



The Judiciary, State of Hawai‘i

Testimony to the Thirty-First State Legislature, 2022 Regular Session

House Committee on Judiciary & Hawaiian Affairs

Representative Mark Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

Thursday, March 24, 2022 at 2:00 p.m.
Conference Room 325 & Videoconference

by
Rodney A. Maile
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Concurrent Resolution No. 143, Urging the Judiciary to Partner with Supporting Agencies and Request Grant Funds Under the Victims of Crime Act to Establish and Support a Restorative Justice Program in Each County to Allow Victims and Offenders an Opportunity to Participate in Restorative Justice

Judiciary's Position:

The Hawai‘i State Judiciary supports the intent of House Concurrent Resolution No. 143, but provides comments to relay our concerns about the limited scope of the plan for achieving funding to establish and support restorative justice programs in each county.

The Hawai‘i State Judiciary has long appreciated the value of allowing victims and offenders the opportunity to participate in restorative justice. To this end, the Judiciary supported measures in 2019 and 2020, such as House Bill No. 634 and its companion bill, Senate Bill No. 737, and testified in support of convening a task force that would involve a core group of defined community partners who would research and identify existing restorative justice models; identify goals and objectives responsive to our specific needs; and develop policies and procedures. We remain ready, willing and able to support and/or convene such a task force.

We are concerned, however, that HCR No. 143 confers upon the Judiciary a more targeted task, and that is for the Judiciary to work with “supporting agencies” to “request grant



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funds under the Victims of Crime Act (VOCA) to establish and support a restorative justice program in each county to allow victims and offenders an opportunity to participate in restorative justice.”

While we continue to support efforts to promote restorative justice, we understand that funding available through VOCA has significantly decreased in recent years. Further, we are unaware whether VOCA currently funds restorative justice projects.

VOCA rules stress the importance of identifying goals and objectives specific to Hawaii's needs before applying for grant funds. While a task force may identify potential sources of funding specific to restorative justice program(s) optimal for Hawai'i, we are concerned that HCR No. 143 specifies only funding through VOCA and that, given current limitations on available VOCA funding, this may not be a fruitful target for promoting restorative justice within our communities.

Moreover, in light of strict time requirements for VOCA requests and the high degree of coordination among partners required for a successful request for VOCA funds, a task force at the outset may build buy-in and lead to a defined group of supporting agencies and the most impactful forums for restorative justice programming.

Thank you for the opportunity to express our concerns about HCR No. 143.

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair

HEARING DATE: Thursday, March 24, 2022
TIME: 2:00 PM

SUPPORT FOR HCR143

Hawai'i Friends of Restorative Justice (HFRJ) supports this resolution to establish restorative justice programs on all counties.

HFRJ was incorporated as a non-profit in 1981 by a group of educators and lawyers testing an education program ([Street Law](#)) to divert youth under Honolulu's family court jurisdiction. Since then, HFRJ has developed and studied numerous educational and restorative justice projects to determine evidence-based methods for assisting people affected by crime and injustice. Other countries and states have replicated HFRJ's work described in over 50 publications.

HFRJ does not support embedding restorative programs into government agencies because of the cost, lack of trust by the parties, and the loss of creativity that community based programming provides. HFRJ, therefore, recommends that this resolution be amended to provide that the:

"Judiciary is urged to partner with supporting agencies and request grant funds under the Victims of Crime Act to establish and support a [community based] restorative justice program in each county to allow victims and offenders an opportunity to participate in restorative justice."

We urge the Committee to please pass this resolution with this amendment. If you have any questions about HFRJ's support, please contact me at lorenn@hawaii.edu.

Mahalo for your public service.

Aloha, Lorenn Walker, JD, MPH, Director HFRJ

HCR-143

Submitted on: 3/23/2022 8:24:41 AM

Testimony for JHA on 3/24/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
VINCE WILLIAM RAZO	Inmate Initiative, INC.	Support	Written Testimony Only

Comments:

Aloha, I support HCR143. I believe a program like this would be able to help, the healing process for victims and, at the sametime, offenders would be able to learn the ramifacations of what their crimes has done to their victims. Mahalo.

LATE

HCR-143

Submitted on: 3/23/2022 9:33:02 PM

Testimony for JHA on 3/24/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Laurie Tochiki	Individual	Support	Written Testimony Only

Comments:

I am writing in support of this resolution. I am currently Executive Director of EPIC `Ohana, a non-profit organization serving families and young people in the child welfare system. For 25 years, EPIC `Ohana has been providing `Ohana Conferences, a form of restorative justice. Restorative Justice practices are an opportunity to reconnect when there has been disruption and trauma. I am one of the founders of `Ohana Conferencing.

Our work began in 1996 as a collaborative demonstration project between the Department of Human Services and the Family Court. When the demonstration project was successful and the opportunity to scale to a statewide program occurred, a wise decision was made to embed the practice in a neutral non-governmental agency. Many similar programs were launched around the world, but those programs embedded in court or in governmental agencies have not survived, or have diminished impact.

Therefore, I join my colleagues at the Hawaii Friends for Restorative Justice in requesting an amendment that would promote the independence and innovation needed for this important work. I therefore request that the resolution be amended to provide that:

“Judiciary is urged to partner with supporting agencies and request grant funds under the Victims of Crime Act to establish and support a [community based] restorative justice program in each county to allow victims and offenders an opportunity to participate in restorative justice.”

Thank you so much.

Laurie Arial Tochiki, JD, Ph.D

LATE

HCR-143

Submitted on: 3/24/2022 9:59:16 AM

Testimony for JHA on 3/24/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carrie Ann Shirota	ACLU of Hawai'i	Comments	Written Testimony Only

Comments:

Aloha Chair Nakashima, Vice Chair Matayoshi and Committee Members:

The ACLU of Hawai'i offers comments on **HCR 143**.

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 other people of color and the poor - towards rehabilitation, education, housing, health and human services, and restorative justice in the community. We also support strategies to end the school to prison pipeline.

The ACLU of Hawai'i acknowledges that crime leaves lasting impacts on victim-survivors, and strongly advocates for Restorative Justice approaches to addressing harm that works with everyone involved toward true justice, healing, and accountability.

Sadly, Restorative Justice programs and practices are limited in Hawai'i, even though people who have survived harm and abuse who participate in restorative justice typically express higher levels of satisfaction than those whose cases are handled in the traditional criminal legal system. These processes center agency, liberation, dignity, and transformation and involve facilitated dialogue, as well as working one-on-one with survivors on their healing journey, and one-on-one with those who have caused harm and are looking to heal and explore accountability for themselves.

While the ACLU of Hawai'i strongly supports the expansion of Restorative Justice practices in Hawai'i, Restorative Justice should be led and delivered through community based institutions and programs.

In Hawai'i, we have Hawai'i Friends of Restorative Justice. We also have culturally based practitioners skilled in ho'oponopono.

A wonderful example of what is possible is the partnernship between Restore Oakland and several Restorative Justice practitioners such as RJOY. Please see links below to learn more about these community based partnerships.

<https://ellabakercenter.org/restore-oakland/>

A joint initiative between Ella Baker Center for Human Rights and Restaurant Opportunities Centers United (ROC United), Restore Oakland is a community advocacy and training center that will empower Bay Area community members to transform our economic and justice systems and make a safe and secure future possible for themselves and for their families.

<https://rjoyoakland.org/>

The RJ in Schools Learning Community, sponsored by The California Endowment, is designed to create a state-wide network for RJ practitioners, educators, and administrators. Our role in this initiative is to provide resources for developing RJ programs in schools districts across the state of California. RJ holds monthly webinars for RJ training, creating a network forum for dialogue, and providing a database with real evidence of the work being done to fight institutions that perpetuate punitive systems of oppression to black and brown children.

<https://impactjustice.org/impact/restorative-justice/>

The Restorative Justice Project at Impact Justice is the only national technical assistance and training project that partners with communities across the nation to address harm using pre-charge restorative justice diversion programs.

The combination of powerful movements, political advocacy, and decades of incremental justice reforms have pushed national conversations to move away from punitive criminal legal system responses and closer to healing and wellbeing. Now more than ever, there is a need to invest in community-held alternatives that can hold and address harms, build accountability, and promote a restorative path forward.

At this critical time in our country, the Restorative Justice Project is working to shift the paradigm from seeing crime as a violation of the law to understanding crime as harm that requires individual, interpersonal, community, and system-wide accountability and healing. Through our approach of restorative justice diversion, survivors have a voice in their healing process and people who have caused harm are accountable for the harm they've caused without being pushed into the juvenile or criminal legal systems.

The ACLU supports Restorative Justice process and programs in Hawai'i in partnership with community-based institution and programs.

Mahalo,

Carrie Ann Shirota

ACLU Policy Director

HCR-143

Submitted on: 3/22/2022 10:59:35 AM

Testimony for JHA on 3/24/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeff Heisel	Individual	Support	Written Testimony Only

Comments:

Please support this wonderful bill. Restorative Justice not only helps individuals, but it helps the whole community to thrive.

Restorative justice conferencing Adult Criminal Justice

Benefit-cost estimates updated December 2018. Literature review updated February 2017.

Current estimates replace old estimates. Numbers will change over time as a result of model inputs and monetization methods.

The WSIPP benefit-cost analysis examines, on an apples-to-apples basis, the monetary value of programs or policies to determine whether the benefits from the program exceed its costs. WSIPP's research approach to identifying evidence-based programs and policies has three main steps. First, we determine "what works" (and what does not work) to improve outcomes using a statistical technique called meta-analysis. Second, we calculate whether the benefits of a program exceed its costs. Third, we estimate the risk of investing in a program by testing the sensitivity of our results. For more detail on our methods, see our [Technical Documentation](#).

Program Description: Restorative justice conferences are face-to-face meetings, typically between the victim and the convicted individual, facilitated by a professionally trained mediator. The purpose of conferences is to discuss the harm done and to come to an agreement between all parties about reparations. Conferences may also include other supporting persons or community members to resolve the harm done by the convicted individual. Conferences can take place during incarceration, before sentencing following a guilty plea, as a diversion program, or during re-entry. This intervention is brief, typically one or two conferences that last an hour or two.

Benefit-Cost Summary Statistics Per Participant

Benefits to:

Taxpayers	\$868	Benefit to cost ratio	\$2.01
Participants	\$0	Benefits minus costs	\$1,145
Others	\$1,535	Chance the program will produce	
Indirect	(\$128)	benefits greater than the costs	57 %
Total benefits	\$2,274		
Net program cost	(\$1,129)		
Benefits minus cost	\$1,145		

The estimates shown are present value, life cycle benefits and costs. All dollars are expressed in the base year chosen for this analysis (2017). The chance the benefits exceed the costs are derived from a Monte Carlo risk analysis. The details on this, as well as the economic discount rates and other relevant parameters are described in our [Technical Documentation](#).

Detailed Monetary Benefit Estimates Per Participant

Benefits from changes to: ¹	Benefits to:				
	Participants	Taxpayers	Others ²	Indirect ³	Total
Crime	\$0	\$868	\$1,535	\$432	\$2,835
Adjustment for deadweight cost of program	\$0	\$0	\$0	(\$560)	(\$560)
Totals	\$0	\$868	\$1,535	(\$128)	\$2,274

¹In addition to the outcomes measured in the meta-analysis table, WSIPP measures benefits and costs estimated from other outcomes associated with those reported in the evaluation literature. For example, empirical research demonstrates that high school graduation leads to reduced crime. These associated measures provide a more complete picture of the detailed costs and benefits of the program.

²"Others" includes benefits to people other than taxpayers and participants. Depending on the program, it could include reductions in crime victimization, the economic benefits from a more educated workforce, and the benefits from employer-paid health insurance.

³"Indirect benefits" includes estimates of the net changes in the value of a statistical life and net changes in the deadweight costs of taxation.

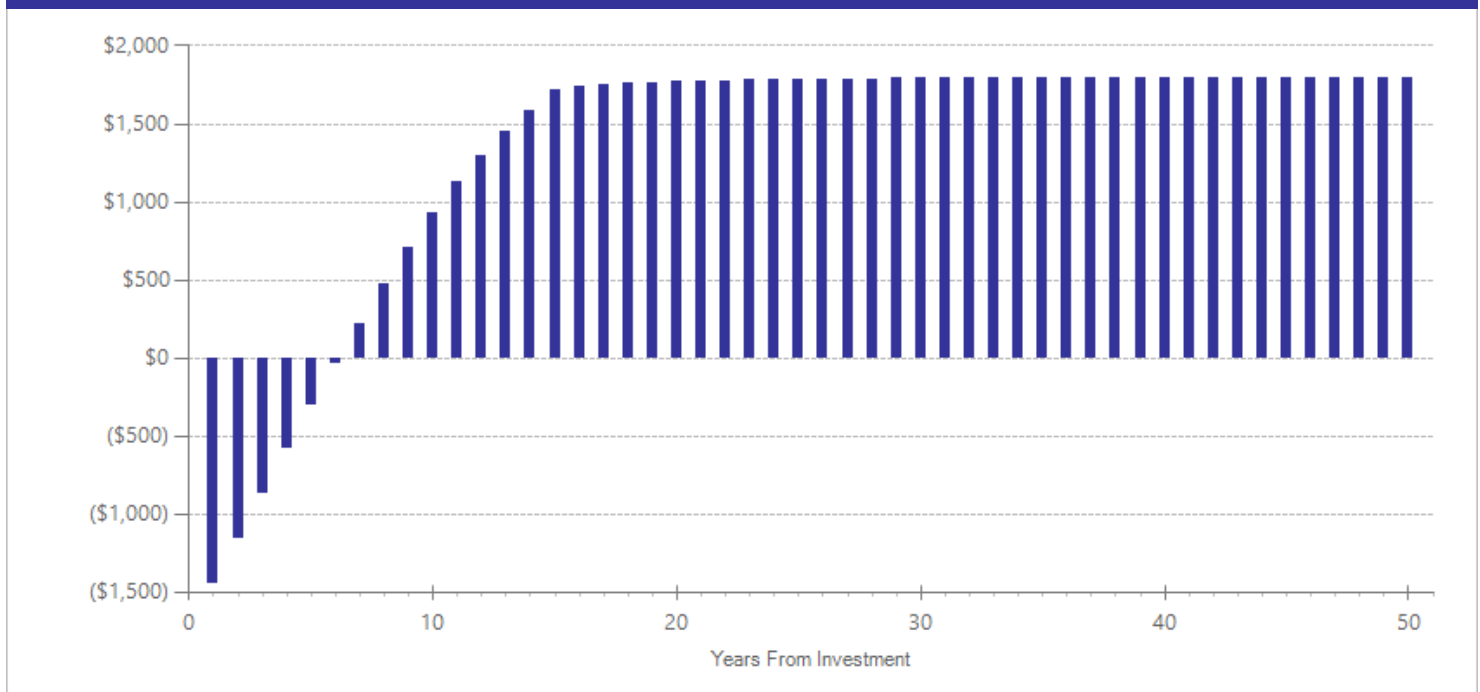
Detailed Annual Cost Estimates Per Participant

	Annual cost	Year dollars	Summary	
Program costs	\$1,078	2013	Present value of net program costs (in 2017 dollars)	(\$1,129)
Comparison costs	\$0	2013	Cost range (+ or -)	10 %

Per-participant cost from the Dispute Resolution Center of Thurston County: 2013 Annual Report. Olympia, WA.

The figures shown are estimates of the costs to implement programs in Washington. The comparison group costs reflect either no treatment or treatment as usual, depending on how effect sizes were calculated in the meta-analysis. The cost range reported above reflects potential variation or uncertainty in the cost estimate; more detail can be found in our [Technical Documentation](#).

Detailed Annual Cost Estimates Per Participant



The graph above illustrates the estimated cumulative net benefits per-participant for the first fifty years beyond the initial investment in the program. We present these cash flows in non-discounted dollars to simplify the "break-even" point from a budgeting perspective. If the dollars are negative (bars below \$0 line), the cumulative benefits do not outweigh the cost of the program up to that point in time. The program breaks even when the dollars reach \$0. At this point, the total benefits to participants, taxpayers, and others, are equal to the cost of the program. If the dollars are above \$0, the benefits of the program exceed the initial investment.

Meta-Analysis of Program Effects

Outcomes measured	Treatment age	No. of effect sizes	Treatment N	Adjusted effect sizes and standard errors used in the benefit-cost analysis						Unadjusted effect size (random effects model)	
				First time ES is estimated			Second time ES is estimated			ES	p-value
				ES	SE	Age	ES	SE	Age		
Crime	30	6	266	-0.072	0.154	32	-0.072	0.154	42	-0.072	0.641

Meta-analysis is a statistical method to combine the results from separate studies on a program, policy, or topic in order to estimate its effect on an outcome. WSIPP systematically evaluates all credible evaluations we can locate on each topic. The outcomes measured are the types of program impacts that were measured in the research literature (for example, crime or educational attainment). Treatment N represents the total number of individuals or units in the treatment group across the included studies.

An effect size (ES) is a standard metric that summarizes the degree to which a program or policy affects a measured outcome. If the effect size is positive, the outcome increases. If the effect size is negative, the outcome decreases.

Adjusted effect sizes are used to calculate the benefits from our benefit cost model. WSIPP may adjust effect sizes based on methodological characteristics of the study. For example, we may adjust effect sizes when a study has a weak research design or when the program developer is involved in the research. The magnitude of these adjustments varies depending on the topic area.

WSIPP may also adjust the second ES measurement. Research shows the magnitude of some effect sizes decrease over time. For those effect sizes, we estimate outcome-based adjustments which we apply between the first time ES is estimated and the second time ES is estimated. We also report the unadjusted effect size to show the effect sizes before any adjustments have been made. More details about these adjustments can be found in our [Technical Documentation](#).

Citations Used in the Meta-Analysis

- Shapland, J., Atkinson, A., Atkinson, H., Dignan, J., Edwards, L., Hibbert, J., . . . Sorsby, A. (2008). *Does restorative justice affect reconviction: The fourth report from the evaluation of three schemes* (Ministry of Justice Research Series). Sheffield, United Kingdom: University of Sheffield, Centre for Criminological Research.
- Sherman, L.W., Strang, H., & Woods, D.J. (2000). *Recidivism patterns in the Canberra Reintegrative Shaming Experiments (RISE)*. Canberra, Australia: Centre for Restorative Justice, Research School of Social Sciences, Australian National University.

For further information, contact:
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Washington State Institute for Public Policy

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HCR-143

Submitted on: 3/23/2022 1:43:25 PM

Testimony for JHA on 3/24/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Doug Nelson	Individual	Support	Written Testimony Only

Comments:

I strongly support this effort, as it will greatly benefit healing within the community.