

STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
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No. \_\_\_\_\_

TESTIMONY ON HOUSE CONCURRENT RESOLUTION 67  
AND HOUSE RESOLUTION 67  
REQUESTING THAT THE STATE INCLUDE A FOUR HUNDRED FIFTY-BED,  
MINIMUM-SECURITY HOUSING FACILITY IN ITS DESIGN AND PLANS FOR  
THE PROPOSED OAHU COMMUNITY CORRECTIONAL CENTER.

by

Nolan P. Espinda, Director  
Department of Public Safety

House Committee on Public Safety, Veterans, and Military Affairs  
Representative Gregg Takayama, Chair  
Representative Cedric Asuega Gates, Vice Chair

House Committee on Judiciary  
Representative Chris Lee, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Friday, March 22, 2019; 2:05 p.m.  
State Capitol, Conference Room 325

Chairs Takayama and Lee, Vice Chairs Gates and San Buenaventura, and  
Members of the Committees:

The Department of Public Safety (PSD) supports the intent of HCR 67 and  
HR 67, which request the State to include a 450-bed Minimum-Security housing  
facility in its plans for the proposed Oahu Community Correctional Center (OCCC),  
and offers the following comments.

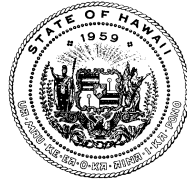
The minimum-security target population referenced in HCR 67 and HR 67  
includes short-term adult offenders who have violated probation; parole violators;  
furloughees who have violated terms of their furlough agreement by testing positive  
for the use of illicit substances; sentenced felon probationers; or sentenced  
misdemeanants identified as high risk for illicit substance use and/or recidivism. The  
individuals in the above-mentioned target group are held at the Department of Public

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Safety's Community Correctional Centers (Jails), contributing to overcrowding of OCCC and other community correctional facilities throughout the State. PSD has regularly informed the Legislature and the public about the severe overcrowding in the State's jails and prisons and therefore, appreciates these Resolutions' attempt to help alleviate OCCC's overcrowded conditions.

The Department would like to remind the Committees that the current OCCC replacement plan at the Animal Quarantine Station calls for 296 such minimum/ community beds. Any increase in that number would necessitate a reevaluation of the infrastructure demands, the issuance of an updated EIS, and revisions to the related Master Plan. This would entail additional costs and time spent to revisit all three key project components.

Thank you for the opportunity to present this testimony.



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**Testimony in SUPPORT of (HCR 0067)  
RELATING TO PUBLIC SAFETY**

REPRESENTATIVE GREGG TAKAYAMA, CHAIR  
HOUSE COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS

REPRESENTATIVE CHRIS LEE, CHAIR  
HOUSE COMMITTEE ON JUDICIARY

Hearing Date: March 22, 2019

Room Number: 325

1 **Fiscal Implications:** Undetermined

2 **Department Testimony:**

3 The Department of Health (DOH) supports HCR 0067 which requests the  
4 Department of Public Safety (PSD) to include a four-hundred fifty (450) bed  
5 minimum-security facility for short term adult offenders in its design and plans for  
6 the proposed Oahu Community Correction Center, as outlined in this concurrent  
7 resolution. The DOH has worked closely with PSD on the Hawaii Opioid Initiative  
8 and other related projects and welcomes the opportunity to continue to work with  
9 PSD to address these target populations.

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

13 Thank you for the opportunity to provide testimony.



## HCR67

# REQUESTING THAT THE STATE INCLUDE A FOUR HUNDRED FIFTY-BED, MINIMUM-SECURITY HOUSING FACILITY IN ITS DESIGN AND PLANS FOR THE PROPOSED OAHU COMMUNITY CORRECTIONAL CENTER

House Committee on Public Safety, Veterans, & Military Affairs

March 22, 2019

2:05 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HCR67, which would request that the plans to replace the O‘ahu Community Correctional Facility include a housing facility and program for certain adult offenders, including those who may be struggling with substance abuse and addiction issues. OHA appreciates the intent of this measure to reduce recidivism and the incarcerated population through a minimum-security, treatment-oriented facility, and offers the following comments for the Committee’s consideration.

**Decades of a traditional criminal justice approach have led to mass incarceration in our State, levying tremendous corrections costs but producing poor results.** Over recent decades, Hawai‘i’s prison population has increased to a historic high;<sup>1</sup> the Native Hawaiian community has been particularly impacted by this increase, making up nearly 40% of our prison population for at least the past ten years.<sup>2</sup> In its recently published 2018 report, the HCR85 Task Force on prison reform contended that our retributive approach to justice has resulted in Hawai‘i’s mass incarceration phenomenon; the Task Force further found that this approach has harmed individuals and fractured families and

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<sup>1</sup> 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](http://www.bjs.gov)) (2018).

<sup>2</sup> 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](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](https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR85Summary_FINALv2.pdf).

communities, but has not yielded acceptable outcomes in terms of recidivism or public perception.<sup>3</sup>

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

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

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

<sup>4</sup> The NHJTF noted that "about half of state and federal prisoners meet criteria for drug abuse and/or dependence, yet fewer than 20% actually receive treatment." *Id.* at not 35. Data demonstrating the proportion of Hawai'i's incarcerated population with drug dependency issues specifically is unavailable. However, the HCR85 Task Force noted that "74% of Hawai'i's prisoners are incarcerated for relatively low-level offenses (class C felonies and below), including non-violent and drug offenses." *Id.* at 51. The HCR85 Task Force also found that 43% of the Honolulu Police Department's 16,000 arrests in 2016 were homeless people, and that 72% of these detainees were mentally ill or under the influence of drugs. HCR 85 (2016) TASK FORCE, CREATING BETTER OUTCOMES, SAFER COMMUNITIES: FINAL REPORT OF THE HOUSE CONCURRENT RESOLUTION 85 TASK FORCE ON PRISON REFORM TO THE HAWAII LEGISLATURE 66 (2018), available at [https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform\\_Final-Report\\_12.28.18.pdf](https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf).

<sup>5</sup> HCR 85 (2016) TASK FORCE *supra* note 4 at 41.

<sup>6</sup> *Id.*

The HCR85 Task Force, in its final report, set forth a framework to guide the conception of smaller, smarter, more humane future jail and prison facilities, and we believe many of those principles would also apply to the facility contemplated here. Specifically, any minimum-security housing facility and program established as a result of this measure should:

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

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

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

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY, VETERANS AND MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Gates, Vice Chair

## COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair

Rep. Joy SanBuenaventura, Vice Chair

Friday, March 22, 2019

2:05 pm

Room 325

## **STRONG OPPOSITION to HCR 67 - CORRECTIONAL TREATMENT PRISON**

Aloha Chairs Takayama & Lee, Vice Chairs Gates & SanBuenaventura and Members of the Committees!

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

## **THE HCR 85 TASK FORCE DID NOT RECOMMEND A CORRECTIONAL TREATMENT PRISON**

This measure and the now-dead HB 1551 appear to be based on the Track 4 at MCCC, which is for those who relapse while participating in Drug Court. Community Alliance on Prisons contacted the head of the Maui Drug Court to ask if there was any evaluation done on Track 4. No response. When I asked several people from Maui and researchers who do evaluations if they ever saw an evaluation of Track 4, no one had seen one. We, therefore, can only conclude that there have not been any evaluations of MCCC's Track 4 program.

The task force recommended stopping the planning of a new OCCC and the cash flowing to consultants until a wider discussion and evidence-based options that are grounded in science are openly shared with the community.

The fact that 74% of all people incarcerated by the state are serving sentences for the lowest felonies, misdemeanors, violations, petty misdemeanors, and parole and probation violators should awaken legislators to the hard reality that Hawai`i employs the most expensive and least effective sanction (incarceration) to hide away our social and public health challenges with little to no rehabilitation.

It is outrageous that the community will be asked to fund a 450-bed correctional treatment prison when Hawai`i doesn't even have a 450-bed hospital.

It is disturbing that after two years of work of the HCR 85 Correctional Reform Task Force and after the final report and recommendations were released, this proposal comes out of nowhere. This is what Hawai`i prosecutors are known for; they participate in groups and after the work is done, they come to the legislature to oppose the recommendations of the groups they served on.

Please hold this resolution that flies in the face of democracy and attacks the good work of the HCR 85 Task Force and their recommendations.

Mahalo for this opportunity to testify.



**HCR-67**

Submitted on: 3/20/2019 5:16:24 PM

Testimony for PVM on 3/22/2019 2:05:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Ka'imi Nicholson    | Individual          | Oppose                    | No                        |

Comments:

Aloha, I strongly oppose this resolution because community-based services are so much more effective for the 74% of incarcerated people who are there for low-level felonies, misdemeanors, and parole and probation violations.

People need support in their own communities to create a path that works for them and is good for the community as well. This resolution, along with HB 1551, does not honor or take into account the recommendations (and 2-years of work that was done to develop them) to create a better and more functional correctional system. We now have a vision of healing for people that is based on best practices. We have a guide, now, and we need to work together to implement it. (And by the way, there is not even one hospital with 450 beds. Straub is only 159!)

Thank you!

**HCR-67**

Submitted on: 3/21/2019 7:59:28 AM

Testimony for PVM on 3/22/2019 2:05:00 PM

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

Comments:

HCR 67 is a deceptive attempt to derail reform of our criminal justice system.

A correctional treatment prison has not been recommended by the task forces on criminal justice reform.

Our tax dollars would be spent much more effectively on community-based programs because the vast majority of people are serving sentences for lesser offenses.

**LATE**

**HCR-67**

Submitted on: 3/21/2019 9:30:50 PM

Testimony for PVM on 3/22/2019 2:05:00 PM

| <b>Submitted By</b>  | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|----------------------|---------------------|---------------------------|---------------------------|
| Courtney Mrowczynski | Individual          | Oppose                    | No                        |

Comments:

STRONGLY OPPOSE!