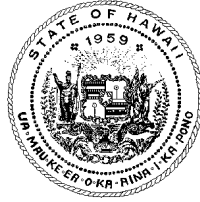


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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Jordan Lowe
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No. _____

TESTIMONY ON HOUSE CONCURRENT RESOLUTION 172 -
REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL
SERVICES, DEPARTMENT OF BUDGET AND FINANCE, AND DEPARTMENT
OF PUBLIC SAFETY TO TESTIFY ON ANY LEGISLATION THAT WOULD
POTENTIALLY INCREASE OVERCROWDING CONDITIONS AT HAWAII'S
CORRECTIONAL FACILITIES.

by

Max N. Otani, Director

House Committee on Corrections, Military, and Veterans
Representative Takashi, Ohno, Chair
Representative Sonny Ganaden, Vice Chair

Wednesday, March 19, 2021; 9:00 a.m.
State Capitol, Via Video Conference

Chair Ohno, Vice Chair Ganaden, and Members of the Committee:

House Concurrent Resolution (HCR) 172 requests the Department of Accounting and General Services (DAGS), Department of Budget and Finance (B&F), and Department of Public Safety (PSD) to provide testimony on any legislation that would potentially increase overcrowding conditions at Hawaii's correctional facilities.

Although the Department of Public Safety ("PSD") supports the intent of this measure, as it would provide the Legislature with critically important information regarding a variety of issues, PSD is not aware of any legislation that could potentially increase the jail population in our correctional facilities. To the contrary, the legislation requiring PSD to redevelop the Oahu Community Correctional Center (OCCC) and to build new medium security housing at jails on

Maui, Kauai, and Hawaii Islands are necessary, not only because the facilities are extremely old and in need of significant repair and maintenance, but also because it is in the public's interest to build new facilities that emphasize and prioritize programs that would be more conducive to the overall rehabilitative process.

To be clear, PSD supports legislation that reduces inmate population without compromising public safety. PSD wants inmates to succeed and supports the long-term goal to right-size the justice system through criminal justice reform. PSD also supports providing the inmates in custody right now with better rehabilitative and transitional services, and humane living conditions that are modern, efficient, safe, and secure. PSD agrees that justice reforms that place an emphasis on inmate rehabilitation and early release should continue to be pursued by our policymakers. Justice reform is an important long-term goal that PSD supports. The building of new jails to replace antiquated jails does not undermine criminal justice reforms. To the contrary, a new jail will provide better living conditions and improved services through the development of a new, modern, efficient jail.

Below we address important issues raised in HCR 172:

Criminal Justice Reform – Reduce Incarceration, Bail Reform, Incarceration Alternatives, Diversion Programs

PSD agrees that justice reforms that place an emphasis on inmate rehabilitation and early release should continue to be pursued by our policymakers.

- The Hawaii Judiciary and State Legislature are the appropriate entities for addressing criminal justice reforms, sentencing/bail reform, pre-trial diversion programs, expansion/development of new special courts, and other alternatives to incarceration.

- Inmates housed at OCCC are under the jurisdiction of the courts and detainees in jail can only be released, placed in outside programs, or assigned to other alternatives to incarceration by the courts.
- Arrests, arraignments, pre-trial motions and preparations, trials, and the sentencing process involves police, prosecutors, defense attorneys, defendants, judges, and others. PSD has no ability to influence the time devoted to preparation for trials, the duration of trials themselves, or the sentencing process.
- The primary function of OCCC and the three other jails in Hawaii is to provide a secure facility, as mandated by the courts and based on Hawaii laws, for individuals who are being held for trial, have been sentenced to short-term incarceration for misdemeanor crimes, or are transitional sentenced felons who have nearly completed their sentences and are preparing to return to the community.
- Justice reform is an important long-term goal that we support. Until those reforms are made, PSD must continue to work on goals to help those in custody right now. That includes building a new jail.

Inhumane Conditions – Overcrowding, Inadequate Services for Special Needs, Mental Health and Reentry –

PSD agrees that providing a safe, secure, healthy, humane, social, and physical environment for all inmates and staff is a top priority. However, because of OCCC's deteriorating conditions and outdated design, the facility is obsolete and no longer fit for this purpose, and there is limited ability to provide such an environment for Hawaii's inmates. This is why replacing OCCC with a modern facility is necessary. The problems at the jail are getting worse with each passing day.

- Currently, OCCC inmates with special needs, including those who are mentally ill and infirmed, as well as inmates in protective and maximum custody, cannot be properly separated from the general inmate population.
- OCCC cells were designed for two inmates, but they regularly house three to four offenders.
- The first OCCC structure was built in 1912. Even with periodic expansions, renovations and security upgrades over the decades, there is only so much that can be done to extend the lifespan, security, and usability of a facility, portions of which are more than 100 years old.
- The COVID-19 pandemic further highlighted the severe deficiencies and constraints of working with the existing aged facility, and further underscore the need for a new jail.

Replacing the antiquated OCCC with a modern, state-of-the-art facility will improve conditions for inmates and staff and broaden programming and treatment services and capabilities that will help prepare inmates to successfully return to the community.

- By building a new, modern jail from the ground up, the design team can incorporate the better layouts and the latest technology available to keep inmates, correctional officers, staff, and visitors safe, while also improving functionality.
- The new jail would have sufficient bed space and include areas for building administration and security, food preparation, medical services, counseling and treatment services, housing, and visitation, as well as state-of-the-art technology, building systems, and maintenance functions.
- A new jail would provide more space for community transitional beds, and for more transitional programs and services not currently offered to long-term jail detainees.

- All the spaces in the new facility would be sized and organized to meet American Correctional Association (ACA) standards.

Medical and mental health services will be provided at the new OCCC. Initial medical screenings will occur at the housing units and inmates will receive medical and mental health services at the on-site clinic. A separate acute mental health housing unit will be developed to provide services to those inmates requiring more intensive or specialized care. An additional step-down mental health housing unit is also being planned with these units to be physically located near the medical/mental health unit.

Further, PSD agrees with the need to provide a nurturing, healthy, and humane environment while inmates are detained, to prepare them for successful reintegration into society. However, because of OCCC's deteriorating conditions and outdated design, the facility is obsolete and no longer fit for purpose. Poor conditions and limited resources within OCCC prevent critical reforms to how services are delivered within the jail and may be exacerbating recidivism within the system.

- The original design and layout of OCCC is obsolete and no longer fit for today's purpose of providing the corrections approach and services that can prepare inmates to successfully reintegrate into our local communities and reduce recidivism, while still holding them accountable for their actions.
- The majority of all inmates (95%) are eventually released, so conditions within OCCC must support their successful re-entry into local communities.
- Replacing the existing OCCC facility with an entirely new and efficient facility using up-to-date technologies and design can reduce operating costs and increase the availability of rehabilitative programs, which leads to better outcomes for inmates.
- A new jail will allow for enough space to expand transitional services, such as the furlough program, to include jail detainees serving long-term misdemeanor sentences. Currently, only sentenced felons transitioning out of custody can qualify for the furlough program.

- A new jail could help PSD provide greater services to the jail population, more than ever before, and better equip the department to do its part to help reduce recidivism.

Disproportionate Native Hawaiian/Pacific Islander Inmate Population; Lack of Cultural Programming to Break Cycle of Intergenerational Incarceration

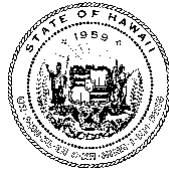
PSD agrees that keeping inmates connected to their individual cultural values, especially for Native Hawaiians and Pacific Islanders who are disproportionately represented in the inmate population, is critical to helping them successfully reintegrate into our local communities and breaking the cycle of recidivism.

- This type of programming was not even considered when the existing OCCC was built.
- Treating inmates with the dignity of honoring their cultural diversity is a cornerstone of successful reintegration and recidivism reduction models.
- Careful attention will be given to incorporating services to assist offenders with maintaining their cultural and religious traditions and practices.

It is worth noting that the 2016 Legislature found that replacement of the OCCC is necessary, and appropriated funds to be expended for the purpose of preliminary design, creation of a financing plan, and issuance of a request for proposals for the development of the facility. (See Act 122, SLH 2014 and Act 124, SLH 2016).

Thank you for the opportunity to provide this testimony.

DAVID Y. IGE
GOVERNOR



CURT T. OTAGURO
COMPTROLLER
AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
COMMITTEE ON CORRECTIONS, MILITARY, & VETERANS

FRIDAY, MARCH 19, 2021, 9:00 A.M.
CONFERENCE ROOM 309 AND VIA VIDEOCONFERENCE, STATE CAPITOL

H.C.R. 172

REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, DEPARTMENT OF BUDGET AND FINANCE, AND DEPARTMENT OF PUBLIC SAFETY TO TESTIFY ON ANY LEGISLATION THAT WOULD POTENTIALLY INCREASE OVERCROWDING CONDITIONS AT HAWAII'S CORRECTIONAL FACILITIES.

Chair Ohno, Vice Chair Ganaden, and members of the Committee, thank you for the opportunity to submit testimony for H.C.R. 172.

The Department of Accounting and General Services (DAGS) defers to and is in full support of the Department of Public Safety's (PSD) testimony on this resolution. The DAGS will continue to support PSD in its mission to uphold justice and public safety by providing correctional and law enforcement services for Hawaii's communities.

Thank you for the opportunity to submit testimony on this matter.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON CORRECTIONS, MILITARY & VETERANS

Representative Takashi Ohno, Chair

Representative Sonny Ganaden, Vice Chair

Friday, March 19, 2021

9:00 AM

STRONG SUPPORT FOR HCR 172 ADDRESSING OVERCRIMINALIZATION & INCARCERATION

Aloha Chair Ohno, Vice Chair Ganaden, 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 more than 4,100 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 1,000 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 is in strong support of this resolution. Overcriminalization is caused by policies that are enacted by multiple agencies – police, prosecutors, the Judiciary, and ultimately the Department of Public Safety.

Imagine if government agencies actually worked collaboratively to understand that they all play a role in mass incarceration. This resolution asks that the Departments of Accounting and General Services, Budget and Finance and Public Safety looked over legislation and produced a document for the legislature showing the impact on the incarcerated population with the passage of certain legislation.

Hawai`i did have a way to do this in the 90’s; it was called the Sentencing Simulation Model and it was designed and implemented by a PSD employee at the time, Joe Allen, who is now a Professor at Chaminade University. Sadly, a mistake by a former committee chair caused the bill to die. The model was used on the proposed 3 strikes law and found that it would not be a good policy for Hawai`i. The legislature turned the bill into a study that asked our law school to research this. They did and found that a three strikes law would be inappropriate for Hawai`i.

The legislature then passed the three-strikes law proving that data and research is not something in which the ‘leadership’ of Hawai`i is interested. How can legislators be expected to develop good public policies in this data information vacuum?

The Sentencing Simulation Model now sits in the office of the Attorney General unused while our jails and prisons are bursting at the seams. We can only assume that this is intentional. Our system targets people of color, especially Kanaka Maoli. As an aside, it is interesting that there are bills and resolutions this session denouncing racism (the bedrock of the western system of injustice) and NOT ONE denouncing the disparate treatment of Hawaiian people whose lahui is under occupation of the United States.

The pandemic has spotlighted the enormous problems of not addressing the impact of policies that are passed by the legislature and enacted into law by the Governor. The overcrowding of facilities that incarcerate people who commit survival crimes, the lack of programs and services in the communities most impacted by incarceration have led to the incredible push to build a humongous OCCC at the Animal Quarantine Station where a cadre of consultants (donors) have reaped \$10.4 million of taxpayer funds while our families are struggling to stay housed and fed.

It is difficult for the community to understand why Hawai`i has turned into one of the meanest states in addressing the fact that too many of our people living unsheltered and as the purveyor of draconian policies. There always seems to be money to lock folks up, but never enough to address the public health and social disparities that have led to the imprisonment of the poor and the mentally ill.

Hawai`i has become quite the outlier compared to other jurisdictions.

Many states are realizing that locking people up does little to solve crime but plenty to feed the very hungry perpetual prisoner machine. Our own data show that we are locking up people instead of addressing their pathways to incarceration. That is why when one examines the data of states that decreased their incarcerated populations (i.e California, New York and New Jersey) it is clear that the decarceration they employed led to a DECREASE in crime...up to 25% in some places.

While there is lots of discussion about the many racial inequities, the disparate treatment of Kanaka Maoli in the criminal legal processing system has been routinely ignored. The department reports approximately 40% of all incarcerated people are Kanaka, yet anyone who enters Hawai`i’s jails and prisons can readily see that they are brown – filled with Hawaiian family members.

I remember a testimony presented by a formerly incarcerated Kanaka who said that the first time he had a meal with his son was in prison. What a social indictment!

The March 1, 2021 Department of Public Safety Population Report¹ data show that 47% of the people imprisoned by the state are pretrial detainees, parole and probation violators – not necessarily in jail for new crimes.

The 893 statewide pretrial detainees cost the taxpayers \$176,814 a day, \$1,237,698 a week, \$4,950,792 a month, and \$59,409,504 a year. This is why the community does not believe it when the legislature says they have no money for the desperately needed funding for community-based services. It is how the state is spending our hard-earned tax dollars. We are not naïve, we know that Hawai`i's government is serving the tourists, not the people and especially NOT the Kanaka Maoli or the people their policies incarcerate.

Please pass this resolution and stop this silo-thinking. EVERYTHING IS CONNECTED! Agencies need to work together to look at the big picture of what is going on in Hawai`i nei. There was just a long discussion at the Hawai`i Systems Correctional Oversight Commission about the overpopulation in Hawai`i's correctitonal system.

Unless the government forces agencies to speak HONESTLY about their specific roles in the overpopulation of incarcerated persons, especially Kanaka Maoli, nothing will change.

This is hard work that has been done and is being done by other jurisdictions – what's the matter with Hawai`i? Why are we satisfied with wasting more money planning jails and prisons (\$25 million already lost on MCCC and OCCC planning) rather than directly addressing the social and public health disparities that are the drivers of overpopulation?

PLEASE PLEASE PLEASE take some leadership and push for a holistic approach to wrongdoing in our community. Simply banishing people to jails and prisons has proven to be an ineffective strategy and has wreaked havoc on some of our most vulnerable communities and families.

While crime is down, the lowest it has been in decades, Hawai`i is using our meager resources to plan more human cages instead of building the communities most impacted by incarceration.

Please request that all agencies that contribute to this human tragedy assess their own roles in the overcrowding of Hawai`i's jails and prisons that has led to the banishment of more than 1,000 persons to Saguaro prison in the Sonoran Desert.

Community Alliance on Prisons urges the committee to pass HCR 172.

Mahalo for this opportunity to testify.

¹ Department of Public Safety, March 1, 2021 Population Report.

<https://dps.hawaii.gov/wp-content/uploads/2021/03/Pop-Reports-Weekly-2021-03-01.pdf>

HCR-172

Submitted on: 3/17/2021 6:57:53 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Courtney Mrowczynski	Individual	Support	No

Comments:

I strongly **SUPPORT** HCR172 for the following reasons:

- One of the things PSD always says is that they cannot control who is sent to them. This resolution requests that DAGS, B&F, and PSD all testify on bills that would impact the numbers of imprisoned people.
- The resolution is full of great data and directs PSD to include in their testimony:
 - Evidence that the proposed legislation will result in anticipated outcomes, or that there is no supporting evidence.
 - More effective alternatives!

HCR-172

Submitted on: 3/17/2021 10:57:27 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Gibson-Viviani	Individual	Support	No

Comments:

We need to slow our roll on mass-incarceration. Requiring that these government entities communicate and perhaps present fiscally responsible alternatives could be helpful in reducing overcrowding in our jails and prisons.

I support this bill. I hope you will too.

Wendy Gibson-Viviani RN

Kailua

HCR-172

Submitted on: 3/18/2021 2:29:49 PM

Testimony for CMV on 3/19/2021 9:00:00 AM

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

Comments:

Strong support.