 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
TamRa Wich'Ma	Individual	Support	Yes

Comments:

My name is TamRa Wich'Ma, and I work for an organization based in Maui that is working towards implementing Nonviolent Communication Based Restorative Practices in schools in Maui, and working towards integrating Restorative Justice based Diversion programs in the youth division of Maui County, in addition to working with any and all juvenile youth programs, domestic disputes, and family programs.

I deeply support and believe that the integration of Restorative Justice in to the judicial system of Maui County and the state of Hawaii, will support the community of Maui and Hawaii, towards more connective, supportive, less recidivism, and positive community image.

Outlined below are highlights of the pillars of Restorative Justice and how these practices will support positive change towards a restored and peaceful community on Maui:

1.) *Crime is Fundamentally a Violation of People and Interpersonal Relationships*

- **Victims and the community have been harmed and need restoration.**
 - The primary victims are those most directly affect by the offense but others, such as family members of victims and offenders, witnesses, and members of the affected community, are also victims.
 - The relationship affected (and reflected) by crime must be addressed.
- **Victims, offenders, and the affected communities are the key stakeholders in justice.**
 - A restorative justice process maximizes the input and participation or these parties – but especially primary victims as well as offenders – in the search for restoration, healing, responsibility and prevention.
 - The roles of these parties will vary according to the nature of the offense as well as the capacities and preferences of the parties.
 - The state has circumscribed roles, such as investigation facts, facilitating processes and ensuring safety, but the state is not a primary victim.

2) *Violations Create Obligations and Liabilities*

- **Offenders' obligations are to make things right as much as possible.**

- Since the primary obligation is to victims, a restorative justice process empowers victims to effectively participate in defining obligations.
- Offenders are provided opportunities and encouragement to understand the harm they have caused to victims and the community and to develop plans for taking appropriate responsibility.
- Voluntary participation by offenders is maximized; coercion and exclusion are minimized. However, offenders may be required to accept their obligations if they do not do so voluntarily.
- Obligations that follow from the harm inflicted by crime should be related to making things right.
- Obligations may be experienced as difficult, even painful, but are not intended as pain, vengeance or revenge.
- Obligations to victims such as restitution take priority over other sanctions and obligations to the state such as fines.
- Offenders have an obligation to be active participants in addressing their own needs.
- **The community's obligations are to victims and to offenders and for the general welfare of its members.**
 - The community has a responsibility to support and help victims of crime to meet their needs.
 - The community bears a responsibility for the welfare of its members and the social conditions and relationships which promote both crime and community peace.
 - The community has responsibilities to support efforts to integrate offenders into the community, to be actively involved in the definitions of offender obligations and to ensure opportunities for offenders to make amends.

3) Restorative Justice Seeks to Heal and Put Right the Wrongs

- **The needs of victims for information, validation, vindication, restitution, testimony, safety and support are the starting points of justice.**
 - The safety of victims is an immediate priority.
 - The justice process provides a framework that promotes the work of recovery and healing that is ultimately the domain of the individual victim.
 - Victims are empowered by maximizing their input and participation in determining needs and outcomes.
 - Offenders are involved in repair of the harm insofar as possible
- **The process of justice maximizes opportunities for exchange of information, participation, dialogue and mutual consent between victim and offender.**
 - Face-to-face encounters are appropriate for some instances while alternative forms of exchange are more appropriate in others.
 - Victims have the principal role in defining, and directing the terms and conditions of the exchange.
 - Mutual agreement takes precedence over imposed outcomes.

- Opportunities are provided for remorse, forgiveness and reconciliation.
- **Offenders' needs and competencies are addressed.**
 - Recognizing that offenders themselves have often been harmed, healing and integration of offenders into the community are emphasized.
 - Offenders are supported and treated respectfully in the justice process.
 - Removal from the community and severe restriction of offenders is limited to the minimum necessary.
 - Justice values personal change above compliant behavior.
- **The justice process belongs to the community.**
 - Community members are actively involved in doing justice.
 - The justice process draws from community resources and, in turn, contributes to the building and strengthening of community.
 - The justice process attempts to promote changes in the community to prevent similar harms from happening to others.
- **Justice is mindful of the outcomes, intended and unintended, or its responses to crime and victimization.**
 - Justice monitors and encourages follow-through since healing, recovery, accountability and change maximized when agreements are kept.
 - Fairness is assured, not by uniformity of outcomes, but through provision of necessary support and opportunities to all parties and avoidance of discrimination based on ethnicity, class and sex.
 - Outcomes which are predominately deterrent or incapacitative should be implemented as a last resort, involving the least restrictive intervention while seeking restoration of the parties involved.
 - Unintended consequences such as cooptation of restorative processes for coercive or punitive ends, undue offender orientation, or the expansion of social control are resisted.

HB-634

Submitted on: 1/30/2019 6:01:23 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sulara James	Individual	Support	No

Comments:

I support this bill for Restorative Justice because I believe our justice system needs reform, and this is an important step in creating opportunities for those who commit crimes to reform rather than simply receive punishment. Our system now often helps to create career criminals rather than positively contributing community members.

This is an important step in the right direction for our justice system!

Thank you, Sulara James

HB-634

Submitted on: 1/30/2019 6:58:52 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Doug Nelson	Individual	Support	No

Comments:

Please support this important legislation. This is a pilot project of an innovative system that has shown dramatic positive results in other locations, and it is one that I believe would greatly benefit the local Hawaiian justice system as well.

The restorative justice approach focuses on community and healing in addition to perpetrator responsibility, rather than just punishment. I believe that it will lead to stronger communities with less crime and more neighborhood connections.

Thank you for your consideration.

HB-634

Submitted on: 1/30/2019 8:02:11 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James Tolley	Individual	Support	No

Comments:

I support the restorative justice bill HB 364 because it provides a much needed alternative in our legal system to have restorative justice. Restorative justice is a system of interventions that allow the victim of a crime to get the much needed answers and healing around the offender and the crime. This should be an option for victims and it is completely voluntary and often involves the victim meeting with the offender in a structured and safe way and may not involve meeting the offender at all. The aim of the restorative justice system is to discover what harm has been done and what needs and obligations arise out of the harm that has been done and then work to find ways to make things as right as possible to bring things back to pono; to try to restore relationships and community in ways that the usual justice system does not and is not set up to do. This is a well- established and safe system and it is not a mediation in a traditional sense. The principals of restorative justice do allow for culturally appropriate solutions such as Hoponopono to be used. Many states across the country are passing laws similar to this and the effect of restorative justice systems is to build community and to have fewer people in prison and lower the likelihood of future offenses. Those are things that are measurable but the unmeasurable healing for the victim and the community and the offender is a central part of restorative justice systems. This does not mean to imply that the offender will not be held accountable for the harms that result in the obligations to others; both the victim and the community. This law allows us to offer this in our justice system and I believe it will be a welcome addition and improve the community in Hawaii and encourage nonviolence and resolution and ultimately you have fewer people in prison and more people participating in community with less likelihood of repeat offenses. I encourage you very strongly to pass this legislation as it is much needed alternative and further allows a more culturally appropriate solution in our justice system for Hawaii.

HB-634

Submitted on: 1/30/2019 8:35:30 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Brenda Kennerly	Individual	Support	No

Comments:

I want to see restorative justice and restorative processes in our judicial system and in schools. I believe in their results. Mahalo

HB-634

Submitted on: 1/30/2019 8:37:47 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Matt Lannis	Individual	Support	No

Comments:

I believe in restorative justice and strongly support HB634. It is good for Hawaii and our justice system. Please pass HB634.

HB-634

Submitted on: 1/30/2019 9:04:01 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

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

Comments:

As Chair of Public Safety Committee of Pearl City Neighborhood Board #21, I humbly ask for passage of this very important HB634 bill.

mahalo and aloha,

e. ileina funakoshi

HB-634

Submitted on: 1/30/2019 9:27:02 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Robin Newbold	Individual	Support	No

Comments:

HB-634

Submitted on: 1/30/2019 9:44:53 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

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

Comments:

This is an important measure. We need to have what are proven to be more effective measures of addressing these issues in a way that brings together people in community and actually creates healing and growth versus punishment

HB-634

Submitted on: 1/31/2019 12:13:16 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Heisel	Individual	Support	No

Comments:

I think this is the future of the legal and justice system. Please pass this and get started with it.

Mahalo, Jeffrey Heisel, Kihei, HI

HB-634

Submitted on: 1/31/2019 6:20:27 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Charlotte OBrien	Individual	Support	No

Comments:

I would like to testify on Bill HB634 as an individual. I believe that without a doubt it would be beneficial to use Restorative Justice in the Hawaiian criminal system.

I have myself participated in Restorative Justice practice as well as a similar practices of Non Violent Communication and have found them to be very freeing. In a room where the participants are encouraged to suspend judgement and really listen to the other participants a sort of magic happens and people start to speak and be heard on a deeper level.

I can only imagine what it would be like for a victim to hear his or her perpetrator sincerely apologize and ask for forgiveness. I must be so freeing for both parties.

I sincerely hope that this bill advances as it would be a big boon to the citizens of our State that find themselves on the wrong side of the law.

Sincerely,

Charlotte O'Brien

ROBERT K. MERCE

January 31, 2019

TO: House Committee on Public Safety, Veterans, & Military Affairs
RE: HB 634
HEARING DATE: February 1, 2019
TIME: 10:00 AM
ROOM: 420
POSITION: **SUPPORT**

Chair Takayama, Vice Chair Gates, 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. HB 624 implements the HCR 85 Task Force recommendation that “Hawai‘i should improve in-custody programs by . . . Expanding restorative justice programs.” (*Creating Better Outcomes, Safer Communities*, Final Report of the HCR 85 Task Force on Prison Reform, 88 (December, 2018).

I participated in a restorative justice circle lead by Loren Walker at the Women’s Community Correctional Center and have seen how the process can transform participants and bring about healing and reconciliation.

I urge you to pass HB 624.

Thank you for the opportunity to comment on this bill.

HB-634

Submitted on: 1/31/2019 7:58:10 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk	Individual	Support	Yes

Comments:

A Restorative Justice program is already in use at several of the State's correctional facilities. It has proven successful in reducing recidivism and may even be more beneficial to victims of crime by allowing them to engage with the person who has wronged them. I would like to see the program extended throughout our correctional system.

I urge you to pass HB634.

HB-634

Submitted on: 1/31/2019 8:58:15 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

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

Comments:

Hawaii's Restorative Justice program has been shown to decrease recidivism.

Restorative Justice is also healing for families and communities.

This is exactly the kind of resolution that is needed for offenders to successfully reenter society and become productive citizens.

Let's do what is working.

HB-634

Submitted on: 1/31/2019 8:58:44 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Bruce Lowrey	Individual	Support	No

Comments:

I am Bruce Lowrey and I reside at 3245 Kehala Drive, Kihei, HI 96753. I am writing in support of HB 634.

This bill with its six-month pilot program will further explore and refine the exceptional track record the restorative justice program has experienced in Hawaii. Our society needs more innovative solutions such as this to transform people, relationships, and communities by reducing crime and repeat offenders, diverting people from the criminal justice system, and reducing the costs of criminal justice to the taxpayer.

I fully support HB634 and believe it needs to be passed into law.

Aloha,

Bruce Lowrey

S. Kukunaokalā Yoshimoto

TO: Committee on Public Safety, Veterans, & Military Affairs
RE: HB 634
POSITION: **SUPPORT**

January 31, 2019

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

My name is Shayne Kukunaokalā Yoshimoto, Program Specialist for Blueprint for Change, member of Holomua Pu'uhonua and the HCR 85 Criminal Justice Task Force, co-chair of the Native Hawaiian sub-committee. I am writing in strong SUPPORT of HB 634, which requires the Judiciary to establish a 5-year pilot program for restorative justice, also requires the judiciary to inform various criminal attorneys of the existence of the pilot program.

Much like healing processes employed by Native Hawaiians and other indigenous people around the world, restorative justice practices and principles focuses on an individuals assets rather than deficits and encourages and promotes healing.

Lorenn Walker has been a restorative justice advocate and practitioner for many decades, and has evaluation data that supports the intent of restorative justice practices.

I strongly urge the committee to pass HB 634. Mahalo a nui loa for the opportunity to testify.

HB-634

Submitted on: 1/31/2019 9:55:26 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Selena Dye	Individual	Support	No

Comments:

THE HONORABLE GREGG TAKAYAMA, CHAIR

HOUSE COMMITTEE ON PUBLIC SAFETY

Thirtieth State Legislature

Regular Session of 2019

State of Hawai`i

February 1, 2018

Report Title: Restorative Justice; Pilot Program; Judiciary; Alternative Dispute Resolution; Appropriation

RE: H.B. 634: REQUIRES the Judiciary to establish a 5-year pilot program for restorative justice, to inform various criminal attorneys of the existence of the pilot program and appropriates funds.

This bill supports the process and philosophy behind restorative justice programs (RJP). The mission of an RJP is to provide offenders the opportunity to make restitution to their victims and their families; to apologize for their transgressions and thoughtlessness; but most importantly, it provides the victims with an opportunity to have their voices heard and by so doing, create empowerment and a sense of vindication. As an individual who has taken part in various RJPs, I can attest to the deep emotions that include sorrow and remorse, and how this intimate process truly opens the eyes and conscious of the offender when hearing and feeling the effects of the harm caused. I believe in the process and have seen, first hand, the power of apology and forgiveness. Aside from these components, and probably most important to the policy goals that considers tax dollars and bureau efficiencies, the outcomes of a successful RFP results in reducing the incarceration population and thus costs associated thereto; reducing judiciary costs

and resources by lightening the caseload; reduces recidivism and more criminal costs; and keeps families intact emotionally and economically. Research also supports this theory. Because these are not violent offenders, they do not meet the criteria that would make them a public safety concern. As a taxpayer, I believe the costs of criminal justice should be reserved for those most deserving of imprisonment and focused on the apprehension of those most dangerous to our society.

I support HB 634 and the funding of a five-year pilot program that will be able to issue findings and outcomes that can establish the success of such programs so that in the long-run, these programs can be a normal process of the criminal justice system and increase the health and posterity of our families and communities. Thank you for the opportunity to testify.

HB-634

Submitted on: 1/31/2019 9:57:34 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
James Frederick Maanske	Individual	Support	No

Comments:

1. My name is Jim Manske, and I am a resident of Maui County. I am writing to support the legislature in implementing a pilot program to integrate Restorative Justice into our judicial system. I am in full support of this program and have had direct experience with Restorative Justice and the ways in which it supports community, accountability, offender obligations, and needs of the victim. Thank you for helping this bill pass, helping us all move towards a less violent, and more peaceful tomorrow.

HB-634

Submitted on: 1/31/2019 10:01:36 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jori Manske	Individual	Support	No

Comments:

1. My name is Jori Manske, I am a resident of Maui County. I am writing to support the legislature in implementing a pilot program to integrate Restorative Justice into our judicial system. I am in full support of this program and have had direct experience with Restorative Justice and the ways in which it supports community, accountability, offender obligations, and needs of the victim. Thank you for helping this bill pass, helping us all move towards a less violent, and more peaceful tomorrow.

HB-634

Submitted on: 1/31/2019 10:33:07 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark La Turner	Individual	Support	No

Comments:

Current methodology of resolving crime, domestic disputes, etc. is not working, prisons/jails are getting overcrowded, sometimes prosecuting innocent and first time offenders. In addition, we are punishing our children in ways that do not help them overcome their challenges faced in our educational system. Our current methods only push children down the dark paths that we so hope to get them out of. Isolating them, making them feel not good enough. We need to look at different ways of resolving or punishing individuals/children. I have seen restorative justice work first hand with my personal life and hope it can be adopted into our judiciary system and educational system as again, our current methods are not helping.

HB-634

Submitted on: 1/31/2019 5:17:25 PM

Testimony for PVM on 2/1/2019 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Carla Allison	Individual	Support	No

Comments:

Hawai`i must explore alternative ways of addressing wrongdoing in our communities and restorative justice does this by focusing on an individual's assets rather than deficits.

The Huikahi Restorative Justice Reentry Circles (HRRC) have been in a couple of Hawai`i prisons (WCCC and Waiawa) since 2005 and should be available in all Hawai`i correctional facilities.

An evaluation of Hawai`i's program found that recidivism for HRRC participants was approximately 43% versus state releases at approximately 56% (*Restorative Justice Reentry Planning for the Imprisoned: An Evidence-Based Approach to Recidivism Reduction*, Walker & Davidson, 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3291843)

The state should work with Lorenn Walker, who has been a restorative justice practitioner for decades.

LATE

HB-634

Submitted on: 2/1/2019 6:33:18 AM

Testimony for PVM on 2/1/2019 10:00:00 AM

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

Comments:

Strong Support. Research shows restorative justice works!