

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON
HOUSE BILL NO. 2015, H.D. 1

February 11, 2022
2:15 p.m.
Room 325 and Videoconference

RELATING TO THE UNIVERSITY OF HAWAII

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 2015, H.D. 1, appropriates \$455,000 in general funds and establishes seven full-time equivalent positions for FY 23 for Hookaulike, a criminal legal system institute for restoration and healing, at the William S. Richardson School of Law at the University of Hawai'i.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

LATE



HB2015 HD1
RELATING TO THE UNIVERSITY OF HAWAII
Ke Kōmike Hale o ka Ho‘okolokolo a me ke Kuleana Hawai‘i
Committee on Judiciary & Hawaiian Affairs

Pepluali 11, 2022

2:15 p.m.

Hālāwai Keleka‘a‘ike

The Office of Hawaiian Affairs (OHA) **SUPPORTS HB2015 HD1**, which establishes Ho‘okaulike, a Criminal Legal System Institute for Restoration and Healing at the University of Hawai‘i. This measure offers a vehicle for continual scholarship and advocacy that could address the many systemic issues contributing to the overrepresentation of Native Hawaiians in the criminal justice system.

Systemic discrimination exists within Hawai‘i’s criminal justice system. In 2010, the Office of Hawaiian Affairs released a landmark study, the Disparate Treatment of Native Hawaiians in the Criminal Justice System, which confirmed that when a Native Hawaiian person enters the criminal justice system, they serve more time in prison and more time on probation than other racial or ethnic groups. Native Hawaiians are also likely to have their parole revoked and returned to prison.¹ Most alarmingly, Native Hawaiians make up approximately 21% of the general population, but 37% of the prison population.²

The Legislature has directed studies and reports on the criminal justice system several times. In 2011, the Legislature passed SB986, signed into law as Act 170(11), which created a Native Hawaiian Justice Task Force (NHJTF). The NHJTF offered data-driven recommendations, informed by community meetings and written testimony, as well as representatives from state agencies, including the Attorney General’s Office, Department of Public Safety, Office of Hawaiian Affairs, Adult Client Services Branch, Office of the Public Defender and an appointed Circuit Court Judge.³ In 2016, the Legislature again created a task force through House Concurrent Resolution No. 85 to make recommendations on ways to improve Hawai‘i’s correctional system. The HCR85 Task Force’s final report again encouraged enactment of NHJTF’s recommendations.⁴

The Legislature must find opportunities to enact legislation that will implement data-driven and community-led recommendations for comprehensive reform. OHA urges the Committee to **PASS HB2015 HD1**, because it may further these goals. Mahalo piha for the opportunity to testify.

¹ Office of Hawaiian Affairs, The Disparate Treatment of Native Hawaiians in the Criminal Justice System (2010), https://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf.

² HCR85 Task Force, Creating Better Outcomes and Safer Communities, Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform (2018), https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/HCR-85-Task-Force-on-Prison-Reform_Final-Report_12.28.18.pdf

³ The Native Hawaiian Justice Task Force, Final Report to the Legislature (2012), https://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf

⁴ HCR85 Task Force Final Report (2018).

COMMUNITY ALLIANCE ON PRISONS

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

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative Mark Nakashima, Chair

Representative Scot Matayoshi, Vice Chair

Thursday, February 11, 2022

2:15 PM

HB 2015 HD1 - STRONG SUPPORT - UH Institute for Restoration and Healing

Aloha Chair Nakashima, Vice Chair Matayoshi 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 4,085 Hawai`i individuals living behind bars or under the "care and custody" of the Department of Public Safety or the corporate vendor on any given day. We are always mindful that 1,111 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 measure. This is a wonderful community-building and empowering idea! We were part of the collaborative that submitted an application to the Kellogg Foundation last year. This was a very competitive grant that reviewed applications from 63 counties. Our collaboration - Ho`okaulike - was one of the applications that made it to the final round. Although we did not win the grant, the reviewers gave us high marks for our submission. This bill picks up where we left off.

Ho`okaulike, which means to create equity, assumes that people who do not share a standard of living similar to yours or mine nevertheless are capable of designing and implementing standards of behavior within their communities that allow its members to live in dignity and peace.

This collaboration of scholars and community activists will conduct outreach to struggling neighborhoods with large communities of Pacific Islanders and Native Hawaiians.

Last session the legislature expressed concern about equity. This bill seeks to go into disadvantaged communities that have been historically left behind and help develop ways to change policing, un-and under-employment, access to services, child care options, etc.

This inter-disciplinary collaboration of scholars and communities is exactly what is needed to lift up our people who are struggling to survive. The state government spends enormous sums of money on policing, prosecution and incarceration and yet, there is no discernable improvement in public safety.

As the Prison Policy Initiative states, **“Hawaii has an incarceration rate of 439 per 100,000 people (including prisons, jails, immigration detention, and juvenile justice facilities), meaning that it locks up a higher percentage of its people than almost any democracy on earth.”**

Hawai`i needs to try something new and innovative - The Criminal Legal System Institute for Restoration and Healing - as this bill promises. Leading with respect, understanding, and community values is a great start!

Community Alliance on Prisons respectfully asks the committee to pass this important bill that can help Hawai`i get on the road to transformation and healing.

Mahalo for this opportunity to testify.

“Be a star in someone's dark sky.”

Matshona Dhiwayo
Philosopher, Entreprensur, Author



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Judiciary and Hawaiian Affairs
Friday, February 11, 2022 at 2:15 p.m.

By

Camille A. Nelson JD, LL.M
Dean and Professor of Law
William S. Richardson School of Law
and

Michael Bruno, PhD
Provost
University of Hawai'i at Mānoa

HB 2015 HD1 – RELATING TO THE UNIVERSITY OF HAWAII

Aloha Chair Nakashima, Vice Chair Matayoshi, and members of the House Committee on Judiciary and Hawaiian Affairs:

My name is Camille Nelson, and I am honored to serve as the dean of the William S. Richardson School of Law at the University of Hawai'i Mānoa. Please accept this written testimony as indicative of the University of Hawai'i support for HB 2015 HD1 establishing Ho'okaulike, a Criminal Legal System Institute for Restoration and Healing at the University of Hawai'i, provided that its passage does not replace priorities in our BOR approved budget.

As a scholar whose research and advocacy has analyzed the criminal legal system, the intersections of identity that inform its operation, and the social and health conditions that often impact its effective operation, I offer my testimony in support of Ho'okaulike. This Criminal Legal System Institute for Restoration and Healing at the University of Hawai'i will work to disrupt the socio-economic pathways that have historically pipelined Native Hawaiian, Pacific Islander, and other communities of color into the criminal legal system, resulting in disparate outcomes.

In fact, the overrepresentation of Native Hawaiian, Pacific Islander, and other communities of color across Hawai'i's criminal legal system is well documented. This reality is the byproduct of multiple institutions and systems that continue to perpetuate inequities and suffering, from initial police contact to the intergenerational impact of incarceration and punishment on families and communities. Numerous studies and reports have analyzed these phenomena, including a comprehensive study by the Office of Hawaiian Affairs and two state mandated task force reports. Given the continuation of such ongoing disparities, these reports have recommended new approaches to justice based on rehabilitative rather than punitive modalities. Such innovations hold the promise of healing and restoration and are more aligned with Hawai'i's core values.

As a response to those recommendations, this bill aims to establish a new Institute at the University of Hawai'i. Ho'okaulike: A Criminal Legal Institute for Restoration and Healing is a collaboration between the William S. Richardson School of Law and Hawai'inuiākea School of Hawaiian Knowledge. Ho'okaulike would address the overrepresentation of Native Hawaiian, Pacific Islander, and other communities of color in the State's carceral and correctional system. It would work to eliminate disparities and promote healing and restoration through research, data analysis, and community-informed and engaged dialogue, problem-solving, and advocacy to help solve the social justice issues impacting the Hawaiian criminal legal system. The goal is to create an inclusive and fair criminal legal system devoted to restoration and healing and the elimination of disparities, particularly those facing Native Hawaiians, Pacific Islander communities, and other people of color in the criminal legal system.

The emphasis on restoration and healing recognizes the complexity of challenges often confronting people involved with the criminal legal system, such as the social determinants of health (economic instability, access to quality education, access to quality health care, neighborhood contexts and built environments, and social and community supports and context). These challenges often disparately impact communities of color and have contributed to intergenerational poverty, grief, fear, trauma, and alienation from, and distrust of, the criminal legal system. With Ho'okaulike, we have an opportunity to create a place-based approach to criminal justice grounded in restorative, inclusive, and healing interdisciplinary frameworks, an approach which recognizes and respects the distinct and unique history of this State.

This collaboration would therefore recognize that Hawai'i is prepared to become an epicenter of critical thought and transformative action in criminal justice reform by taking a forward-looking approach to solving these persistent problems. Through an interdisciplinary approach, with a specialized understanding of the criminal legal system, its history, and the ways in which it interacts with multiple social determinants in communities in this state, Ho'okaulike would position Hawai'i to be on the vanguard of justice innovation. Through Ho'okaulike, the State and the University of Hawai'i can be leaders in envisioning, creating, and implementing transformative criminal justice reform that furthers inclusive healing modalities, restoration, and ultimately community uplift.



February 10, 2022

TESTIMONY IN SUPPORT OF HB 2015 HD1
ESTABLISHING HOʻOKAULIKE
JONATHAN K. KAMAKAWIWOʻOLE OSORIO, PHD

Aloha Chair Nakashima, Vice Chair Matayoshi and members of the House Judiciary and Hawaiian Affairs Committee. My name is Jonathan Osorio, the dean of the Hawaiʻinuiākea School of Hawaiian Knowledge at the University of Hawaiʻi Mānoa and I am here to testify enthusiastically in support of HB 2015 HD1 establishing Hoʻokaulike, a Criminal Legal System Institute for Restoration and Healing at the University of Hawaiʻi.

I will not repeat testimony that I gave before the House Higher Education and Technology committee beyond reminding this committee that Native Hawaiians and other Pacific Islanders resident in Hawaiʻi continue to bear the brunt of criminal legal practices and ideas that have not significantly changed since their introduction by colonial movements and forces in the early 1800s. Social theories that focus on deterrence and punishment but pay little to no attention to the realities of poverty and insufficient social services in particular communities have resulted in practices that maintain high levels of prosecution and incarceration from within those communities.

The focus of HB 2015 SD1 is to create a way for the State to embark on meaningful criminal legal reform through a process informed by the real needs of poorer communities conspicuous not just by their privation but by the high concentrations of Native Hawaiians and Pacific Islanders. In addition, the creation of this institute at the Law School will enable focused research into alternative models of public safety, many of them already existing and thriving in native communities in North America and the Pacific.

Hoʻokaulike would be a multi-disciplinary approach to community strengthening and would work in two ways. As an “outside-in system” the institute would be a community based work that would provide a public policy platform connecting people to information and other resources and a public education source to help change public perception. The institute faculty and staff would identify and mobilize existing community organizations willing to expand their services to house, care, or support new programs; seed alternative community-based peace-keeping resources, alternative courts and councils, diversion pathways, and social enterprise programs; and identify alternative funding sources for community programs.

As an “inside-out” institution based approach Hoʻokaulike would take the lead in formulating university-partnered education and ʻaina based programs for incarcerated individuals, while designing university-partnered education for peace keepers and public safety employees. Finally, the institute would work with police, prosecutors, defense attorneys, and judges to develop workable diversion practices.

This institute belongs at UH Mānoa and especially at the School of Law and Hawaiʻinuiākea which have demonstrated a history of developing highly effective and community oriented institutes of research and community engagement such as Ka Huli Ao, Environmental Law Program, Elderlaw,

the Dana Naone Hall Chair in Hawaiian Studies, Literature and Environment, and the Gladys A Brandt Chair in Polynesian Studies. We have other existing University partners including the Center for Creative Design and potential partners in the School of Social Work, Public Health, Ethnic Studies and Indigenous Politics and the East West Center's Pacific Islanders in Development. Ho'okaulike will engage and work between state, city agencies, and community organizations to address the system as a whole with the goal of alleviating the state carceral system by increasing community capabilities. Finally, I would point out that no other entity within the State has the kuleana or capacity to do this.

HB 2015 makes it possible for the university to add its resources and expertise to an urgent problem facing the State of Hawai'i as well as addressing a dreadful and historic cruelty to the Hawaiian people and our Pacific Island cousins. But it is also in the interest of the whole community of Hawai'i residents to construct a better way to deal with crime and the violences that arise from poverty, and the hopelessness and despair which poverty produces. It is as Law School Dean Nelson describes, a way to begin to heal individuals, families and communities long oppressed by inequitable systems that originated with colonization and the seizure of our people's lands and resources.

I urge this committee to pass HB 2015 HD1.

Jonathan K Osorio, PhD
Dean, Hawai'inuiākea School of Hawaiian Knowledge
University of Hawai'i Mānoa

LATE



Hawai'i

Committee: Committee on Judiciary & Hawaiian Affairs
Hearing Date/Time: Friday, February 11, 2022 at 2:15pm
Place: Via Videoconference
Re: Testimony of the ACLU of Hawai'i with comments on HB2015, HD1

Dear Chair Nakashima, Vice Chair Matayoshi, and Committee Members:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") supports HB 2015 that would establish Ho'okaulike: A Criminal Legal System Institute for Restoration and Healing at the William S. Richardson School of Law.

The ACLU of Hawai'i is committed to transforming Hawaii's criminal legal system and building a new vision of safety and justice. We advocate for the State to shift spending priorities away from mass criminalization and incarceration that disparately impacts Native Hawaiians, Pacific Islanders and Blacks, and low-income people, towards investments in education, housing, health care, human services and restorative justice in our communities.

Over the years, the Legislature has created multiple task forces and supported initiatives for the purpose of examining and improving the state's criminal legal system and reducing the carceral population. These include:

- Justice Reinvestment Initiative (2011)
- Native Hawaiian Justice Task Force (2012)
- H.C.R. 85 Task Force (2018)
- Criminal Pretrial Task Force (2018)
- The Hawaii Correctional Oversight Commission (2020)
- Criminal Justice Research Institute

Additionally, numerous reports and literature have highlighted the racial bias and disparities that exists within Hawai'i's criminal legal system – and disparately targets Native Hawaiians.

- *Crime and Justice Related to Hawaiians and Part-Hawaiians in the State of Hawai'i*, Dr. Gene Kassebaum, A Report Prepared for Alu Like, Inc., Study supported by a grant from the Department of Health and Human Services, Office of Human Development, Administration for Native Americans (April 1981)
- *Racial Tensions and Public Concern about Crime Control in Hawaii*, Dr. Gene Kassebaum, Department of Sociology, University of Hawaii at Manoa (1981)
- *The Colonial Carceral and Prison Politics in Hawai'i*, Dr. RaeDeen Keahiolalo Dissertation (2008)

- *The Disparate Treatment of Native Hawaiians in the Criminal Justice System*, Office of Hawaiian Affairs, Justice Policy Institute, Georgetown Law, University of Hawaii at Manoa and Georgetown Law, 2010.
- *Understanding Women's Pathways into Crime and What Works to Improve Outcomes Among Women in the Criminal Justice System*, Criminal Justice Research Institute, Dr. Erin Harbinson and Aerielle Reynolds, MS. (2021-2022). **In 2019, Native Hawaiian women were 19% of the female general population in Hawai'i. However, they comprise 44% of the female incarcerated population in Hawai'i.**

While these Commissions and initiatives have issued a plethora of recommendations to reduce the jail and prison population, and eliminate racial disparities within our criminal legal system, these recommendations have been wholly ignored and/or underfunded.

On the other hand, the State is considering building a new jail to replace O'ahu Community Correctional Center estimated to cost \$1 billion dollars. The State has already spent \$10 MIL and is asking for \$15 MIL more this session. This billion dollar price tag does not include the cost of operations. We spend \$219 a day or almost \$80,000 a year to incarcerate an adult in our jails and prisons. (For perspective, we spend less than \$10,000 to educate our keiki in our public schools.)

Instead of spending millions of taxpayer dollars on building new or expanding jails and prisons, let's invest in data driven strategies, as well as innovative solutions to reduce our carceral landscape. This measure is a significant step towards shifting from away from a system of punishment to a system of restorative justice and healing, taking into account the nuanced history of Hawai'i and oppression of Native Hawaiians through the penal system for over a century.

Please pass HB 2015, HD1. Thank you for the opportunity to testify.

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota
Policy Director
ACLU of Hawai'i
cshirota@acluhawaii.org

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.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522.5900
F: 808.522.5909
E: office@acluhawaii.org
www.acluhawaii.org

HB-2015-HD-1

Submitted on: 2/10/2022 9:30:54 AM

Testimony for JHA on 2/11/2022 2:15:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Barbara Polk	Individual	Support	No

Comments:

I suport HB2015 and urge the committee to pass it. It is past time to consider ways to make our criminal justice system more just for Hawaiians and disadvantaged groups who are over-represented in the current system.

Robert K. Merce
2467Aha Aina Place
Honolulu, HI 96821

Testimony Before The
Committee on Judiciary & Hawaiian Affairs
Friday, February 11, 2022
2:15 p.m.
Via Video Conference
In Strong Support of HB 2516

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee.

My name is Robert Merce. I am a retired lawyer and served as vice chair of the HCR 85 Task Force on Prison Reform and wrote the Task Force's final report to the 2019 Legislature. I have also served on the Board of Directors of the Native Hawaiian Legal Corp for eleven years, although I am testifying today in my individual capacity.

I strongly support HB 2015 which establishes Hookaulike: A Criminal Legal System Institute for Restoration and Healing within the William S Richardson School of Law.

Decades of studies have documented the overrepresentation and disparate treatment of Native Hawaiians in our criminal legal system and called for a cultural shift away from a punitive system to one that restores, heals, and strengthens individuals and communities. The Hookaulike Criminal Legal System Institute for Restoration and Healing would be the perfect place to develop a better justice system by bringing scholars in law and Native Hawaiian culture together with members of the community.

Decades of Studies And Reports Have Called For A More Just and Equitable Legal System

The Landmark 2010 OHA Study. Over a decade ago the Office of Hawaiian Affairs (OHA) published a three- year collaborative study that showed that Native Hawaiians are overrepresented at every stage of Hawai'i's criminal justice system.¹ The disproportionality begins with arrest and accumulates at each stage in the system. Native Hawaiians make up about 18% of the adult population of the State, but 37% of the incarcerated population. Native Hawaiians receive longer prison sentences than most other racial or ethnic groups, they are more likely to go to prison if they are found guilty of a crime, and they are disproportionately represented in the out-of-state prison population. They serve more time on probation than any other ethnic group except Hispanics, and they make up the largest percentage of people who return to prison for parole violations.

The 2010 OHA study found that:

To reduce the harmful effects of the criminal justice system on Native Hawaiians and all people, Hawai'i must take action, and seek alternative solutions to prison.

Assistance and training is needed in law enforcement, holistic interventions need to be implemented and evaluated, and a cultural shift in the way we imprison a person must change. If not, we will exacerbate prison over-crowding, and continue to foster the incarceration of generations to come.²

The Native Hawaiian Justice Task Force. In 2011 the Legislature created the Native Hawaiian Justice Task Force (NHJTF) to make recommendations on how to address the overrepresentation of Native Hawaiians in the criminal justice system. The NHJTF held hearings throughout the State, and in 2012 issued a report that contained 48 findings and 38 recommendations, ranging from state support for early intervention programs to assist Native Hawaiians to dozens of changes to the criminal justice and correctional systems.³ I am not aware of a single recommendations that has been implement.

The HCR 85 Task Force. In 2019 the HCR 85 Task Force on Prison Reform recommended that Native Hawaiian values and concepts such as aloha, pu‘uhonua, and ho‘oponopono should be “at the forefront of our thinking as we seek ways to address the problems of 21st century pa‘ahao. Our correctional system should be rooted in the values of Hawai‘i and should reflect the Aloha Spirit in all of its manifestations.”⁴

The HCR 85 Task Force proposed a new vision statement for Hawaii’s justice system that emphasized **reconciliation** and **restoration**:

A justice system that is rooted in our cultural values, protects our rights and liberties, promotes safety, peace, understanding, and *reconciliation*, and through its policies, procedures, decisions and personnel *restores* communities and affirms the value of every person who comes into contact with the system.⁵

The Task Force explained that this vision should “focus on building, strengthening, and repairing Communities” instead of simply administering laws and maintaining order.

The vision of the HCR 85 Task Force and the recommendations of the Office of Hawaiian Affairs and the Native Hawaiian Justice Task Force are as vital and important today as ever, and they need a home where scholars in law and Hawaiian culture can come together with the community to develop a more just and equitable system. I can think of no better place for that to happen than at the Hookaulike Institute for Reconciliation and Healing at the William S Richardson School of Law.

Thank you for allowing me to testify on this important bill.

ENDNOTES

¹ Justice Policy Institute, Myron B. Thompson School of Social Work, and Georgetown Law, “The Disparate Treatment of Native Hawaiians in the Criminal Justice System” (Honolulu: Office of Hawaiian Affairs, 2010).

² Justice Policy Institute, *supra*. Executive Summary at 1.

³ Native Hawaiian Justice Task Force, “The Native Hawaiian Justice Task Force Report,” 2020. http://lrbhawaii.info/reports/legprts/oha/2013/act170_slh11.pdf.

⁴ House Concurrent Resolution (HCR) 85 Task Force on Prison Reform, *Creating Better Outcomes, Safer Communities*, Honolulu, Hawaii: December 2018.

⁵ HCR 85 Task Force Report, *supra*. at 11.

HB-2015-HD-1

Submitted on: 2/10/2022 3:17:31 PM

Testimony for JHA on 2/11/2022 2:15:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Diana Bethel	Individual	Support	No

Comments:

Aloha Chair Nakashima, Vice-Chair Matayoshi, and Members of the Committee,

I am writing in strong support of HB 2015 HD1 which would establish and fund the Hookaulike: A Criminal Legal System Institute for Restoration and Healing, at the University of Hawaii William S. Richardson School of Law.

Millions of dollars have been spent on our criminal justice system with little discernible improvement. The problem is a lack of understanding of the immigrant and indigenous communities that are overrepresented in our criminal justice system.

The Hookaulike Institute would focus on disadvantaged communities, take an interdisciplinary and wholistic approach to study the major issues that lead to overincarceration, and identify proven strategies that will help inform more effective criminal justice policies. Numerous efforts have pointed out the realities of our unjust and inhumane criminal justice policies and have made excellent recommendations that would improve our criminal justice system, but apparently more is needed to educate policy makers and the public. The Hookaulike Institute will provide comprehensive research into local conditions and successful programs in local communities. Given that Hawaii incarcerates a higher percentage of people than any other state or any other democracy on earth, it is time that the legislature get criminal justice policy right in the interest of public safety as well as Hawaii taxpayers.

Please pass HB 2015. Mahalo.

Diana Bethel, Honolulu

LATE

HB-2015-HD-1

Submitted on: 2/11/2022 1:38:01 PM

Testimony for JHA on 2/11/2022 2:15:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kamaile Maldonado	Individual	Support	No

Comments:

Aloha mai kākou e Chair Nakashima and members of the Judiciary and Hawaiian Affairs committee. My name is Kamaile Maldonado and I am a Native Hawaiian lawyer, a doctoral student in the Indigenous Peoples’ Law & Policy Program at the University of Arizona, and an advocate for the transformation of Hawai’i’s criminal justice system. I write in strong **SUPPORT** for HB 2015, which would create the Ho‘okaulike Criminal Legal System Institute for Restoration and Healing ("Institute") at the University of Hawai’i William S. Richardson School of Law. This measure would invest much needed resources into the development of ideas for the transformation Hawai’i’s criminal justice system that will be rooted in Hawaiian culture and help heal Hawai’i

Over the last five decades, countless reports by government commissions, legislative task forces, and community non-profit organizations have repeatedly reiterated that Hawai’i’s criminal justice system is harmful and ineffective. Our “justice” system is rooted in Hawai’i’s colonial history and remains a salient dimension of governance in Hawai’i, especially over Native Hawaiians. As a colonial structure, Hawai’i’s criminal justice system once directly targeted Kanaka Maoli people for segregation and control. Unfortunately, Native Hawaiians continue to bear the heaviest burden of harm imposed by the colonial carceral system today. Despite decades of study on the roots and harms of this system, as well as calls for uprooting and transformation from across the pae ‘aina, change has so far been incremental and ineffectual.

Although past reports by the Native Hawaiian Justice Task Force, the HCR 85 Task Force on Prison Reform, OHA, and Alu Like have provided specific recommendations for improvement of the current system to bring us closer to Hawaiian concepts of justice, all reports agreed that deeper study and sustained commitment on the part of the state would be needed for true huluhia to occur. A root system as deep and complex as that underlying our shared concepts of "justice" will require many dedicated hands to uproot and many imaginative minds can help us plant something new.

Indigenous peoples around the world have developed innovative legal structures and cultural solutions to transform or provide completely self-determined alternatives to colonial systems of justice. These systems have demonstrated impressive success in improving community safety. More importantly, these systems promote Native peoples’ self-determination to address the needs within their communities and enable meaningful healing of intergenerational trauma. The development of solutions that are culturally relevant and restoration-oriented will require a substantial investment of kānaka time, knowledge, and resources. Historically, the state has done

little to support this discussion and further the development of these ideas. However, **HB2015 will provide funding for focused and long-term study of systemic transformational ideas rooted in Hawaiian knowledge, supported by previous task forces and commissions, and (similar to evolving customs) already being modeled in Native nations all over the world.** Through this bill, and its investment in further development of Maoli ideology and practical methodology, the state has an opportunity to invest in community-based innovation for criminal justice system transformation and communal rehabilitation and restoration.

HB2015 represents an important next step toward the goals set by the Native Hawaiian Justice and HCR85 Task Forces, among others, for systemic reform and evolution. This measure could be further strengthened by broadening its designated scope for the proposed Institute's work. Respectfully, I offer the following proposed amendments:

- Firstly, the measure sometimes characterizes the Institute's focus as the general "criminal legal system", whereas, in other provisions, the scope of focus for the Institute and its funding may be somewhat narrower, perhaps unintentionally. For example, throughout Subsection (c) (page 2, line 21-page 3, line13), and in the appropriation language contained in Section 3 (page 4, line 17-page 5, line 2), the bill provisions charge the Institute to examine policies and practices regarding policing, prosecution, and corrections, but may exclude the arms of the system involving community-based custody, supervision, and surveillance (e.g., pre-trial supervision, probation, parole, etc.) as well as the influence of state policies, programs, and actors in the critical pre-entry and re-entry periods. To address this, I recommend providing more comprehensive language identifying the Institute's intended focus areas, or allowing the Institute to examine and address systemic issues throughout the "criminal legal system". This expansion of scope will ensure that researchers will have the flexibility they need to assess layered and broad ranging impacts of policies and practices throughout the entire criminal justice system.
- Additionally, I believe that the Institute might be strengthened if its director and faculty had the option to hire graduate research assistants from other departments within the University system—such as the Colleges of Social Work, Political Science, and Public Health—to provide access to students with other areas of expertise who might strengthen the Institute's long-term study. On this matter, I defer to the UH faculty proponents of this measure for their guidance on the Institute's needs and recommended structure.

For these reasons, I strongly support HB2015 and the state commitment it represents. Mahalo nui for the opportunity to testify.