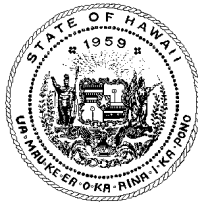


DAVID Y. IGE
GOVERNOR



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

NOLAN P. ESPINDA
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Shari L. Kimoto
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 2362, HOUSE DRAFT 1
RELATING TO PUBLIC SAFETY.

by
Nolan P. Espinda, Director
Department of Public Safety

LATE

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

Tuesday, February 11, 2020; 2:05 p.m.
State Capitol, Conference Room 325

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Department of Public Safety (PSD) **supports** House Bill (HB) 2362, House Draft (HD) 1, which would provide funding for the State's purchase of the Federal Detention Center (FDC), to serve as the new Oahu Community Correctional Center (OCCC).

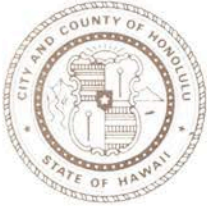
It is well-recognized that like all of PSD's jails, OCCC is severely overcrowded, with inmates and detainees often housed three to a cell meant for one, in less-than-ideal conditions. This antiquated and unsafe facility clearly must be replaced. Replacement or refurbishment costs for facilities to meet the growing housing shortages in the State's correctional facilities has been estimated to be as much as \$1,500,000,000 to \$2,000,000,000, and the State has been hard-pressed to find the resources to deal with overcrowding.

The FDC is not new, but it is an efficient, vertical design which includes integrated, state-of-the-art surveillance and management technologies, accommodating all the necessary functions of a correctional facility. PSD currently houses

Testimony on SB 2362, HD 1
House Committee on Judiciary
February 11, 2020
Page 2

approximately 140 State of Hawaii inmates at the FDC, which is estimated to have a total capacity of 1,200. With security and safety of inmates and staff and relief from overcrowding being among our top priorities, it makes good sense to consider purchase of the FDC as a viable alternative to OCCC.

Thank you for the opportunity to present this testimony.



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LATE

CAROL FUKUNAGA
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TESTIMONY OF COUNCILMEMBER CAROL FUKUNAGA
BEFORE THE HOUSE JUDICIARY COMMITTEE
Tuesday, February 11, 2020 • Conference Room 325

Chair Lee and Members of the House Judiciary Committee:

Thank you for the opportunity to provide testimony in strong support of **HB 2362, H.D.1, Relating to Public Safety**, to appropriate funds to purchase the Federal Detention Center near the Daniel K. Inouye International Airport.

The recent designation of the New Aloha Stadium Development District (NASED) and ongoing construction of the Honolulu transit project underscore the number of government facilities that negatively affect Aiea-Halawa residents and businesses due to traffic congestion and gridlock arising from event-related activities.

The Aiea-Halawa region already houses the Halawa Correctional Facility, the H-1 and Moanalua freeways as the primary transportation roadways in and out of the area, the existing Aloha Stadium/swap meet facilities and major military installations at Joint Base Pearl Harbor-Hickam and Camp Smith.

As such, Aiea/Halawa valley community stakeholders have consistently raised concerns over the designation of the Halawa valley site as a preferred location to relocate OCCC. We are therefore pursuing alternatives to the siting of a new jail facility in Halawa valley, and I endorse the Ige administration's proposed acquisition of the under-utilized federal detention center as a location that is cost-effective and in closer proximity to downtown Judiciary court facilities.

I note that the Council's Public Safety and Welfare Committee adopted **Resolution 20-30, Urging the Hawaii State Legislature to Appropriate Funds to Acquire the Honolulu Federal Detention Center to address Prison Overcrowding on the Island of Oahu**, with an amendment to encourage the investment of any savings from the less-costly prison alternative to be allocated towards mental health, substance abuse and other treatment solutions. This resolution is scheduled for consideration by the City Council on February 19, 2020.

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CITY AND COUNTY OF HONOLULU

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LYNN B.K. COSTALES
ACTING FIRST DEPUTY
PROSECUTING ATTORNEY



LATE

THE HONORABLE CHRIS LEE, CHAIR
HOUSE COMMITTEE ON JUDICIARY
Thirtieth State Legislature
Regular Session of 2020
State of Hawai'i

February 11, 2020

RE: H.B. 2362, H.D. 1; RELATING TO PUBLIC SAFETY.

Chair Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in opposition to H.B. 2362., H.D. 1

While the Department agrees that our county—and Hawaii in general—is urgently in need of new, modern and efficient jail facilities, we strongly believe that this should be addressed by building a correctional facility that is specifically tailored to our county's needs, rather than purchasing another facility that is NOT designed to meet our needs.

Building a new jail would not only ensure the most up-to-date design and technology—as opposed to acquiring a building that is nearly 20 years old—but it could also be designed to effectively and efficiently facilitate on-site treatment and services for defendants, which the Department feels are greatly needed. This could include mental health, substance abuse, educational and other programs. In addition, it could be possible for a new facility to include a satellite “courtroom” where hearings could be conducted, thereby minimizing the need to shuttle defendants to and from the various courthouses, and avoid the confusion and delay that occasionally occurs when a defendant is mistakenly not transported.

Because H.B. 2362 appears to propose purchasing the federal detention center in lieu of building a new facility, the Department feels that such a solution would be inadequate. For this and all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu opposes the passage of H.B. 2362, H.D. 1. Thank you for the opportunity to testify on this matter.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair

Rep. Joy San Buenaventura, Vice Chair

Wednesday, February 11, 2020

2:00 pm - Room 325

STRONG OPPOSITION to HB 2362 HD1 - BUYING THE FEDERAL DETENTION CENTER

Aloha Chair Lee, Vice Chair San Buenaventura 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 **JAMES BORLING SALAS, ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE**, including the eleven (11) people that we know of, who have died in the last six (6) months. We also remind the committee of the approximately 5,200 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day, and we are always mindful that more than 1,200 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.

HB 2362 HD1 appropriates funds to purchase the Honolulu Federal Detention Center. The HD1 removed the appropriation amount.

Community Alliance on Prisons is strongly opposed to this MIND-BOGGLING bill. It's ironic that the legislator who created the HCR 85 Correctional Reform Task Force has now introduced this bill that was NEVER mentioned or even discussed by task force. Why?

Purchasing the federal detention center, an old-style high-rise prison with no outdoor recreation, has been in the ether for a long, long time. Have there been secret negotiations taking place outside of earshot of the taxpayers?

WHY HAS THE COMMUNITY BEEN LEFT OUT OF THESE DISCUSSIONS?

This is the same bad process at the OCCC replacement and the addition to HCCC, where the community is rising up because they have been left out of the discussions. When will Hawai'i learn that community engagement is crucial to moving forward?

Imagine if Hawai'i implemented REAL sentencing and correctional reform as so many conservative states have done. These states have received the benefit of reduced harm and crime in their communities, smaller imprisoned populations and many have averted the need for new facilities! Correctional reform was the purpose of the HCR 85 Task Force.

Sadly, Hawai'i has taken the incremental route -- 1 step forward; 2 steps back -- and progress has been minimal as is evidenced by the fact that 76% of all the individuals incarcerated by the state are imprisoned for the lowest felonies, misdemeanors, violations, petty misdemeanors, and parole and probation violations.

At the final meeting of the HCR 85 Correctional Reform Task Force, former Judge Michael Town said that he cannot believe the things that are now felonies...things that used to be misdemeanors or violations. He favors defeloning! He favors defeloning!

At another recent event, a former Hawai'i Supreme Court Justice said basically the same thing: Too many felonies for crimes that should be misdemeanors!

WE NEED SENTENCING REFORM - NOT NEW CORRECTIONAL FACILITIES!

THE FEDERAL DETENTION CENTER:

The Federal Detention Center (FDC) at 351 Elliot Street by Honolulu International Airport is almost 20 years old. FDC is a prison-style detention center. Prison and jail environments are, or should be, quite different. FDC is an old-style, high rise detention center that this bill suggests imprison pre-trial detainees, HOPE probation violators, and individuals sentenced to one year or less.

There is absolutely no data or research supporting this ill-conceived idea. We don't even know if the feds want to sell it! It appears that the purpose of this bill is to derail any correctional reforms and push for new buildings while protecting the same old bad practices.

What will this get us?

A BIG bill, a 20-year old building, and an enhanced criminal processing machine fueled by the punishing practices of a very dysfunctional department. Research and data show that proposals like this this will lead these folks to prison.

Is this bill about job security or community safety?

The community will ultimately foot the bill for this yet there has NEVER been a discussion with interested community members and organizations regarding corrections should look like in the next 50-100 years.

Community Alliance on Prisons implores the committee to defer this bill indefinitely and to stop the author of this bad bill from derailing correctional reform.

Mahalo for allowing us to share our extreme frustration with this anti-democratic process!

WE NEED JUSTICE NOT JAILS!

**Kehaulani Lum
99-045 Nalopaka Place
`Aiea, Hawai`i 96701**

**Testimony on HB 2362, HD1, Relating to Public Safety
House Committee on Judiciary
Rep. Chris Lee, Chair
Rep. Joy A. San Buenaventura, Vice Chair
Tuesday, February 11, 2020, 2:05 p.m.
Conference Room 325, State Capitol**

Aloha Chair Lee, Vice Chair San Buenaventura and Members of the Committee,

My name is Kehaulani Lum, and I am the President of the Ali`i Pauahi Hawaiian Civic Club, a member of the `Aiea Community Association and a resident of `Aiea.

On behalf of Ali`i Pauahi Hawaiian Civic Club, which is located in `Aiea, I am writing in support of HB 2362, HD1, Relating to Public Safety. This measure appropriates funds for the purchase of the Honolulu Federal Detention Center.

Ali`i Pauahi's mission is to preserve and promote Native Hawaiian culture and the well being of our people. This measure interests us, because of the impact that incarceration has on our community. While we make up 21% of the State's overall population, we constitute 37% of the prison population; an overrepresentation that has existed for decades and has led to intergenerational incarceration and trauma for many of our families. Societal injustice and disparate health indicators account, in large part, for this situation, and the effects of a severely overcrowded system, devoid of cultural ways of being and healing, are devastating.

We believe that the purchase of the under-utilized Honolulu Federal Detention Center is a cost, time and health-effective alternative to constructing a new O`ahu jail based on old paradigms that are neither sustainable nor effective. Moreover, with the funds saved from the burden of constructing a new facility (which continue to rise annually), it creates a rare opportunity to vision innovative, rehabilitative approaches to corrections that will reduce the costs of incarceration and lead to a system of healing, based on our most valuable asset, the spirit of Aloha. In this way, we can serve as a model for the Nation and world.

HB 2362, HD1 is an immediate response to the delay and expense of constructing a new jail. It is already built, has more than adequate space, particularly, if diversion and bail reform proposals recommended by the HCR 85 Task Force are ultimately enacted, and is located close to the courts, jobs and major transportation systems.

We commend the Administration and the author of this measure for its thoughtful approach. And, thank the Committee for your serious consideration. Mahalo nui loa.



LATE

February 10, 2020

HOUSE COMMITTEE ON JUDICIARY

Chair Chris Lee

Vice Chair San Buenaventura and Committee Members

Re: Testimony in Support of House Bill 2362

Relating to Public Safety: Appropriates funds to purchase the Honolulu Federal Detention Center

The Aiea Community Association supports the appropriation of funds to purchase the underutilized Honolulu Federal Detention Center to serve as the new O’ahu Community Correctional Center (OCCC). All efforts and necessary monies should be focused on this endeavor. It represents a best use of limited resources to impact our growing prison/jail population. The State of Hawai’i’s incarceration population will continue to grow unless funding and programs are not implemented to also address the root societal causes of our fellow residents in need.

The State has already recognized this need by convening HCR 85 Task Force on Prison Reform. Their final report presented to the 2019 Regular Session of the Hawai’i Legislature was entitled “*Creating Better Outcomes, Safer Communities*”. To quote this report, “Hawai’i’s correctional system is not producing acceptable, cost-effective, or sustainable outcomes and needs immediate and profound change.” We continue bad practices of throwing dollars at an issue that produces an overall recidivism rate of over 50%.

The price tag of 525 million of the new proposed OCCC at the Animal Quarantine buys a lot of days at the Federal prison for 129.48 per inmate. It drains valuable available capital that could be used for community health initiatives, early childhood education and young adult prevention programs. More importantly, it gives the State the opportunity to repurpose this funding to implement policies and programs that “transition from a punitive to a rehabilitative correctional system.” It opens the door to a new mindset of how we address the physical, mental and educational needs of our prison population.

The solutions to the our growing incarcerated population are multifaceted and long term. Buying or even continuing to rent space at the Honolulu Federal Detention Center for temporary relief provides us time to effectively implement social programs with the greatest impact on would be first time offenders and curbing the 50% recidivism rate.

House Bill 2362 – Aiea Community Association Support Page 2

On the front end, the Judicial system can adopt procedures and policies for equitable bail reform. This policy needs to be fair, reflective and address the needs of both the accused offender and the general population. The time and money we have spent on prebuild EIS and slick handouts promoting the process of site selection/building of the new OCCC could have been better spent on educating the general public on the need to implement the task force recommendations.

Changing our mindset from a punitive to a rehabilitative mindset also means making a commitment to those who work in the correctional system. They must be given the educational and social tools that help them have the most success in their jobs. Everyone wants a job they can look forward to making a meaningful impact on the individuals they work with.

Our community does not say the task of implementing correctional reform is an easy one but it is a necessary one if we want safer and livable communities in the future. Maximizing use of existing facilities is the prudent fiscal decision and should be pursued.

Thank you for the opportunity to submit testimony in support of HB 2363.

Claire Tamamoto
President
Aiea Community Association

“Building A Sense of Community”

P. O. Box 2785 • `Aiea, Hawai`i • 96701

HB-2362-HD-1

Submitted on: 2/9/2020 1:21:25 PM

Testimony for JUD on 2/11/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Costa	Individual	Oppose	No

Comments:

ROBERT K. MERCER

2467 Aha Aina Place
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February 10, 2020

TO: House Committee on the Judiciary
RE: HB 2362 HD 1
HEARING: February 11, 2020
TIME: 2:05 p.m.
ROOM: 325
POSITON: **STRONGLY OPPOSE**

Chair Lee, Vice Chair Buenaventura, and members of the committee:

My name is Bob Mercer. I am a retired lawyer and recently served as Vice Chair of the House Concurrent Resolution (HCR) 85 Task Force on Prison Reform.

I am writing in opposition to HB 2362 HD 1 which would appropriate funds to acquire the Honolulu Federal Detention Center to serve as the new Oahu Community Correctional Center.

Let me say at the outset that the Oahu Community Correctional Center (OCCC) is a disgrace. It is old, dilapidated, overcrowded and incarcerates hundreds of poor, homeless, addicted, and mentally ill people in appallingly bad conditions. OCCC has been a disgrace for decades, but nobody seemed to notice until the Rail Transit Project made the land beneath it valuable, and then, suddenly, everyone wanted to tear it down and put the land to “a higher and better” use.

Almost immediately the focus was on where to relocate the jail. The State hired a bevy of contractors lead by the Louis Berger Group of New Jersey and Architects Hawaii to plan the new jail and hold briefings in the community. At the briefings, and in series of glossy brochures, the State and its contractors told the community what they were going to do, but they never asked the community *what they should do*. That is why the House Concurrent Resolution Task Force on Prison Reform found that “every important element of the jail—vision, nature, scale, capacity, and key features—was decided by PSD, DAGS, and the consulting team—***the Community was not involved at all.***”¹

If the community had been involved, we might have started the jail planning process correctly which is not to ask how big does the jail have to be, but how small can we

¹ *Creating Better Outcomes, Safer Communities*, Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the 2019 Hawaii Legislature (December 2018) 69 (emphasis added).

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make it? **The state never asked that question and never attempted to find ways to reduce the jail population.**

If the State and its consultants had just taken a quick look at who is in OCCC they would have seen that over half the jail population are pretrial detainees, i.e. people who are incarcerated because they are too poor to make bail. Another 33 percent are probation violators, most of whom are in the HOPE program and are jailed for a few days as punishment for violating the program's rules. These people are not dangerous – they are part of the community, working and going about their lives most of the time - but they occasionally break one of the HOPE rules, and the program dictates that they must be sent to jail for a short time.

On January 6, 2020, almost 90% of the OCCC population fell into 2 groups: pretrial detainees (56%) and probation violators (33%). Those two groups together cost the state \$204,000 a day. If the State transitioned to a non-monetary bail system that resulted in the supervised release of just 80% of the pretrial detainees, and also built a therapeutic environment for the probation violators instead of jailing them, it would save around \$163,000 a day or \$59 million a year on the island of Oahu alone.²

So, it clearly makes sense to adopt policies that would reduce the jail population **before we build or buy anything.**

The danger of **building or buying** without addressing the policies that drive the jail population was reinforced recently in a recent study by the Vera Justice Institute. The study showed that cities and counties that fail to address the factors driving their jail population end up with excess capacity, which results in the jail filling up within a year or two and creating more overcrowding:

Examining the experiences of some counties around the country shows that jail expansion often does not live up to the expectations of policymakers **This is because expansion alone fails to address the root causes of overcrowding, leaving in place the very policies and practices that drove the jail's population increase in the first place.** Indeed, there is a risk that the existence of a larger jail with more beds may reduce the incentive to make policy changes that address the factors driving overcrowding due to the temporary relief expansion

² On January 6, 2020 there were 1,117 pretrial detainees statewide. It costs \$198/day to house one inmate for one day in Hawaii, therefore the savings statewide from bail reform would be \$221,000 a day, or about \$80 million a year.

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provides. Jail population growth and increasing capacity can thus exist in a vicious cycle, resulting in an ever-increasing number of people in jail. The push to increase jail beds as a way to improve health and social services can also backfire: the inherent harms of incarceration may limit the effectiveness of new service capacities, and investment in corrections-based treatment services may divert needed resources for similar services and supports in the community.³

Architects and planners have an expression: “Define before you Design.” It’s an admonition to decide on a project’s space and use requirements, and make appropriate planning assumptions, before starting on the design.

The FDC was defined and designed almost a quarter of a century ago as a short-term detention facility for federal detainees. It was not meant to be to jail for the city and county Honolulu, and we should not try to make it into something it was not intended to be. We should design and build the jail that we need now, in the first quarter of the 21st century.

Aging correctional facilities are one of the most serious problems facing our state. The FDC is already 20 years old. Although it has not reached the end of its useful life, it is bad policy to add an old facility to the State’s already old correctional facility inventory.

The FDC is a 12-story building, and high-rise jails are a bad idea. Leading jail planner and architect Kenneth Ricci has called large-capacity, high-rise jails “conceptually deficient, and operationally obsolete.”⁴ The State should not buy a conceptually deficient and operationally obsolete building.

The FDC is a totally enclosed building. **It has no outdoor space.** Inmates are confined to their modules 24/7 and **never go outdoors.** They do not breath fresh air or feel the wind or the warmth of the sun at any time while they are incarcerated. They live in a

³ Chris Mai, Mikelina Belaineh, Ram Subramanian, and Jacob Kang-Brown, Broken Ground: Why America Keeps Building More Jails and What It Can Do Instead”, Vera Justice Institute, (November, 2019) 6-7 (emphasis added).

⁴ House Concurrent Resolution 85 Task Force, “Interim Report of the HCR 85 Task Force (On Effective Incarceration Policies and Improving Hawai'i's Correctional System) to the Legislature for the Regular Session 2017,” February 2017 at 79. Accessed February 4, 2020, http://www.courts.state.hi.us/wp-content/uploads/2016/07/HCR_85_TASK_FORCE_INTERIM_REPORT.pdf.

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totally artificial high-rise environment and even receive a special diet that that is formulated by the federal Bureau of Prisons for inmates confined to high-rise facilities. The FDC was not designed for rehabilitation or to house severely mentally ill people. It was designed for short-term custody and control and its design and architecture are totally inappropriate for a 21st century jail.

Most 20-year old buildings are not energy efficient by today's standards, which means that if the State buys the FDC, it could be stuck with an energy-inefficient building for decades to come.

The decisions that are made today will affect our correctional outcomes for the next half century or more. **We should not be discussing whether or not to buy a 20-year old building, we should be talking about the policies that are driving the county's jail population and how we can reduce that population without jeopardizing public safety.**

The discussion we should be having is about bail reform, and where and how to house probation violators, and whether we should house severely mentally ill and often suicidal individuals in jail at all, and how we can divert low-level offenders away from the criminal justice system and into community-based treatment facilities, and more generally, the discussion should be about how we treat the people who end up in jail. As I have previously said, **we must redefine the role of the jail** and build a jail that will meet the needs of our city and county:

OCCC is filled with poor, homeless, low level offenders, many of whom suffer from mental illness and substance abuse disorders These people live on the street and endlessly cycle through our jails and emergency rooms, costing the State millions, without ever getting the help they need. We can change that by redefining the role of the jail.

At intake, jails should assess the physical, mental, and social needs of inmates and address those needs in a comprehensive manner. Inmates should receive humane and therapeutic treatment while they are in jail, and when they are released it should be with a discharge plan that helps them access the services they need. Inmates who are unable to access services on their own should have the assistance of a "navigator" to help and support them as the reenter the community.⁵

⁵ Robert Mercer, "Reinvent the role of a jail to make it smaller, more efficient," Honolulu Star-Advertiser, Island Voices, February 3, 2020.

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I urge the legislature to focus on bail reform and some form of therapeutic housing for probation violators, and more funding for diversion programs, and to plan and design a small and humane jail that truly meets the needs of our community instead of opting for a quick-fix” by purchasing a 20-year old detention center that is conceptually obsolete and will produce bad outcome for the next half century or more.

Thank you for allowing me to testify on this matter.

LATE

HB-2362-HD-1

Submitted on: 2/10/2020 6:21:52 PM

Testimony for JUD on 2/11/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jane Sugimura	Individual	Support	No

Comments:

I am a resident of Aiea and serve on the Aiea Neighborhood Board and the Aiea Community Association and I support acquisition of the Federal Detention Center and I support and incorporate by reference the testimony in support of this bill submitted by Robert Merce.

LATE

HB-2362-HD-1

Submitted on: 2/10/2020 10:16:56 PM

Testimony for JUD on 2/11/2020 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jacquelyn Esser	Individual	Oppose	No

Comments:

The Federal Detention Center (FDC) is not for sale and it would literally take an act of Congress to allow the Bureau of Prisons to sell it to Hawai'i. Even if it were for sale, it does not make sense to buy it. The FDC is a high rise (12 story) building and prisoners generally do not do as well in high rise buildings as in buildings with a campus style, low-rise layout. The FDC is already 20 years old. Old correctional facilities are a large part of the problem in Hawai'i. If we had bail reform, we would not need a large facility like the FDC.