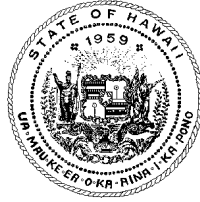


DAVID Y. IGE  
GOVERNOR



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

**MAX N. OTANI**  
DIRECTOR

**Maria C. Cook**  
Deputy Director  
Administration

**Tommy Johnson**  
Deputy Director  
Corrections

**Jordan Lowe**  
Deputy Director  
Law Enforcement

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

**TESTIMONY ON SENATE BILL 664, SENATE DRAFT 1  
RELATING TO PUBLIC SAFETY.**

by  
**Max N. Otani, Director**

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

Wednesday, March 17, 2021; 10:30 a.m.  
State Capitol, Via Video Conference

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

Senate Bill (SB) 664, Senate Draft 1 (SD1) seeks to authorize the development of the new Oahu Community Correctional Center (OCCC) pursuant to Section 26-14.6, Hawai'i Revised Statutes (HRS). This measure would also prohibit the transfer of the operations of the new OCCC to a corporation as defined in Section 414-3, HRS.

The need for a new jail for Oahu to alleviate persistent overcrowding and to provide space for basic human services and rehabilitative programs in a humane environment has been well-documented. Additionally, the Department does not object to the proposed prohibition on the transfer of operations to a corporation, as defined in Section 414-3, HRS. Therefore, the Department of Public Safety (PSD) strongly supports SB 664, SD1 and its intent, and respectfully asks the Committee on Corrections, Military, and Veterans to advance this bill.

Thank you for the opportunity to provide testimony regarding this measure.



**SB664 SD1**

**RELATING TO PUBLIC SAFETY**

Ke Kōmike Hale o nā mea Pa‘ahao, ke Kuleana Pū‘ali Koa, a me Nā Koa Kahiko  
House Committee on Corrections, Military, & Veterans

Malaki 17, 2021

10:30 a.m.

Lumi 430

The Office of Hawaiian Affairs offers the following **COMMENTS** on SB664 SD1, which would require the Department of Public Safety (PSD) to build a new O‘ahu Community Correctional Center (OCCC). OHA notes that this new facility will be extremely costly to build, maintain, and operate, and would not necessarily require, and may even delay, the implementation of recommendations to address the root causes and correctional approaches underlying the mass incarceration and extreme overcrowding problems in our correctional facilities. **Accordingly, OHA urges the Committee to consider the implementation or incorporation of the recommendations of the HCR134 Pretrial Reform Task Force, the HCR85 Prison Reform Task Force, and the Hawai‘i State Correctional Systems Oversight Commission (Oversight Commission) – which do seek to systemically transform and improve our correctional systems and approaches – as a prerequisite or required condition for the development of any new correctional facility, including a new or expanded OCCC.**

Hawai‘i’s incarcerated population has reached a historic high, due to several decades of policies that have favored the expansion of our correctional facilities over the adoption of evidence-based alternatives to incarceration.<sup>1</sup> The Native Hawaiian community has been particularly impacted by the state’s approach to criminal justice and corrections: Native Hawaiians and part-Native Hawaiians make up approximately 21% of the general population, but 37% of our prison population.<sup>2</sup> **As recognized by the Legislature itself in 2019, to address the alarming increase in our incarcerated population and the disproportionate impact of incarceration on Native Hawaiians, Hawai‘i should transition from a punitive to a rehabilitative correctional system, and seek to implement evidence-based alternatives to incarceration.**<sup>3</sup> Such an approach would not only reduce our incarcerated population, but it would also more effectively rehabilitate pa‘ahao, reduce recidivism, improve public safety, and save taxpayer dollars.

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<sup>1</sup> See HCR85 TASK FORCE, CREATING BETTER OUTCOMES, SAFER COMMUNITIES FINAL REPORT OF THE HOUSE CONCURRENT RESOLUTION 85 TASK FORCE ON PRISON REFORM TO THE HAWAI‘I LEGISLATURE 2019 REGULAR SESSION 1 (2018).

<sup>2</sup> *Id.* at xiii.

<sup>3</sup> *Id.* at xiv; Act 179 (Reg. Sess 2019).

**By simply requiring the development of a new OCCC, this measure may only accommodate a further increase in our incarcerated population.** While OHA notes that one of the prior committee reports on this measure suggests that a new facility might accommodate “healing” and “transformational programs and services,” nothing in this measure would specifically require the incorporation of such considerations in the development of a new OCCC, or the incorporation or implementation of the numerous recommendations made over the years for evidence-based alternatives to our current incarceration-focused, punitive approach to corrections. **Accordingly, this measure may only perpetuate our failed overall criminal justice approach, by focusing primarily on expanding our correctional facilities, rather than addressing the root causes and contributing factors of our mass incarceration phenomenon.**

**OHA does believe that the recommendations proposed by the HCR134 and HCR85 task forces, as well as the Oversight Commission, would help to eliminate Hawai‘i’s overdependence on incarceration.** For example, the HCR134 Pretrial Reform Task Force has recommended implementing and expanding alternatives to pretrial detention, such as utilizing clean and sober residences, structured living facilities, treatment programs, and other community-based resources, and establishing a court hearing reminder system for all pretrial defendants released from custody.<sup>4</sup> The HCR85 Task Force on Prison Reform has recommended improving and expanding evidence-based rehabilitative programs, creating an Oversight Commission, improving the reentry process, and reforming the cash bail process.<sup>5</sup> **Unfortunately, many of these recommendations have yet to be fully implemented, or were never funded.**

**Accordingly, OHA strongly urges the Committee to consider requiring the implementation or incorporation of the recommendations made by the HCR134 and HCR85 task forces, as well as the Oversight Commission, as a prerequisite or required condition of any new or expanded correctional facility, including OCCC.** Such requirements would meaningfully reduce our pretrial and general prison populations without sacrificing public safety, and significantly help to reduce the unjust burden of the criminal justice system on Native Hawaiians and other marginalized groups

Mahalo piha for the opportunity to testify.

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<sup>4</sup> CRIMINAL PRETRIAL TASK FORCE, HAWAI‘I CRIMINAL PRETRIAL REFORM, RECOMMENDATIONS OF THE CRIMINAL PRETRIAL TASK FORCE TO THE THIRTIETH LEGISLATURE OF THE STATE OF HAWAI‘I (2018).

<sup>5</sup> HCR 85 TASK FORCE, *supra* note 1.

**STATE OF HAWAI‘I**  
**OFFICE OF THE PUBLIC DEFENDER**

**Testimony of the Office of the Public Defender, State of Hawai‘i to the  
House Committee on Corrections, Military, & Veterans**

March 17, 2021

S.B. 664 SD1: RELATING TO PUBLIC SAFETY

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

The Office of the Public Defender opposes SB 664 SD1, which allows for the Department to commence with the development of a new Oahu Correctional Center. The Office the Public Defender urges a moratorium on the construction of any new correctional facilities in the State and the construction of new or the expansion of existing correctional facilities without the approval of the Hawai‘i Correctional Systems Oversight Commission, and without implementation of policy reforms such bail reform and recommendations of the HCR 85 Task Force.

As recommended in the House Concurrent Resolution 85 Task Force on Prison Reform, as embodied in its final report (“HCR 85 Report”), the State should “transition from a punitive to a rehabilitative correctional system”<sup>1</sup> and “immediately stop planning a large new jail to replace OCCC and establish a working group of stakeholders and government officials to rethink the jail issue and create a jail that is smaller, smarter, and less expensive than the one now under consideration.”<sup>2</sup>

Hawai‘i does not need bigger jails and prisons. What it truly needs is drastic reform of an incarceration system that is not only woefully outdated, but also severely unfair to people living in poverty, with mental health and substance use disorders, women, and Native Hawaiians, Pacific Islanders and Black communities.<sup>3</sup>

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<sup>1</sup> HCR 85 Report at xiv.

<sup>2</sup> HCR 85 Report at xvii-xviii.

<sup>3</sup> American Civil Liberties Union, “Blueprint for Smart Justice Hawai‘i” (2019), <https://50stateblueprint.aclu.org/states/hawaii/>.

Currently:

- **40 percent** of people incarcerated under Hawai‘i’s jurisdiction in 2018 were reported by the Department of Public Safety as being Native Hawaiian though Native Hawaiian make up just 18 percent of the State’s adult population.<sup>4</sup>
- The number of women incarcerated in Hawai‘i grew **1265 percent** between 1990 to 2017.<sup>5</sup>
- **40 percent** of individuals at the O‘ahu Community Correctional Center have not stood trial or are awaiting sentencing.<sup>6</sup> Many if not most of these individuals are locked up because they can’t afford to meet bail.

No conclusive research has indicated that increased jail incarceration has a meaningful impact on crime reduction.<sup>7</sup> In Hawai‘i, our prison population has increased 670% in the last 40 years.<sup>8</sup> And our incarceration rate has risen to the point that if we were a nation instead of a state, we would rank fifth in the world, behind United States, El Salvador, Turkmenistan and Cuba (excluding the other 49 states).<sup>9</sup> But this has not made us one of the safest places in the world.<sup>10</sup>

Incarceration does not come cheap. In 2017, Hawai‘i spent \$255 million on corrections, accounting for 3 percent of the state’s total general fund spending that year.<sup>11</sup> Corrections general fund spending increased by 263 percent between 1985

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<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the Hawai‘i Legislature 2019 Regular Session, “Creating Better Outcomes, Safer Communities” (December 2018) at 63, [https://19of32x2y133s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform\\_Final-Report\\_12.28.18.pdf](https://19of32x2y133s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf).

<sup>7</sup> VERA, “The Prison Paradox: More Incarceration Will Not Make Us Safer” (2017), [https://www.vera.org/downloads/publications/for-the-record-prison-paradox\\_02.pdf](https://www.vera.org/downloads/publications/for-the-record-prison-paradox_02.pdf)

<sup>8</sup> HCR 85 Report at 3.

<sup>9</sup> Prison Policy Initiative, “States of Incarceration: The Global Context.” *See* <https://www.prisonpolicy.org/global/2018.html>; *See also* World Prison Brief, Institute for Criminal Policy Research (ICPR), Data for Sweden, <http://www.prisonstudies.org/country/sweden>. (Hawai‘i incarceration rate of 390 prisoners per 100,000 population would put Hawai‘i in the top 20 incarcerators in the world).

<sup>10</sup> VERA, “Incarceration Trends in Hawaii.” *See* <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-hawaii.pdf>

<sup>11</sup> State of Hawaii Department of Budget and Finance, “Executive Biennium Budget, Fiscal Biennium 2017-2019, Operating and Capital Budget-Department of Public Safety,” <https://budget.hawaii.gov/wp-content/uploads/2016/12/24.-Department-of-Public-Safety-FB17-19-PFP.pdf>

and 2017.<sup>12</sup> Feeding and caring for an incarcerated person costs \$198 a day in Hawai‘i.<sup>13</sup> Pre-COVID19 we were spending around \$209,000 a day (\$76 million annually) to incarcerate more than 1,000 people statewide simply because they were too poor to afford bail.<sup>14</sup>

The State should divert the over half billion taxpayer funds from the construction of the large new jail towards community reentry programs, transitional housing, criminal justice and bail system reforms, and community-based programs that have a proven track record to be effective.

Consistent with a moratorium, the development of a new mental health facilities within the Department of Public Safety should not commence without the approval of the Oversight Commission. In fact, additional resources are needed to support and develop less restrictive and therapeutic alternatives, such as the Hawai‘i State Hospital and community mental health care facilities. Mentally ill individuals should not be placed punitive environments like jails and prisons, but rather they should be treated in therapeutic health care facilities.

We thank you for the opportunity to comment on S.B. 664, SD1.

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<sup>12</sup> National Association of State Budget Officers, State Expenditure Report series, <https://www.nasbo.org/reports-data/state-expenditure-report/state-expenditure-archives>.

<sup>13</sup> State of Hawaii Department of Public Safety Annual Report FY 2019, <https://dps.hawaii.gov/wp-content/uploads/2019/11/PSD-ANNUAL-REPORT-2019.pdf> at 16.

<sup>14</sup> These numbers have decreased during the COVID19 pandemic but will soon go back to the preCOVID19 numbers unless we adopt the policies recommended in the HCR 85 Task Force.

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

WEDNESDAY, MARCH 17, 2021, 10:30 AM  
VIA VIDEOCONFERENCE, STATE CAPITOL

S.B. 664, S.D. 1

RELATING TO PUBLIC SAFETY.

Chair Ohno, Vice Chair Ganaden and members of the Committee, thank you very much for the opportunity to submit testimony on S.B. 664, S.D. 1.

The Department of Accounting and General Services (DAGS) strongly supports this legislation authorizing the development of the new Oahu Community Correctional Center.

A new facility is critical to the Department of Public Safety in fulfilling their responsibility to provide safe and secure services to certain members of our community. The current facility is, in parts, over 100 years old, and is neither adequate nor appropriate to meet today's correctional needs. Escalating maintenance costs, the lack of a safe and efficient work environment for corrections staff, and the inability to address detainees with special needs or mental health issues are underscoring the importance of this project. Additionally, the new facility will allow the State to provide inmates with healing, and subsequently, transformational, programs and services that aim at a successful integration back into their home communities. This is necessary now for current and immediate future inmates who require treatment and

services that PSD is challenged to provide in the inadequate, obsolete buildings that comprise the current center.

Thank you for this opportunity to provide testimony on this very important matter.



# COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

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## COMMITTEE ON CORRECTIONS, MILITARY & VETERANS

Representative Takashi Ohno, Chair

Representative Sonny Ganaden, Vice Chair

Wednesday, March 17, 2021

10:30 AM

## STRONG OPPOSITION TO SB 664 SD1 HAWAI`I'S CRIMINALIZATION OF POVERTY

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 opposition** to this measure that is a slap in the face to the community that has been questioning the millions of dollars enriching consultants while the community is suffering through this public health pandemic. This bill makes a very clear statement to the community about what matters.

Let's get real about what this bill is about. OCCC has been overcrowded for decades and the legislature and past administrations have ignored the fact that we have locked people up in facilities that are unsanitary, unventilated, and overcrowded instead of addressing the pathways that have led people to jail - poverty, unemployment, lack of education, illiteracy, unaddressed mental health issues etc. Through public policies, the state has sent a clear message to the community about who is worthy of assistance and attention.

The community has been questioning the need for a humongous facility that will incarcerate many people suffering from public health and social challenges and who are innocent until proven guilty. We know that many people are imprisoned for poverty crimes and cannot make bail.

In fact, a review of the March 1, 2021 Department of Public Safety Population Report<sup>1</sup> should make everyone question what is really going on:

- **The total population of OCCC is 913 persons**
  - 55% (499 persons) are pretrial detainees and
  - 22% (198 persons) are probation violators.
- **77% (697 persons) are pretrial detainees and probation violators**

Here is the cost for imprisoning the 499 persons who are pretrial detainees at \$198/day: \$98,802 a day, \$691,614 a week, \$2,766,456 a month, and \$33,197,472 a year.

The total cost of the 697 pretrial detainees and probation violators at \$198/day: \$138,006 a day, \$966,042 a week; \$3,864,168 a month, and \$46,370,016 a year. **And that is for one jail in Hawai`i.**

At the end of last year, Community Alliance on Prisons was asked how many imprisoned people were unsheltered at the time of arrest. This prompted our call to the Intake Services Division and we received the following the information on January 28, 2021 regarding 2020 jail admissions:

“Of the 6591 people who were admitted into the community correctional centers in 2020, 37.5% of them (2474) reported being unsheltered. There were another 20 who reported staying in an emergency or transitional shelter. The information gathered was self-reported and unverified. Also, the number of unsheltered is likely higher as 3.5% of the people (233) who were admitted could not or did not disclose any information.

Unfortunately, the data that was pulled was not identified by county. The numbers are for Statewide admissions. For some perspective, Oahu accounts for 59% of the admissions, Hawaii 21%, Maui 12%, and Kauai 8%.”

That breaks down to almost 2,500 unsheltered persons who were imprisoned statewide in 2020. That is a sad social commentary on how far Hawai`i has strayed from compassion and humanity.

The Intake Services data show that 59% of the intakes were to OCCC; that is more that 3,711 persons costing \$734,778 a day; \$5,143,446 a week; \$20,573,784 a month; and \$246,885,408 a year. We could we have done so much had used our resources to address the mounting unmet needs in our communities, especially those most impacted by incarceration.

Why do we want to build cages to hide rather than to help? This is the antithesis of aloha. It defies **Ke Kānāwai Māmalahoe** (the Law of the Splintered Paddle), which guaranteed the safety of the highways to all. This royal edict was law over the entire Hawaiian kingdom

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<sup>1</sup> Department of Public Safety Weekly Population Report, March 1, 2021.  
<https://dps.hawaii.gov/wp-content/uploads/2021/03/Pop-Reports-Weekly-2021-03-01.pdf>

during the reign of Kamehameha the Great. He did so to shield his people from harm as they moved throughout the land under his control. He did so to shield his people from harm as they moved throughout the land under his control.

Everyone knows that OCCC has been in deplorable condition for decades but now, since it might mean short-term construction jobs, the legislature is suddenly very concerned about the conditions that the people they cage must live in.

## ***SHORT-TERM JOBS IN EXCHANGE FOR LONG-TERM HARM***

The proposal to build a humongous OCCC *with no community input* and the secret negotiations by the Governor tell us that building a jail that cages people on the lowest rung of the economic ladder is a priority in order to get the economy rolling.

And while the government exploits the third-world conditions at OCCC, they totally ignore the fact that they are rolling over some of the most vulnerable people in our community.

Please, tell the truth. This bill is about the economy. It is not about the harms caused by the state through its failed and draconian policies. OCCC has become housing for the unsheltered and O`ahu's de facto mental health facility. PSD reports that 59% of all intakes in 2020 - 3,888 persons - were individuals who were living unsheltered or in emergency or transitional shelters on O`ahu.

How can the data be ignored? How can the state not see what is right in front of us? 77% of OCCC are persons who are pretrial detainees and probation violators who reported being unsheltered at Intake, many suffering from unmet public health, social, and poverty challenges caused by the social disparities that continue.

Please, we ask that you think about what this bill does. It removes the community and basically orders PSD to blindly build a huge facility that will require even more people who are jailed because they can't pay bail. Data show that these are the people who end up in prison. Is this the goal - to ensure that Hawai'i maintains its position as one of the world's largest jailers?

The misuse of jails in America is helping to drive mass incarceration and is part of a system that is neither economically sustainable nor beneficial to public safety, community well-being, and individual rehabilitation. Nearly 75 percent of both pretrial detainees and sentenced offenders are in jail for nonviolent traffic, property, drug, or public order offenses. Underlying the behavior that lands people in jail, there is often a history of substance abuse, mental illness, poverty, failure in school, and homelessness.<sup>2</sup>

PRETRIAL DETENTION has a significant impact on downstream criminal justice outcomes – both in the immediate case, and through the future criminal activity of detained

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<sup>2</sup> INCARCERATION'S FRONT DOOR: THE MISUSE OF JAILS IN AMERICA (2015)  
<https://www.vera.org/publications/incarcerations-front-door-the-misuse-of-jails-in-america>

defendants. Detention increases the rate of guilty pleas, and leads detained individuals to commit more crime in the future.<sup>3</sup>

**The only way localities can safely reduce the costs incurred by jail incarceration is to limit the number of people who enter and stay in jails.** This is no small task. How and why so many people cycle through jails is a result of decisions dispersed among largely autonomous system actors. This means that the power to downsize the jail is largely in the hands of stakeholders outside its walls. So only by widening the lens – looking beyond the jail to the decisions made by police, prosecutors, judges, and community corrections officials – will jurisdictions be able to significantly reduce the size of their jails, save scarce county and municipal resources, and make the necessary community reinvestments to address the health and social service needs that have for too long landed at the doorstep of the jail.<sup>4</sup>

The DOJ came to Hawai'i in 1998 and they reported that in the eight jurisdictions they visited, they had never witnessed the intergenerational incarceration that they saw in Hawai'i. That was 23 years ago and things have not gotten better.

The last thing you should consider is in these times of economic strife, where families are struggling to stay housed and to feed themselves, are the millions of dollars wasted on consultants who have no connection or apparent interest in the community outside of their glossing propaganda pieces.

To date, OCCC consultants have reaped \$10.4 million from the hard-earned work of taxpayers and when you add that with the more than \$14 million blown on consultants for the Maui Public Safety Complex in a section that lacks water, you might understand where the mistrust of the community comes from. There is never enough money to provide the services so desperately needed, yet there always seems to be money for consultants and more studies. We know what to do, we need the political will to do it!

## **COMMUNITY ENGAGEMENT MATTERS!**

Citizens are 'engaged' when they play a meaningful role in the deliberations, discussions, decision-making and/or implementation of projects or programs affecting them. Accordingly, organizational and government leaders need to broaden the way they see their responsibilities to include roles as facilitator, supporter, collaborator, and empower of citizens and stakeholders. This change requires letting go of some of the traditional reins of power and trusting that citizens can and will effectively engage in the issues. The result is a

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<sup>3</sup> THE DOWNSTREAM CONSEQUENCES OF MISDEMEANOR PRETRIAL DETENTION (2016)  
[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2809840](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2809840)

<sup>4</sup> THE PRICE OF JAILS: MEASURING THE TAXPAYER COST OF LOCAL INCARCERATION  
(2015) <http://www.safetyandjusticechallenge.org/wp-content/uploads/2015/05/The-Price-of-Jailsreport.pdf>

partnership(s) that is nearly always healthy for a community and can more effectively address the issue or problem.<sup>5</sup>

Data-driven and evidence-based practices present new opportunities for public and social sector leaders to increase impact while reducing inefficiency. But in adopting such approaches, leaders must avoid the temptation to act in a top-down manner. Instead, they should design and implement programs in ways that engage community members directly in the work of social change.<sup>6</sup>

This is precisely what the community has been asking for – a data driven and humane approach to the unmet and unfunded challenges that create the pathways to incarceration for too many. We can do better for our people.

There is so much research on better alternatives that should be implemented before considering imprisonment.

It seems that there is a lack of interest, so the state is going for the easy “lock `em up” approach, to hide away those the state has considered a blight, despite the fact that our policies are facilitating this human tragedy.

Please consider this before you vote. Consider what this bill is really about and who you are hurting as well as the intergenerational harm that building more cages causes. Each vote sends a strong signal. We hope your vote is about justice, reason, and compassion.

We respectfully urge the committee to hold this bill.

Mahalo for this opportunity to testify,

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<sup>5</sup> WHY COMMUNITY ENGAGEMENT MATTERS <https://aese.psu.edu/research/centers/cecd/engagement-toolbox/engagement/whycommunity-engagement-matters>

<sup>6</sup> COMMUNITY ENGAGEMENT MATTERS (NOW MORE THAN EVER), Stanford SOCIAL INNOVATION Review [https://ssir.org/articles/entry/community\\_engagement\\_matters\\_now\\_more\\_than\\_ever](https://ssir.org/articles/entry/community_engagement_matters_now_more_than_ever)



# Hawai'i Psychological Association

*For a Healthy Hawai'i*

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COMMITTEE ON CORRECTIONS, MILITARY, & VETERANS  
Rep. Takashi Ohno, Chair  
Rep. Sonny Ganaden, Vice Chair

Wednesday, March 17, 2021 - 10:30am - Conference Room 430 - videoconference

## **Support of SB664 SD1 RELATING TO PUBLIC SAFETY**

The Hawai'i Psychological Association (HPA) supports SB664 SD1 to develop the new Oahu Community Correctional Center. OCCC has been overcrowded for decades. The current facility is inadequate for maintaining security and providing quality mental health services. The new facility is badly needed and long overdue. Research literature clearly shows that overcrowding is correlated with violence and lowered mental health outcomes.

Thank you for the opportunity to provide input into this important bill.

Sincerely,

Alex Lichton, Ph.D.

Chair, HPA Legislative Action Committee



## Hawai'i

Committees: Committee on Corrections, Military, & Veterans  
Hearing Date/Time: Wednesday, March 17, 2021, 10:30 a.m.  
Place: Via videoconference  
Re: Testimony of the ACLU of Hawai'i in Opposition to S.B. 664, S.D. 1, Relating to Public Safety

Dear Chair Ohno, Vice Chair Ganaden, and members of the Committee,

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in opposition to S.B. 664, S.D. 1**, which requires the Department of Public Safety to development the new Oahu community correctional center ("OCCC"). Moving forward with plans to build a \$525 million jail in the midst of an economic crisis, against the recommendations of the Commission tasked with overseeing the State's correctional system and as well as those of the Task Force responsible for making recommendations for the design of future correctional facilities<sup>1</sup> is imprudent and harmful to Hawai'i's communities.

The Legislature has created multiple task forces, an Oversight Commission, and a criminal justice research institute, for the purpose of examining the state's criminal justice system, and the Legislature should heed these groups' recommendations. The H.C.R. 85 Task Force and the Oversight Commission *both* recommended that the State immediately halt plans for the costly new jail to replace OCCC until meaningful changes to our criminal legal system have been implemented.<sup>2</sup> This is necessary to shift the State's corrections system to a rehabilitative and therapeutic model. Halting construction of the jail is also fiscally wise. The Oversight Commission estimated that "each bed in the new jail would cost taxpayers \$380,000 and the cost of housing a large number of pretrial detainees statewide is over \$180,000 per day."<sup>3</sup>

Before moving ahead with plans for a costly new jail, Hawai'i must dramatically change its approach to corrections. This starts with reforming our pretrial system. Pretrial incarceration is one of the major drivers of overcrowding in Hawai'i's jails. Currently, roughly one-third of the individuals housed in Hawai'i's correctional facilities and more than half of those jailed at

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<sup>1</sup> House Concurrent Resolution No. 85 (Regular Session 2016), [https://www.capitol.hawaii.gov/session2016/bills/HCR85\\_SD1\\_.htm](https://www.capitol.hawaii.gov/session2016/bills/HCR85_SD1_.htm).

<sup>2</sup> See, Final Report of House Concurrent Resolution No. 85 Task Force Summary, [https://www.oha.org/wp-content/uploads/HCR85Summary\\_FINALv2.pdf](https://www.oha.org/wp-content/uploads/HCR85Summary_FINALv2.pdf); Hawai'i Correctional System Oversight Commission, *2020 Annual Report* (December 2020), <https://ag.hawaii.gov/wp-content/uploads/2021/01/HCSOC-Final-Report.pdf>.

<sup>3</sup> Hawai'i Correctional System Oversight Commission, *2020 Annual Report* (December 2020), <https://ag.hawaii.gov/wp-content/uploads/2021/01/HCSOC-Final-Report.pdf>.

ACLU of Hawai'i testimony in opposition to S.B. 664  
March 2, 2021  
Page 2 of 2

OCCC have not been convicted of any crime and are merely awaiting trial,<sup>4</sup> most often because they cannot afford the amount of bail set in their case. While recent changes to pretrial practices are steps in the right direction,<sup>5</sup> there is a long way to go before Hawai'i can claim to have substantially ended its reliance on cash bail and reformed its pretrial system.

The ACLU of Hawai'i believes that Hawai'i's families will continue to bear the human and financial cost of incarceration until we implement meaningful, community-based solutions and alternatives to incarceration. Many groups, including the ACLU of Hawai'i,<sup>6</sup> have proposed pathways for divestment from incarceration and reinvestment in our communities. Prior to authorizing any new correctional facility, the Legislature should implement the recommendations presented by community members, civil rights and criminal legal reform experts, and the task forces and commissions that it created for the purpose of proposing changes to our corrections system.

For the above reason, ACLU of Hawai'i respectfully requests that the Committee defer this measure. Thank you for the opportunity to testify.

Sincerely,



Mandy Fernandes  
Policy Director  
ACLU of Hawai'i

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.*

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<sup>4</sup> State of Hawai'i Dep't of Pub. Safety, Weekly Population Report (February 1, 2021).

<sup>5</sup> See, e.g., Act 277 Session Laws of Hawai'i 2019.

<sup>6</sup> In 2019, the American Civil Liberties Union, in partnership with the ACLU of Hawai'i and Urban Institute, released the Blueprint for Smart Justice Hawai'i. This report resulted from a two-year research project dedicated to identifying key reforms in Hawai'i that would cut the state's incarcerated population in half and reduce racial disparities in Hawai'i's corrections system. The report is available at <https://50stateblueprint.aclu.org/assets/reports/SJ-Blueprint-HI.pdf> and may serve as a resource as the Legislature considers further reforms.

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Young Progressives Demanding Action  
P.O. Box 11105  
Honolulu, HI 96828

March 16, 2021

**TO: HOUSE COMMITTEE ON CORRECTIONS, MILITARY, & VETERANS**  
**RE: Testimony in Opposition to SB664 SD1**

Dear Representatives,

Young Progressives Demanding Action (YPDA) stands in **strong opposition** of SB664 SD1, which would require the Department of Public Safety to construct a massive new jail in Hālawā, conservatively estimated to cost \$525 million, in the midst of an economic crisis.

Overcrowding in our jails and prisons is a real problem. But it's a problem that was born of deliberate policy choices that have created a costly and inhuman system of mass incarceration.

A bigger jail won't reduce overcrowding as long as these mass incarceration policies define our "justice" system. If the system is designed to lock people up, it will lock people up. Therefore, the larger size of the jail will only facilitate higher rates of mass incarceration.

Mass incarceration [fails to keep us safer](#). In fact, there is some evidence that the damage it does to people and communities can actually increase crime rates.

Constructing and operating a costly new facility will therefore be a waste of taxpayer dollars at a time when we don't have any to spare.

Instead, we must implement what David R. Karp and Todd R. Clear, in their essay "[Community Justice: A Conceptual Framework](#)" (2000), refer to as "community justice" solutions. We should:

- End the use of monetary bail.
- Legalize (and therefore decriminalize) cannabis use.
- Expand community supervision for nonviolent offenders, including parole and probation.
- Divert people to mental health and drug treatment services whenever possible.

- End mandatory sentencing and “Three Strikes” laws.

We also need to dismantle the systemic racism baked into the criminal justice system that leads to mass incarceration and over-policing of communities & people of color in the first place. We need to, instead, implement anti-racist policies that confront and heal the generational trauma caused by White Supremacy.

Community justice policies will be far more effective at reducing our incarcerated population, while simultaneously saving taxpayers money, keeping communities safer and actually achieving real justice. These restorative, rather than punitive, solutions seek to heal and restore troubled people, returning them back to society in a condition in which they can contribute and live purposeful lives.

This bill—and the construction of a new jail—represents a doubling down on failed policy: building newer, larger incarceration facilities and, thereby, anchoring our society more firmly to an antiquated and injurious system of mass incarceration with a poor track record of reducing crime and a legacy of destroying lives and communities.

The United States now has the highest incarceration rate in the world. Between 1970 and 2010, the number of people incarcerated in the United States grew by 700 percent. We now incarcerate almost a quarter of the prisoners in the entire world, while representing only 5 percent of the world’s population. At no other point in U.S. history—even when slavery was legal—have so many people been deprived of their liberty.

We have an opportunity to pivot away from mass incarceration, from racist policies and from criminalization of poverty. Please kill this bill. Instead, support bills that will use community justice and antiracist policies to reduce our incarcerated population. At that point, the cost to fix up existing facilities, or build a much smaller one, can be discussed. But our ultimate goal should be to get to a point at which very few people, if any at all, need to be incarcerated.

Mahalo for the opportunity to testify,

Will Caron  
Board President & Secretary  
action@ypdahawaii.org

**SB-664-SD-1**

Submitted on: 3/15/2021 11:48:21 AM

Testimony for CMV on 3/17/2021 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carolyn Eaton	Individual	Oppose	No

Comments:

Aloha, my name is Carolyn Eaton and I strongly oppose SB 664. The community, broadly speaking, has been shut out of the planning of this facility. The entire voting population of the State should have been allowed an impartial discussion of such an important, extremely costly plan. Instead, buy-in from Aiea Neighborhood Board was substituted for all interested citizens.

This measure is further "railroading" of construction without broad support.

Mahalo for considering my testimony.

**SB-664-SD-1**

Submitted on: 3/15/2021 3:18:05 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carla Allison	Individual	Oppose	No

Comments:

My name is Carla Allison and I strongly oppose SB664. We don't need a new OCCC. Overcrowding in our correctional facilities must first be addressed by significantly reducing the number of people being incarcerated. We need to end cash bail, create programs & beds to address mental & drug disabilities and provide housing. Research & studies repeatedly conclude community-based solutions have significantly better outcomes than incarceration. The already existing reports ordered by our legislature detailing solutions that have not been acted upon...solutions to ease our overcrowded jails/prisons. These solutions need to be acted upon before proceeding with any new development of incarceration facilities. The money being spent on planning & developing a new OCCC could be used for programs that address the root problems instead of taking the band aid approach of building more facilities. People with mental & drug disabilities and the unhoused don't belong in jails nor should citizens be jailed without a trial because they can't afford bail. We need programs that keep families intact, assist loved ones to overcome addiction, provide treatment for mental disabilities and house the unhoused. Please oppose SB664. Thank you.

**SB-664-SD-1**

Submitted on: 3/15/2021 6:01:25 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
cheryl B.	Individual	Comments	No

Comments:

DEFER please.

**SB-664-SD-1**

Submitted on: 3/15/2021 8:23:36 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
donn viviani	Individual	Oppose	No

Comments:

I oppose SB644. The Senate has two Bills currently proposed: SB1260 and SB758, bail reform and cannabis decriminalization irrespectively, which reduce incarceration and greatly alleviate overcrowding in Hawaii's detention system. The State is in economic crisis; important programs that help our citizens are being cut; spending money to incarcerate more people, who themselves may be in economic crisis is a bad fiscal and moral decision. Priority should be on spending resources to help us get through the economic downturn from the pandemic.

Mahalo    Donn Viviani, Kailua

**SB-664-SD-1**

Submitted on: 3/15/2021 8:37:05 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Raelyn Reyno Yeomans	Individual	Oppose	No

Comments:

I am testifying in strong opposition to this bill. Building a new jail is not the priority!

Please get back on track with what our HI experts have recommended. Refer to and take action on these reports (two of which call for a rethinking and moratorium on new jail plans)!

- HCR 85 Task Force - 2019 Final Report on Prison Reform
- HCR 134 Task Force - 2018 HI Criminal Pretrial Reform Report
- HI Correctional System Oversight Commission - December 2020 Report. This group represents over 100 years of experience.

Mahalo-

Raelyn Reyno Yeomans

TO: COMMITTEE ON CORRECTIONS, MILITARY, & VETERANS

FROM: Wendy Gibson-Viviani RN

RE: SB664 – **In OPPOSITION**

Hearing: Tuesday, March 17, 2021 at 10:30 a.m. Via Videoconference

Dear Rep. Takashi Ohno, Chair, Rep. Sonny Ganaden, Vice Chair and Members of the Committee,

My name is Wendy Gibson-Viviani, and **I'm OPPOSED to SB664**—a bill that would mandate the development of a new OCCC jail. We are at a moment in time when our thinking needs to change about how we address reducing crime and the overcrowding of jails and prisons in Hawai'i.

The answers lie in reimagining our criminal justice system, **moving away from a mass criminalization model and moving towards health and human services**, housing, education, rehabilitation and restorative justice.

The Law Enforcement Assisted Diversion (LEAD) Program was developed two years ago to help meet those ends by diverting non-violent offenders into social services instead of incarceration. One goal of LEAD is to foster better relationships between law enforcement officers and the communities they serve, however, as of September 2020, LEAD HNL diversion referrals had not begun in earnest and now funding has been cut (related to COVID-19).<sup>1</sup> LEAD is still in its infancy and needs more time to work before developing a new jail.

If we are successful at getting rid of our cash bail system (by passing SB1260), we will also be one step closer to realizing these goals. It is important to keep our focus and finances on this type of program, especially in the age of COVID-19.

I think it is shameful that our current cash bail system allows the detention of suspects who may be innocent. Knowing that about one-third of the people housed at OCCC have not been convicted of any crime, are merely awaiting a trial and cannot make bail is sickening. Knowing that they may make plea deals (confess to crimes they may not have committed) to get out to save their jobs and families from ruin is also disgraceful.

Other States have successfully reduced their prison populations and saw a decrease in both violent crimes and property crimes. (New Jersey and New York between 1999-2012 and California between 2006 and 2012).

Hawaii's Legislature created multiple task forces, an **Oversight Commission** and a criminal justice research institute to assess our State's criminal justice system. Both, the HCR-85 Task



Force (2016) and Oversight Commission (2020) recommended that the State IMMEDIATELY halt plans for a new jail until meaningful changes to our criminal legal system have been implemented.<sup>2,3</sup>

I believe they are correct. Now is not the time to be pumping our finances into creating a massive system of incarceration. Continuing to mass incarcerate is not the way out of this mess. I believe we need to find more funding for the health and human services and harm reduction programs instead.

Hawai'i Correctional System Oversight Commission, 2020 Annual Report (December 2020) makes me hopeful that we can do better going forward.<sup>4</sup>

I am not opposed to the portion of SB664 that allows for a new mental health facility as many of our homeless/houseless populations suffer from mental illness. If that portion of the bill can survive without the provisions for building a new jail then please make it so.

Thank you for the opportunity to express my views about SB664

Wendy Gibson-Viviani RN/BSN  
Oahu resident for 30 years

Sources:

1. Law Enforcement Assisted Diversion Report (October 2020) [https://fc0ddd6f-b0d2-462d-bfa5-465a5095a9d6.filesusr.com/ugd/4dce6e\\_18cc61f195534a58b1b4c937192ac8c3.pdf](https://fc0ddd6f-b0d2-462d-bfa5-465a5095a9d6.filesusr.com/ugd/4dce6e_18cc61f195534a58b1b4c937192ac8c3.pdf)
2. House Concurrent Resolution No. 85 (Regular Session 2016), [https://www.capitol.hawaii.gov/session2016/bills/HCR85\\_SD1\\_.htm](https://www.capitol.hawaii.gov/session2016/bills/HCR85_SD1_.htm).
3. Final Report of House Concurrent Resolution No. 85 Task Force Summary, available at [https://www.oha.org/wp-content/uploads/HCR85Summary\\_FINALv2.pdf](https://www.oha.org/wp-content/uploads/HCR85Summary_FINALv2.pdf); Hawai'i Correctional System Oversight Commission, 2020 Annual Report (December 2020), available at <https://ag.hawaii.gov/wp-content/uploads/2021/01/HCSOC-Final-Report.pdf>.
4. Hawai'i Correctional System Oversight Commission, 2020 Annual Report (December 2020).

**SB-664-SD-1**

Submitted on: 3/15/2021 8:50:36 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dr. Sue Haglund	Individual	Oppose	No

Comments:

In strong opposition. \$10.4 million of our money is already down the rabbit hole – we need to stop and engage communities across O`ahu in discussions about what is truly needed to help our communities thrive. In these times more than ever, we should building bridges in our communities and to engage communities needs and education not incarceration. I stand in strong opposition to this measure and recommend the committee find better solutions for community engagement and education and not incarceration.

**SB-664-SD-1**

Submitted on: 3/16/2021 9:52:32 AM

Testimony for CMV on 3/17/2021 10:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara Polk	Individual	Oppose	No

Comments:

Chair Ohno and Vice Chair Ganaden,

I do not understand the reason for this bill. DPS is already forging ahead on a poorly designed facility to replace OCCC without any nudging by the legislature! Why would it need encouragement?

My criticism of the plan is that it is based on an 18th century proposal by Jeremy Bentham for 24 anonymous monitoring of those incarcerated in a prison (NOT a jail). That format has already been tried and abandoned because it produced mental health deterioration and an unacceptable number of suicides. It is singularly inappropriate for a jail, in which the majority of persons are pre-trial, and therefore NOT GUILTY until judged so, in violation of the basis of our State and Federal system of justice. Unfortunately, DPS and its planners are wedded to the past and cannot be the main or only entity to make changes. The current plan must be scrapped in favor of a more humane approach to incarceration. In addition, the proposals of the Hawaii Correctional Oversight Commission, which the legislature established, if implemented, would lower incarceration rates substantially, as they have in other states, our communities would be safer, and the State would save millions of dollars each year.

Encouraging DPS to go ahead with its plans would set the State back a century or more and cost more than we can afford, Now is the time to change what we do--not continue the old (or outdated) ways of dealing with crime.

Please DO NOT PASS SB664!

**SB-664-SD-1**

Submitted on: 3/16/2021 6:45:17 PM

Testimony for CMV on 3/17/2021 10:30:00 AM

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

Comments:

I strongly **OPPOSE** SB664 SD1 for the following reasons:

- Increasing incarceration levels has no proven effect on decreasing the crime rate. Instead, lawmakers should back far more effective, proven initiatives such as bail system reform and community-based alternatives.
- Data from PSD show that more than 40% of the people at Intake statewide were living unsheltered or in emergency/transitional shelters at the time of arrest.
- 2.15.21 data from PSD show that 48% of people imprisoned are pretrial detainees, probation and parole violators at \$198/day this is costing \$390,852/day; \$2,735,964/week; \$10,943,856/month.
- 77% of OCCC's population are pretrial detainees (55%) and probation violators (22%). This costs about \$138,000 a day (697 x \$198/day).
- Powerful figures in law enforcement and the jail industry are pushing a massive jail construction project in Halawa conservatively estimated to cost \$525 million jail in the midst of an economic crisis, against the recommendations of the Commission tasked with overseeing the State's correctional system, as well as those on the Task Force responsible for making recommendations for the design of future correctional facilities.
- Before rushing to build new jails, we need community-based solutions and alternatives to incarceration. Countless research has found that approaches which use community-based solutions to harm and violence have exponentially better outcomes. Outcomes that keep families intact, assist loved ones to overcome the hardships of addiction, reduce the likelihood of repeated harm, increase community stability—rather than locking people up.
- Humanize, not criminalize!!!

Committee on Corrections, Military and Veterans  
Rep. Takashi Ohno, Chair  
Rep. Sonny Ganaden, Vice Chair  
March 17, 2021  
10:30am  
VIA VIDEOCONFERENCE

**RE: OPPOSE SB 664 SD1 RELATING TO PUBLIC SAFETY**

Dear Chair Ohno, Vice Chair Ganaden and Committee Members:

My name is Carrie Ann Shirota, and I am writing in strong opposition to SB 664 SD1 that mandates that the Department of Public Safety develop the new OCCC jail.

As background, I am a civil rights attorney and have previously served as the Director for Maui Economic Opportunity's Reintegration Program, a Public Defender and as a Counselor for a Native Hawaiian Program at UH Maui College.

We need a broader vision for Reimagining Public Safety in Hawai'i. Building new jails and prisons are not solutions to overcrowding because it does NOT address the drivers of mass incarceration. In order to divert and significantly reduce the number of adults in our criminal legal system, we must shift the state's budget priorities away from mass criminalization and incarceration towards health and human services, housing, education, rehabilitation and restorative justice to ensure that individuals and families needs are met in our community.

**Instead of building a new jail to replace OCCC, we should enact a Moratorium that will STOP us from spending millions more on planning and design consultants and contractors who profit from building and operating more jails and prisons. We have already wasted \$10 MILLION on consultants on the proposed new OCCC, and should not spend an estimated \$500-600 MILLION to build a new jail where clear alternatives to exist, and would cost tax payers less money! (Not to mention the added fiscal costs of operating a jail annually).**

We can look to other jurisdictions that have successfully and significantly reduced their incarcerated population by implementing evidence based strategies at different entry and exit points within the criminal legal system.

**Other Jurisdictions Have Safely Reduced their Incarcerated Population While Reducing Crime Rates: From New York to Rhode Island**

**New Jersey Outcomes**

- Between 1999-2012, NJ state prison population reduced by 26%, while the nationwide state prison population increased by 10%

- The population went from 31,493 persons to 23,225 persons (decrease of 8,268)
- NJ's violent crime rate fell by 30%, while the national rate decreased by 26%
- NJ's property crime rates also decreased by 31% compared to the national decline of 24%

### New York Outcomes

- Between 1999-2012, New York reduced its prison population by 26%, while the nationwide state population increased by 10%.
- Incarcerated population went from 72,896 persons to 54,268 persons (decrease of 18,268)
- NY's violent crime rate fell by 31%, compared to the national rate which decreased by 26%.
- NY's property crime rate fell by 29% compared to the national decline of 24%.

### California Outcomes

- Between 2006 and 2012, California downsized its prison population by 23%, compared to the nationwide state prison population decrease of 1% from 173,942 to 134,211 (decrease of 39,731)
- CA's violent crime rate drop of 21% exceeded the national decline of 19%.
- California's property crime rate dropped by 13%, but that rate was slightly lower than the national reduction of 15%.

More recently, Rhode Island, Connecticut, Michigan, Michigan and South Carolina achieved prison population reductions of 14-23%. This produced a cumulative toll of 23, 646 fewer people in prison with no adverse effects on public safety. See, <https://www.sentencingproject.org/publications/decarceration-strategies-5-states-achieved-substantial-prison-population-reductions/>

### Rhode Island Outcomes

Since Rhode Island's incarcerated population is most similar to Hawai'i in size, their data demonstrates the reductions we can achieve through targeted strategies.

Peak Year 2008	Population	Decrease	% Change
	4, 045.	3,103 (-942)	23%

The Sentencing Project concluded that all five states achieved significant reductions through the following strategies:

1. Measures to Get Justice Reforms Underway and Maintain Momentum
2. Decreased Prison Admissions via Fewer New Prison Commitments
3. Decreased Prison Admissions via Reduced Incarceration for Failure on Community Supervision

4. Increased Prison Releases via Increasing the Feasibility and/or Efficiency Of Release
5. Increased Prison Releases via Requiring Less Time Served Before Eligibility for Release

### **PSD's Proposed Rationale to Build a New Jail is Not Supported by Evidence Based Research**

The Department of Public Safety is pushing a proposal to create a new jail for 1000+ beds based on an outdated projected inmate analysis. The consultants hired to conduct this study were relying upon rising incarceration rates and trends, both of which are no longer valid. Amidst COVID-19, the jail population rates statewide have decreased - through a combination of court orders and collaboration between the Judiciary, Police, Attorney Generals, prosecutors and Public Defenders. This demonstrates the efficacy of targeted strategies to safely reduce the incarcerated population.

The consultants involved with pushing for a new jail did not consider meaningful alternatives in their EIS study. A review of the lengthy EIS study reveals that less than 2 paragraphs were Dedicated to alternatives to building a new jail - even though the data from other jurisdictions confirm the cost-effectiveness of implementing criminal justice reforms to reduce the incarcerated populations while simultaneously reducing crime rates.

Please hold SB 664 SD1, and instead invest in proven decarceration strategies.

Sincerely,

Carrie Ann Shirota, JD  
Honolulu, Hawaii  
(808) 269-3858  
cashirota808@gmail.com

<https://www.sentencingproject.org/publications/decarceration-strategies-5-states-achieved-substantial-prison-population-reductions/>

#### I. Executive Summary

From 1980 until its peak in 2009, the total federal and state prison population of the United States climbed from about 330,000 to more than 1.6 million – a nearly 400% increase – while the total general population of the country grew by only 36%, and the crime rate fell by 42%.<sup>1</sup>) The catalyst of this prison expansion was policy changes that prioritized “getting tough” on crime.

The national prison population began a gradual descent after 2009, lessening by nearly 113,000 (6%) from 2009 through 2016. Several factors contributed to this decline: ongoing decreases in crime rates leading to fewer felony convictions; scaling back “war on

drugs” policies; increased interest in evidence-based approaches to sentencing and reentry; and growing concerns about the fiscal cost of corrections and its impact on other state priorities. The state of California alone was responsible for 36% of the overall population decline, a function of a 2011 U.S. Supreme Court ruling declaring its overcrowded prison system to be unconstitutional and subsequent legislative responses to reduce the use of state incarceration.

Despite the decline, the overall pace of change is quite modest. A recent analysis documents that at the rate of change from 2009 to 2016 it will take 75 years to reduce the prison population by half. And while 42 states have experienced declines from their peak prison populations, 20 of these declines are less than 5%, while 8 states are still experiencing rising populations.<sup>2)</sup>

To aid policymakers and criminal justice officials in achieving substantial prison population reductions, **this report examines the experience of five states – Connecticut, Michigan, Mississippi, Rhode Island, and South Carolina – that have achieved prison population reductions of 14-25%. This produced a cumulative total of 23,646 fewer people in prison with no adverse effects on public safety. (While a handful of other states have also experienced significant population reductions – including California, New York, and New Jersey – these have been examined in other publications, and so are not addressed here.)**<sup>3)</sup>

The five states highlighted in this report are geographically and politically diverse and have all enacted a range of shifts in policy and practice to produce these outcomes. All five were engaged in the Justice Reinvestment Initiative process, spearheaded by the Pew Charitable Trusts and the Council on State Governments, which was designed to work with stakeholders to respond to the driving forces of prison expansion in each state and to develop strategies for change in policy and practice.

This report seeks to inform stakeholders in other states of the range of policy options available to them for significantly reducing their prison population. While we provide some assessment of the political environment which contributed to these changes, we do not go into great detail in this area since stakeholders will need to make their own determinations of strategy based on the particularities of their state. We note, though, that the leaders of reform varied among states, and emerged among governors, legislators, criminal justice officials, and advocacy organizations, often benefiting from media coverage and editorial support.

The prison population reductions in these five states were achieved through data-driven policy reforms that pursued bipartisan consensus. Changes were advanced in the areas of risk and needs assessment, community supervision, alternatives to incarceration, sentencing and sanctions, prison release mechanisms, prisoner reentry and community reintegration.

Five key strategies and practices that were employed in these states are summarized below, followed by extensive reviews for each of the five states.



## Five Key Strategies and Practices that Reduced Prison Populations

### 1. Measures to Get Justice Reforms Underway and Maintain Momentum

- High-profile leadership, bipartisanship and inter-branch collaboration (all 5 states).
- Leveraging outside technical assistance and research findings on evidence-based practices (all 5 states).
- Community engagement as a foundation of successful reentry and community reintegration (CT, MI, RI).
- Pilots or staged implementation as innovation incubators (CT, MI).

### 2. Decreased Prison Admissions via Fewer New Prison Commitments

- Crime reduction helped in all 5 states – but reduced crime is no guarantee of less imprisonment.
- Reductions in criminal penalties or adjusting penalties according to seriousness (all 5 states).
- Elimination of various mandatory minimum sentences, sometimes retroactively (CT, MI, RI, SC).
- Creation or expansion of specialty courts and/or other alternatives to incarceration (CT, MI, MS, SC).
- Modifications of responses to at-risk youth to disrupt school-to-prison pipeline (CT, SC).

### 3. Decreased Prison Admissions via Reduced Incarceration for Failure on Community Supervision

- Implementation of graduated intermediate sanctions for non-criminal violations (CT, MI, MS, SC).
- Engagement with community service providers and employers before release from prison (CT, MI, RI).
- State and local collaboration regarding case management and supervision (CT, MI, RI).
- Greater focus on intermediate outcomes (CT, MI, RI).
- Imposition of shorter terms of community supervision (MS, RI, SC).

### 4. Increased Prison Releases via Increasing the Feasibility and/or Efficiency Of Release

- Incorporation of dynamic risk and needs assessment into justice processes (all 5 states).
- Inclusion of releasing authorities in planning/implementation (CT, MI, RI, SC).
- Expanded initiatives to overcome barriers to the feasibility of release (CT, MI, RI, SC).
- Conditional release approval earlier in the process before eligibility for release (CT, MI, RI).
- Feedback to releasing authorities regarding outcomes to build trust in reentry (CT, MI, RI).
- Centralized reentry planning, trained specialists, and a goal of release at first opportunity (CT, MI, MS).
- Simplified and/or expedited release processing especially when backlogs in processing (CT, MI, RI).

## 5. Increased Prison Releases via Requiring Less Time Served Before Eligibility for Release

- Allowance or expansion of sentence credits through a variety of measures (CT, MS, RI, SC).
- Reduction of criminal penalties even though still prison-bound (CT, MI, SC).
- Modifications to sentence enhancements for aggravating factors (MS, SC).
- Reductions in time served prior to eligibility for repeat paroles after revocation (MI, MS).

### Lessons Learned

Even with the population reductions achieved in these states, they continue to have prison populations that average more than three times those of 1980. Most of these jurisdictions expect to make additional gains based on current trends and justice reforms, but much of the changes enacted to date are experiencing diminishing returns and the next layer of effort will be even more challenging.

To advance decarceration further these and other jurisdictions will need to heed six lessons that we've learned from the states that have been successful in achieving effective and sustainable prison population reduction reforms:

- Adequate funding is critical to achieving reforms: Acquiring supplemental funding for implementation was a commonly reported obstacle to compliance with statutory requirements enacted in the state reforms. Mandates without sufficient dollars for implementation inevitably meant that some reforms were delayed, failed to achieve the full benefits, or were never implemented.
- Projected cost savings are difficult to achieve and actual savings are often overstated: Projections of the anticipated impact of reforms were occasionally off-the-mark. This was especially true of forecasts regarding expected cost savings, in part because of either faulty assumptions or overly optimistic projections of the benefits, but also because of offsetting cost increases in other areas that were either missed or unanticipated when calculating presumed impact – such as escalating prison health care costs.
- It is critical to target specific goals such as reduction of racial disparity: Explicit attention and goal setting must be focused on problems meant to be impacted by justice reform, as evidenced by only modest progress in these states on alleviating racial disparity (and primarily as a by-product of the reforms rather than because of directly addressing the problem). A couple of the states are now targeting the lessening of racial disparity as a new goal.
- The promise of Justice Reinvestment needs to be re-examined and augmented with other achievable and significant goals: The original concept of Justice Reinvestment referred to the goal of routing back into distressed communities the savings generated by closing prisons to address the precursors to crime and help neighborhoods recover from overuse of incarceration by financing housing, health care, education, and jobs. While most of these states have been successful in transferring resources within the justice system from prisons to community supervision, the goal of achieving broader redistribution of resources remains.
- Broad reforms require additional focus on issues beyond prison population reduction: Overcoming barriers to enable sustained or deeper prison population reductions include the need for:

-Post-incarceration employment solutions – still a struggling metric critical to reentry success.

-Release and reentry solutions for more serious or higher risk cases – typically excluded from reforms.

-Adequate community funding solutions – a poor stepchild compared to state-level reforms.

-Rigorous monitoring and evaluation of justice reform implementation to propel change.