

STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

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

**TESTIMONY ON SENATE BILL 3344  
RELATING TO CORRECTIONS.**

by  
Max N. Otani, Director

Senate Committee on Judiciary  
Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair

Thursday, March 3, 2022; 9:30 a.m.  
Via Videoconference

Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee:

The Department of Public Safety (PSD) opposes Senate Bill (SB) 3344, which seeks to restrict the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specific exceptions. This measure also requires PSD to use appropriate alternatives to “solitary confinement” for vulnerable inmates as defined in SB 3344 and requires a progress report on full compliance with the Act to the 2023 Legislature.

PSD opposes SB 3344 for the following reasons. First, SB 3344 has many similarities with PSD’s established policies and procedures, which are periodically reviewed and updated. The Department’s policies and procedures align with guidelines of the National Institute of Corrections (NIC) and the American Correctional Association (ACA). PSD’s Correctional Policy (COR.11.01) Administrative Segregation and Disciplinary Segregation is not confidential and is posted on PSD’s website for anyone to access and review.

PSD notes, the term “solitary confinement” is no longer used; instead, there are now several levels of confinement used nationwide that are more specifically described, both to ensure the safety and well-being of inmates and to address

unacceptable, disruptive, and violent behaviors displayed by some inmates. As written, SB 3344 would restrict PSD's ability to ensure the health and safety of inmates; placing unneeded barriers which would prevent PSD from acting promptly to address volatile situations that routinely occur.

Recently, there have been unprovoked attacks by inmates on correctional staff resulting in serious injuries. One officer suffered serious facial structural injuries, and another was hospitalized from being pushed down a flight of stairs as he rushed to intervene and assist an inmate being assaulted. A nurse was attacked for no apparent reason, requiring her to go to the hospital, while she attempted to provide treatment services. If enacted, the requirements of SB 3344 would have hindered or delayed PSD staff intervention, which would increase the levels of danger and disruption to staff and the facilities.

The Department notes, age, developmental disability, and mental illness have very little to do with the State's requirement for the protection of others from harm, assault, and even loss of life. PSD has the responsibility to assure the safety and well-being of all offenders. Separating and monitoring offenders exhibiting inappropriate behaviors are necessary for the greater good and the protection of those offenders. In attempting to cover most scenarios, the measure's requirements tend toward generalities, which run counter to the updated national standards which are moving towards more specificity for administrative and disciplinary segregation. PSD's current policies and procedures regarding inmate classification, housing, internal disciplinary processes, including the inmate's ability to avail themselves of the complaint and grievance processes, all help to ensure inmates are not mistreated and housed in locations consistent with their level of custody and security requirements. This fosters participation in the appropriate programs of need and the overall safety of an institution.

For these reasons, PSD respectfully opposes SB 3344

Thank you for the opportunity to present this testimony.

**SB-3344**

Submitted on: 2/24/2022 8:15:59 PM

Testimony for JDC on 3/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Comments	No

Comments:

We think that codifying guidelines on the use of solitary confinement is good policy. In particular we appreciate seeing that the bill addresses the needs of individuals who meet the definition of being part of a "vulnerable population" as that would include individuals with disabilities.

## TESTIMONY IN SUPPORT OF SB 3344

TO: Chair Rhoads, Vice-Chair Keohokalole, & Judiciary Committee Members

FROM: Nikos Leverenz  
Grants & Advancement Manager

DATE: March 3, 2022 (9:30 AM)

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Hawai'i Health & Harm Reduction Center (HHRC) **strongly supports** SB 3344, which restricts the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specified exceptions and requires the Department of Public Safety (PSD) to use appropriate alternatives to solitary confinement for inmates who are members of a vulnerable population.

This measure is necessary to help ensure that this state's carceral facilities, including those on the continent, are administered in a fashion that is congruent with [PSD's mission to provide services with "professionalism, integrity, and fairness."](#) Limitations on solitary confinement are necessary to protect those who are already struggling with mental health conditions and other behavioral health issues.

Under the [Mandela Rules promulgated by the United Nations in 2015](#), placement in solitary for longer than 15 days is the equivalent of a form of torture. This bill could be strengthened by clearly prohibiting the use of administrative or disciplinary segregation for longer than this period.

The American Public Health Association called for an end to punitive segregation in a 2013 policy statement, "[Solitary Confinement as a Public Health Issue](#)," that underscores the imperative of an incarcerated person's health in non-punitive segregation:

Correctional authorities should implement policies that eliminate solitary confinement for security purposes unless no other less restrictive option is available to manage a current, serious, and ongoing threat to the safety of others. Punitive segregation should be eliminated. Isolation for clinical or therapeutic purposes should be allowed only upon the order of a health care professional and for the shortest duration and under the least restrictive conditions possible. Prisoners who are separated from the general population for their own protection should be housed in the least restrictive conditions possible.

The American Bar Association succinctly articulates the harmful toll that periods of isolation can take on a person in its [2018 resolution calling for limits on the use of solitary confinement](#):

Scientific research confirms that solitary confinement is physiologically and psychologically harmful. Although the most widely reported effects are psychological, physiological effects are commonly reported and include heart palpitations, diaphoresis (sudden excess sweating), insomnia, back and other joint pain, deterioration of eyesight, poor appetite, weight loss, lethargy, weakness, shaking, feeling cold, and aggravation of preexisting medical conditions. Individuals held in solitary confinement experience a whole host of negative responses, including negative attitudes and affect; insomnia; anxiety; panic; aggression and rage; depression; and lower levels of brain function, including a decline in electroencephalogram (EEG) activity that is observable after only seven days in isolation.

The ABA recommends that solitary confinement be prohibited “for individuals with intellectual disability or serious mental illness; the elderly; women who are pregnant, are postpartum, or recently had a miscarriage or a terminated pregnancy; and individuals whose medical conditions will be exacerbated by such confinement.”

Further, the ABA recommends that solitary confinement “should be used only in exceptional cases as a measure of last resort, where less restrictive settings are insufficient, and for no longer than is necessary to address the specific reason for placement, typically not to exceed 15 consecutive days.”

This harmful toll of solitary confinement also impacts family members of the incarcerated, including children. Incarceration of a parent is an “adverse childhood experience” that has lasting consequences for a person’s health and well-being over the course of their life. Prolonged physical isolation from a parent increases that harm. As the [Vera Institute notes in a 2021 policy brief on the impact of solitary confinement](#), “A large body of research shows that maintaining family engagement—particularly through frequent and meaningful in-person visits—is vital for the well-being of incarcerated people and their loved ones; it can also increase their chances of a successful transition back into the community after incarceration.”

[The National Commission on Correctional Health Care underscores the critical role of health care officials in the administration of solitary confinement in a 2016 statement](#). Among its recommendations:

- Isolation for clinical or therapeutic purposes should be allowed only upon the order of a health care professional and for the shortest duration and under the least restrictive conditions possible, and should take place in a clinically designated and supervised area.
- Individuals who are separated from the general population for their own protection should be housed in the least restrictive conditions possible.
- Individuals in solitary confinement, like other inmates, are entitled to health care that is consistent with the community standard of care.
- Health care staff should evaluate individuals in solitary confinement upon placement and thereafter, on at least a daily basis. They should provide them with prompt medical assistance and treatment as required.
- Health care staff must advocate so that individuals are removed from solitary confinement if their medical or mental health deteriorates or if necessary services cannot be provided.

The United Nations underscores the moral imperative of the equitable treatment of those in carceral facilities: **“All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.”**

Prevailing prosecutorial practices, along with the continued absence of substantive bail reform, sentencing reform, and probation reform, set the stage for perennially overcrowded carceral facilities. The continued criminalization of personal drug use and possession significantly perpetuates lasting social, medical, and legal stigma. Criminalization subjects persons from under-resourced communities to prolonged periods of criminal legal supervision. [The enforcement of drug laws pertaining to personal use and possession of drugs has disproportionately impacted Native Hawaiians](#). In this regard, the criminal legal system’s enforcement of punitive drug laws embodies the structural [racism that this Legislature declared a public health crisis via HCR 112](#) just last year.

HHHRC’s mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai’i and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. Many of our clients and participants have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Thursday, March 3, 2022

9:30 AM

### **SB 3344 – STRONG SUPPORT FOR TRANSPARENCY & ACCOUNTABILITY RELATING TO SOLITARY CONFINEMENT - OR ITS EUPHEMISMS**

Aloha Chair Rhoads, Vice Chair Keohokalole, 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 4,069 Hawai'i individuals living behind bars under the "care and custody" of the Department of Public Safety or the corporate vendor on any given day. We are always mindful that 1,112 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 strongly supports transparency and accountability when addressing management of our jails and prisons as well as those of the corporate vendors to whom we sell our people. There is a huge national movement called UNLOCK THE BOX that seeks to ban this cruel and inhumane punishment that produces life-long effects on a person during incarceration and post release. There are many misconceptions and myths about keeping human beings in isolation:

MISCONCEPTION #1 Conditions in segregated housing are stark but not inhumane

MISCONCEPTION #2 Segregated housing is reserved only for the most violent

MISCONCEPTION #3 Segregated housing is used only as a last resort

MISCONCEPTION #4 Segregated housing is used only for brief periods of time

MISCONCEPTION #5 The harmful effects of segregated housing are overstated & not well understood

MISCONCEPTION #6 Segregated housing helps keep prisons and jails safer

MISCONCEPTION #7 Segregated housing deters misbehavior and violence

MISCONCEPTION #8 Segregated housing is the only way to protect the vulnerable

MISCONCEPTION #9 Safe alternatives to segregated housing are expensive

MISCONCEPTION #10 Incarcerated people are rarely released directly to the community from segregated housing

The Eighth Amendment to the United States Constitution protects individuals from "cruel and unusual punishment." Although the United States Supreme Court has affirmed that solitary

confinement is a form of punishment subject to scrutiny under Eighth Amendment standards, most federal courts have been unreceptive to limiting its use. This may be, in part, because in order to demonstrate an Eighth Amendment violation, an incarcerated person must satisfy a particularly onerous two-part test: first, his or her alleged suffering must be reasonably serious; and second, prison officials must have acted with “deliberate indifference to the prisoner’s health and safety” – where “deliberate indifference” is only proved if it is shown that prison officials “kn[e]w that inmates face[d] a substantial risk of serious harm,” but “fail[ed] to take reasonable measures to abate it.” As a result, successful Eighth Amendment claims regarding prison conditions have usually involved the direct action or inaction of prison officials, including medical indifference, failure to protect, and excessive use of force, rather than an overall challenge to general penal practices, such as solitary confinement.<sup>1</sup>

There is a large body of research on the mental health and medical effects of isolating people from the general population. Drs. Craig Haney and Terry Kupers have done amazing and informative research on the effects of isolating human beings. Here is some information on the mental and physical health effects of this sanction<sup>2</sup>.

### **Mental health effects**

A large body of research shows that solitary confinement causes adverse psychological effects and increases the risk of serious harm to individuals who experience it. According to an article in the *Journal of the American Academy of Psychiatry and the Law*, isolation can be as distressing as physical torture.

The BJS report that approximately 25% of people in prison and 35% of those in jail who had spent 30 days or longer in solitary confinement during the previous year had symptoms of serious psychological distress. The rates were similar for those who only spent 1 day in isolation.

Humans require social contact. Over time, the stress of being isolated can cause a range of mental health problems. According to Dr. Sharon Shalev, who authored *A Sourcebook on Solitary Confinement* in 2008, these problems may include: anxiety and stress, depression and hopelessness, anger, irritability, and hostility, panic attacks, worsened preexisting mental health issues, hypersensitivity to sounds and smells, problems with attention, concentration, and memory, hallucinations that affect all of the senses, paranoia, poor impulse control, social withdrawal, outbursts of violence, psychosis, fear of death, self-harm or suicide.

Research indicates that both living alone and feelings of loneliness are strongly associated with suicide attempts and suicidal ideation. Additionally, many individuals who experience confinement become incapable of living around other people.

### **Physical health effects**

Most studies focus on the psychological effects of solitary confinement. However, psychological trauma and loneliness can also lead to physical health problems. **Studies indicate that social isolation increases the likelihood of death by 26–32% .**

According to Dr. Shalev’s *A Sourcebook on Solitary Confinement*, the recorded physical health effects of solitary confinement include: chronic headaches, eyesight deterioration, digestive problems, dizziness, excessive

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<sup>1</sup> SOLITARY CONFINEMENT: Common Misconceptions and Emerging Safe Alternatives, VERA Institute of Justice, May 2015. [https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report\\_1.pdf](https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf)

<sup>2</sup> What are the effects of solitary confinement on health? <https://www.medicalnewstoday.com/articles/solitary-confinement-effects>



sweating, fatigue and lethargy, genitourinary problems, heart palpitations, hypersensitivity to light and noise, loss of appetite, muscle and joint pain, sleep problems, trembling hands, and weight loss

A lack of physical activity may also make it difficult to manage or prevent certain health conditions, such as diabetes, high blood pressure, and heart disease.

A prolonged lack of sunlight can cause a vitamin D deficiency, which can put older adults at risk of fractures and falls. These injuries are among the leading causes of hospitalization and death for older adults.

A letter received by Community Alliance on Prisons from one of our people in Arizona describes what it is like to be far from home, isolated from the general population, with nothing for 18 hours a day or more.

*"I have been incarcerated for five years and out of those 5 years I have done 2 and one-half years in solitary confinement/restrictive housing. When I refer to "restrictive housing" I am meaning being locked down for 18 plus hours a day. That two and a half years have taken a drastic toll on my mental state. I had suicidal train of thoughts a couple times & major anxieties & depression.*

*Here in Saguaro Correctional Center they have a tactic an insidiously cruel & inhumane practice called property and recreation restrictions. Saguaro Correctional Center will place inmates on property restriction for doing or saying things they don't like. ... CoreCivic uses this tactic widely, constantly, & consistently against Hawaii inmates in segregation. It's used as a weapon, as punishment & even as disciplinary sanctions for misconducts with the segregation units.*

*Often we are on property restriction from 7 to 30 days. It is often used in conjunction with recreation restriction which an inmate is not allowed to have recreation at all. Hawaii segregation inmates can be put on property restriction for any reason & at any time, for any excuse. It is used arbitrarily & harshly. It is used at the administrations discretion & whim with no due process afforded whatsoever.*

*Prior to being placed on property restriction we are not afforded a hearing or given notice or any sort of paperwork detailing the reasons for being put on property restriction. Once one is arbitrarily placed on property restriction it is unappealable & unchallengeable."*

### **How can we allow such violations of basic constitutional rights in our names?**

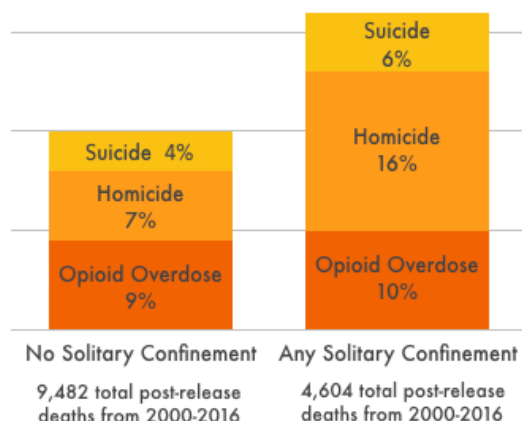
The reality that must be faced is that Hawai'i allows CoreCivic to 'operate' their prison their way. And then Hawai'i's people are burdened with all the costs associated with their way of operating their prison.

At the International Symposium on Solitary Confinement, researchers and formerly incarcerated people made it clear that isolation causes severe and permanent damage and that any "positive" benefits correctional institutions gain by using solitary confinement are outweighed by the severe and often permanent damages caused by prolonged isolation. Recent studies show that time spent in solitary confinement shortens lives, even after release, and speakers at the International Symposium emphasized various other ways solitary causes irreparable harm.

Community Alliance on Prisons has been reporting on the conditions in Saguaro at the monthly Hawai'i Correctional Systems Oversight Commission meetings. Sadly, without staff, this all-volunteer Commission's work has been severely stymied. They have sent lists of applicants for the Coordinator position (that is in statute) they have interviewed over the last 2 years with no response from the governor.

## Solitary confinement increases the risk of premature death after release

Among people who died after release from prison, those exposed to solitary confinement were more likely to die from suicide, homicide, or opioid overdose.



Premature deaths — by suicide, homicide, or opioid overdose — after release from prison are *more likely* for those that spent any amount of time (even one day) in solitary confinement than those who never did.<sup>3</sup>

We have reviewed Policy No. Cor.11.01<sup>4</sup> and this bill and we support SB 3344’s calls for transparency and accountability in how the state itself honors the humanity of the people in its care and custody and how it protects our people in the care and custody of its corporate vendors. We wonder how COR.11.01 is implemented and monitored since those records are not public.

We support transparency and accountability as provided in Section 2.(e) starting on page 17 line 13 and everything through page 20 line 10, especially **(5) Require the posting of quarterly reports on the department's official website.**

When we consider that the state incarcerates people for causing harm; it is unconscionable that the state itself inflicts long-lasting harm on the people it incarcerates. We long for the day when included in the training of people working with persons in an extremely stressful environment there is an emphasis on **FIRST, DO NO HARM.**

This bill follows the Department of Justice guidance on restrictive housing<sup>5</sup>.

In closing, there is a robust scientific literature that has established the negative psychological effects of solitary confinement. The empirical findings are supported by a theoretical framework that underscores the importance of social contact to psychological as well as physical well-being. In essence, human beings have a basic need to establish and maintain connections to others and the deprivation of opportunities to do so has a range of deleterious consequences. These scientific conclusions, as well as concerns about the high cost and lack of any demonstrated penological

<sup>3</sup> The research is clear: Solitary confinement causes long-lasting harm, by Tiana Herring, December 8, 2020. [https://www.prisonpolicy.org/blog/2020/12/08/solitary\\_symposium/](https://www.prisonpolicy.org/blog/2020/12/08/solitary_symposium/)

<sup>4</sup> Department of Public Safety, Corrections Administration Policies and Procedures, Administrative Segregation and Disciplinary Segregation, Policy No. Cor.11.01. <https://dps.hawaii.gov/wp-content/uploads/2014/12/COR.11.01.pdf>

<sup>5</sup> U.S. Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing EXECUTIVE SUMMARY January 2016. <https://www.justice.gov/archives/dag/file/815561/download>

purpose that solitary confinement reliably serves, have led to an emerging consensus among correctional as well as professional, mental health, legal, and human rights organizations to drastically limit the practice.<sup>6</sup>

Community Alliance on Prisons urges the committee to remember that most incarcerated people will come home someday. What kind of citizens and neighbors are we preparing in these institutions that are ostensibly about rehabilitation? **Some jurisdictions are experimenting with making conditions more humane and less solitary.**

**Colorado** now requires that incarcerated people held in its Management Control Unit receive four hours of time outside their cell each day.

**New York State**, as part of a legal settlement, gives 16- and 17-year-olds in segregated housing at least five hours of exercise and programming outside of their cells five days per week.

**Maine** requires that incarcerated people in segregated housing receive group recreation, counseling sessions, and opportunities to increase privileges through good behavior, as well as greater access to radios, televisions, and reading materials.

**Some jurisdictions have developed different levels of segregated housing**, including “step-down” incentive programs that are structured in progressive phases that provide increasing privileges — such as more time out of the cell, the opportunity to participate in group activities, television in the cell, and additional reading materials — for sustained compliance to facility rules.

**Pennsylvania, Washington, and New Mexico** have all created step-down programs for gang members held in segregated housing.

**Washington** has an Intensive Transition Program for incarcerated people with chronic behavior problems who are frequently placed in segregated housing, in which they move through a curriculum in stages, progressively learning self-control and gradually engaging in opportunities to socialize until they are ready to return to the prison’s general population.

**Michigan** operates an Incentives in Segregation pilot project, in which incarcerated people work through six stages (each stage requiring different tasks and bestowing additional privileges) over several months.

The **Virginia** Department of Corrections has developed a successful step-down program for incarcerated people in administrative segregation that uses evidence-based practices first developed in the community corrections setting. Since 2011, the program has reduced the number of incarcerated people in administrative segregation by 53 percent and the number of prison incidents by 56 percent.

Please support these changes that promote transparency and accountability in how the people in the care and custody of the state are treated, no matter where they are.

Mahalo for this opportunity to share our many years of research into this inhumane practice.

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<sup>6</sup> Restricting the Use of Solitary Confinement, Craig Haney, **Annual Review of Criminology**, Vol. 1:285-310 (Volume publication date January 2018), First published as a Review in Advance on November 3, 2017.  
<https://doi.org/10.1146/annurev-criminol-032317-092326>



Hawai'i

Committees: Committee on Judiciary  
Hearing Date/Time: Thursday, March 3, 2022 at 9:30 a.m.  
Place: Via Videoconference  
Re: **Testimony of the ACLU of Hawai'i in Support of S.B. 3344  
Relating to Corrections**

Dear Rhoads, Vice Chair Keohokalole and Committee Members:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in **support of S.B. 3344**. This bill restricts the use of solitary confinement in state operated and state contracted correctional facilities, with certain specified exceptions. The bill also requires the Department to use appropriate alternatives to solitary confinement for incarcerated persons who are members of a vulnerable population.

The ACLU of Hawai'i is committed to transforming Hawaii's criminal legal system and building a new vision of safety and justice. First and foremost, we **advocate for decarceration strategies to reduce the number of people in our jails and prisons**, the majority of whom are Native Hawaiians, Pacific Islanders and people of color. Simultaneously, we advocate for evidence based community supervision practices, humane conditions of confinement, meaningful rehabilitation opportunities, and comprehensive re-entry support services that starts from the first day of incarceration.

Over the past few decades, Hawai'i, similar to the continental United States, has increasingly used solitary confinement to hold incarcerated people in isolation. ***Although the Department of Public Safety uses the label "restrictive housing," "administrative segregation," or "disciplinary segregation" rather than solitary confinement, this is merely a difference in terminology that amounts to the same practice.***

This practice – which is considered a form of torture by international human rights organizations- in which prisoners are placed alone in cells for 22-24 hours per day with little or no human interaction or outside stimulus, often causes negative psychological reactions in all persons subjected to it. Solitary confinement is known to be especially devastating for people with mental illness who are disproportionately represented in solitary confinement.<sup>1</sup> It can also bring on mental illness where it did not exist before. Some people are confined in solitary for months, years, and even decades.

Solitary confinement is also extremely costly, and studies show that it neither deters violent behavior in jails and prisons nor prevents recidivism.<sup>2</sup> Research also shows that

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<sup>1</sup> Roy King, *The Rise and Rise of Supermax: An American Solution in Search of a Problem?* 1 PUNISHMENT & SOC. 163, 177 (1999).

<sup>2</sup> DANIEL P. MEARS, URBAN INST., *EVALUATING THE EFFECTIVENESS OF SUPERMAX PRISONS* 4 (2006).

incarcerated people deprived of normal human contact cannot properly reintegrate into society, resulting in higher recidivism rates.<sup>3</sup>

As long as jails and prisons exist, we must limit the use of solitary confinement. At minimum, Hawaii's practices must meet the **American Bar Association Standards for Criminal Justice, Treatment of Prisoners**.<sup>4</sup> This requires appropriate procedures prior to placing a person in solitary; decreasing extreme isolation, close mental health monitoring for people in solitary and ending the solitary confinement of persons with mental illness.

In addition, better alternatives exist to placing people in solitary confinement. Here are a few examples of successful federal and state measures:

- **Colorado Department of Corrections had an external review conducted of its administrative segregation policies and practices.** As a result of reforms implemented, Colorado reduced its administrative segregation by 36.9%.
- Michigan reformed its administrative segregation practices through incentive programs. As a result, the number of violent incidents and misconduct dropped.
- Maine reduced its special management population by over 50% and expanded access to programming and social stimulation.
- Mississippi changed its use of solitary confinement and reduced the segregated population of one institution from 1000 to 150 and eventually closed the entire unit.

### **PSD Has Failed to Provide Solitary Confinement Data for Consideration by Lawmakers**

The Department of Public Safety opposes this measure, in part, because it “has many similarities with PSD’s established policies and procedures which are periodically reviewed and updated as appropriate.”

Rather than citing system-wide data to support their opposition, PSD cites anecdotal data. ***While anecdotal data can be considered in shaping public policy, it is not a substitute for system-wide data.*** PSD, like all governmental agencies, have a responsibility to provide agency wide data to assist Hawai'i lawmakers while deliberating on proposed bills that may become public policies.

To date, PSD’s testimony opposing this measure is devoid of system-wide data. This is a disservice to lawmakers as they carefully consider public policy relating to policies and practices of solitary confinement.

To assist with meaningful discussion on this measure, the following questions are offered for consideration by lawmakers:

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<sup>3</sup> See, e.g., KERAMET REITER, PAROLE, SNITCH, OR DIE: CALIFORNIA’S SUPERMAX PRISONS AND PRISONERS 50 (2006).

<sup>4</sup> ABA Standards for Criminal Justice, Treatment of Prisoners, 23-1, et. Seq (2010).

1. Is it a goal or objective of PSD to reduce the number of people placed under administrative and disciplinary segregation?<sup>5</sup>
2. What is the **current total number and percentage** of people in **administrative segregation** compared to the general population in Hawaii's jails and prisons and out-of-state private for profit prisons? How does the current total number and percentage of people placed in administrative segregation compare to 5 years ago?
3. What is the **current total number and percentage of people in disciplinary segregation** compared to the general population in Hawaii's jails and prisons and out-of-state private for profit prisons? How does the current total number and percentage of people placed in disciplinary segregation compare to 5 and 10 years ago?
4. What **reforms** have PSD implemented in the past five years to reduce the number of people placed under administrative and disciplinary segregation?
5. How are PSD's current policies and practices relating to administrative and disciplinary segregation **similar** to the proposed bill?
6. How are PSD's current policies and practices relating to administrative and disciplinary segregation **different** from the proposed bill?
7. How **many people** are placed under **administrative segregation** in Hawaii's jails and prisons, as well as Saguaro prison in Arizona?
8. How **many people** are placed under **disciplinary segregation** in Hawaii's jails and prisons, as well as Saguaro prison in Arizona?
9. What is the **duration** under **administrative segregation (shortest to longest length)**?
10. What is the **duration** under **disciplinary segregation (shortest to longest length)**?
11. How many people in our jails and prisons in Hawai'i and out of state private for profit prisons have **committed suicide** while under administrative segregation or disciplinary segregation, or upon release from administrative segregation or disciplinary segregation in the past five years?
12. Has the Department of Public Safety **consulted with experts to conduct a third party external review of its administrative and administrative segregation policies and practices** similar to Colorado that reduced its administrative segregation population by 30%?

Since the vast majority of people in solitary confinement are eventually released back into the community, it is essential that we invest our limited public dollars in proven alternatives that lead to greater rehabilitation and pave the way for successful reentry and

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<sup>5</sup> <https://www.civilbeat.org/2016/12/do-hawaii-prisons-overuse-solitary-confinement/>

reintegration. Please act on your strong sense of conscience in advocating for more human treatment of people incarcerated in our jails and prisons and pass **SB 3344**.

Sincerely,

*Carrie Ann Shirota*

Carrie Ann Shirota  
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.*

American Civil Liberties Union of Hawai'i  
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**SB-3344**

Submitted on: 2/25/2022 8:45:23 AM

Testimony for JDC on 3/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Alan Urasaki	Individual	Oppose	No

Comments:

As a former correctional worker, I oppose this measure because it does not make the prison any safer for staff or inmates. There are already many laws, policies, rules, and accreditation standards that address the use of restrictive housing. In most cases, inmates in restrictive housing are "double celled" (2 inmates in a cell). There must be reasonable safety or security issue that an inmate would be "single celled". Mahalo.



**SB-3344**

Submitted on: 2/25/2022 10:38:17 AM

Testimony for JDC on 3/3/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lee Curran	Individual	Support	No

Comments:

Aloha Chair Karl Rhoads, Vice Chair Sen. Jarrett Keohokalole and Members of the Judiciary Committee,

My name is Lee Curran and I am testifying as an individual who is a co-facilitator of the Transformative Justice Task Force which is part of Faith Action for Community Equity, (FACE). I am testifying in full support of SB3344 that restricts the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specified exceptions and requires the Department of Public Safety to use appropriate alternatives to solitary confinement for inmates who are members of a vulnerable population.

Quite simply, solitary confinement is a crime against humanity and should be absolutely used as a last resort with no other viable options. According to the Vera Institute of Justice, “Solitary confinement, a widespread practice in U.S. prisons and jails, has been shown by an [extensive body of research](#) to have harmful and long-lasting negative effects on people held there, without evidence of improved safety for the correctional facilities or the community. Many people assume that solitary confinement is used only for serious and violent behavior, but violence is typically not the most common reason that people are sent there. The Vera Institute of Justice (Vera) has found that incarcerated people are frequently sent to restrictive housing in response to low-level and nonviolent misbehaviors, because they need protection, due to custody or risk assessments, or in response to symptoms of mental illness.”

Furthermore, “A key takeaway of this research reveals the extensive scope of solitary confinement’s harmful impacts on incarcerated people, corrections staff, families, and communities. It can cause or exacerbate mental illness, negatively impact families, and be physically and mentally taxing for staff who work there. Research also indicates that it does not significantly reduce misconduct, violence, or recidivism—and may actually decrease institutional and public safety.”

Like many of our current criminal legal justice practices, solitary confinement doesn’t make us safer, further exacerbates trauma to those subjected to it as well as their families and is a practice grounded in racism. We MUST curtail this practice now. Our collective humanity and well being demands it.

I am grateful for this opportunity to testify in full support of SB3344 and ask that this message of change, grounded in care, compassion and community, sits on your hearts and impacts your

decision-making as you create laws that recognize the humanity and inherent dignity and worth of the people of Hawai'i now and in future generations.

Lee Curran, Makaha

**SB-3344**

Submitted on: 2/25/2022 4:14:54 PM

Testimony for JDC on 3/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Carla Allison	Individual	Support	No

Comments:

Aloha Chair Rhoads, Vice Chair Keohokalole and Committee Members,

My name is Carla Allison and I am testifying in strong support of SB2344 relating to probation.

Currently, people in Hawai'i on probation or parole can be reincarcerated for making simple mistakes like missing a probation appointment or struggling to get a job. These conditions hurt public safety by destabilizing individuals on parole, their families, loved ones, and their communities; namely Native Hawaiians, Pacific Islanders, and Black people.

Most people released from prison struggle to obtain stable housing, find and maintain employment, and further their education because of systemic injustices, community disinvestment, and the stigma and discrimination associated with a felony record. This also leaves many on parole even more vulnerable to houselessness and unemployment, increasing the likelihood that they will be rearrested for crimes of poverty.

This bill will help address Hawaii's prison overcrowding conditions and will help ensure those on parole or probation have a better chance at success. SB2344 allows people to safely remain with their families in their communities as they readjust to life outside of incarceration.

A big plus of this bill is that it shifts parole from a punitive system to an incentive-based system, encouraging people to follow the rules and seek assistance when necessary.

Please vote yes on SB23444 and keep our loved ones together, our jails less crowded and give offenders a higher probability of success as they transition back in to our communities.

Mahalo for your consideration,

Carla Allison

**SB-3344**

Submitted on: 2/25/2022 4:26:21 PM

Testimony for JDC on 3/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
E. Ileina Funakoshi	Individual	Support	No

Comments:

I am e. ileina funakoshi testifying in support of SB3344.

My objection to solitary confinement is that there are no protocols so inmates are put into solitary confinement for nonviolent actions.

Solitary confinement is like locking an animal in a cage and after a while they become violent. The human body needs relationships and without any communications, especially with loved ones, it can detrimentally affect the mind.

Mahalo for your consideration and having me testify on this measure.

e.ileina funakoshi

**SB-3344**

Submitted on: 2/25/2022 11:52:30 PM

Testimony for JDC on 3/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Thaddeus Pham	Individual	Support	No

Comments:

Aloha Chair Rhoads, Vice Chair Keohokalole, and JDC Committee Members,

As a public health professional working with people who have been or currently are incarcerated, I urge you to pass SB3344, which restricts the use of solitary confinement. This inhumane practice has ongoing, deleterious health effects not only the individuals who are isolated, but also the families and communities that they return to. In fact, the American Public Health Association unequivocally states that policymakers "Eliminate solitary confinement as a means of punishing prisoners and to develop alternative disciplinary sanctions and processes" (<https://apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/14/13/30/solitary-confinement-as-a-public-health-issue>)

To truly improve public health, foster rehabilitation, and provide justice, I urge you to pass this measure.

With gratitude,

Thaddeus Pham (he/him)

**SB-3344**

Submitted on: 2/26/2022 6:49:18 AM

Testimony for JDC on 3/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Zoe Ryan	Individual	Support	No

Comments:

Aloha,

I support HEAVILY RESTRICTING the use of solitary or isolation in any guise. I understand there will be extreme circumstances where TEMPORARILY isolating an inmate for the legitimate safety of others could be an unfortunate necessity, but the current overuse of isolation for petty and minor "infractions" that too often include NORMAL human behavior is inflicting unbearable harm on inmates and effectively breeding criminal behavior!!! This is the complete opposite of our goal! Any typical human being would go crazy if treated this way, let alone individuals who made mistakes that led them to incarceration. Our focus should be on providing every avenue to educate, give responsibility, teach life skills and empower inmates to reach their potential. Poking a dog with a stick will only result in a MEAN and UNPREDICTABLE dog! If you remember the words of John Dillinger after being treated so cruelly while incarcerated. "When I get out of here, I am going to be the meanest bastard you ever saw"!! If you want somebody to become something, treat them as if they already are it!! LETS GIVE OUR FACILITY STAFF MORE AND BETTER TRAINING TO EFFECTIVELY MANAGE INMATE POPULATION BY PROVIDING OR REQUIRING HIGHER EDUCATION IN PSYCHOLOGY, SOCIOLOGY, MEDIATION AND SIMPLE HUMAN DECENCY!! Punishment should be completing a class or work task, not inflicting loneliness and effectively dumping people in the trash.

Here is an article written by a Washington State inmate of 27 years. I have also read written reports by Saguaro inmates discussing many 30 day stints in segregation for simply raising their voice in frustration or making a complaint that their glasses were not correct. Anything that would make the guard have to stop his routine for an inmate question or need.

ARTICLE FROM THE CRIME REPORT "Digging Our Way Out of the Hole"

Please read the entire article to understand how WAY TOO FAR this has gone!

Prisons in this country are dehumanizing as a rule. Still, most prisoners in general population can participate in rehabilitation programs, have contact visits with loved ones, spend hours exercising in the gymnasium or outside on the yard, and socialize in the dayroom.

In contrast, solitary confinement is the prison within the prison, as a jail is to city residents.

Once there, men and women spend 23 hours a day alone languishing in a cell—often without a book, radio or television to occupy their minds and distract from the sense of loneliness. Often it is a nightmarish kaleidoscope of prisoners constantly yelling as others rhythmically beat on their desks, while others struggle [“to sleep](#) as someone kicks their door all night and into the morning.”

Throughout my 27 years of imprisonment in the Washington Department of Corrections (WDOC) I spent years in solitary confinement enduring what I [describe](#) as this “cacophony of madness and misery.”

All too often, the punishment was imposed over petty incidents rather than for serious misbehavior or acts of violence. These experiences lend themselves to understanding the control model of prison management and the mindset it engenders in prison staff.

Prisoners are commonly perceived to be little more than law breakers and rule violators whose misdeeds stem from their refusal to accept authority and the mores of society. Therefore, ratcheting up misery is believed to be the most effective deterrent available in a prison setting.

Under this rubric, coercing prisoners to comply by threatening to remove them from general population to solitary confinement amounts to a “best practice.”

Micromanaging the lives of prisoners through endless rulemaking thus becomes the means for instilling appropriate behavior under this control model. Even benign activities are prohibited because every past cause for a violent incident is deemed a security threat.

For instance, a public embrace between lovers leads to an assault by a jealous rival; so displays of affection are prohibited thereafter.

This approach produces a plethora of needless disciplinary rules, that in turn result in legions of prisoners being marched to and from solitary confinement for seemingly innocuous behavior that, arguably, does not jeopardize institutional order and security.

Anyone confined in the US can suffer this fate. I experienced it firsthand and witnessed it for nearly three decades.

Simply review a typical day in the life of a model prisoner under the custody of the Washington Department of Corrections to perceive how easily one can be deemed a disciplinary problem and sent off to spend time in solitary confinement.

### **A Day in The Life of a “Troublemaker”**

6:30 in the morning: “John” awakens. While waiting for count to clear he plugs his headphones into his sleeping cellmate’s MP3 player to listen to a new song. When the door opens for breakfast and they exit the cell, John spots a friend who was just transferred from another facility, embraces him momentarily, and promises to give him some hygiene products to tide him over until he receives his property from the other facility.

On the recreation yard that afternoon, John exercises with four friends, doing pushups and jumping jacks then running laps in formation. Hours later, he shares a meal with the same quartet, each contributing various ingredients. Appreciative, John gives some of his portion to the one who did the cooking.

Returning to his cell with food in hand, he finds that the letter he was writing to his wife recalling their honeymoon exploits was confiscated by officers during a cell search because it was deemed to be obscene. Reading the search report makes him so frustrated that he takes one of his cellmate's Ibuprofen to forestall the headache that is forthcoming.

The day is over. In less than 18 hours John has committed half-a-dozen disciplinary violations in WDOC, each of which can land him in solitary confinement:

555—Possession of Another Prisoner's Property (for plugging his headphones into his cellmate's MP3).

714—Giving Anything of Value Over \$10 (for giving his friend the hygiene products).

708—Participating in an Unauthorized Group Activity (for exercising in a group with over four people and for joining them later to contribute to a shared meal).

656—Giving Anything of Value for Unauthorized Favors or Services (for giving a portion of his meal to the friend who prepared it).

728—Possession of Sexually Explicit Material (for the letter to his wife).

716—Using Over-the-Counter Medication Without Authorization (for the Ibuprofen).

For each of these disciplinary violations, John can spend up to 30 days in solitary confinement, [according](#) to the Washington Administrative Code (WAC).

This is a prototypical prisoner in a Minimum and Medium Custody facility. I was one of them.

There were hundreds of "Johns" around me. We bore no resemblance to the stereotypical malcontents in prisons where violence and gang activity is endemic. But nevertheless, countless prisoners like John are in solitary confinement throughout the nation for conduct such as this on the putative basis that they pose a threat to correctional management.

The piling on of disciplinary violations from these types of incidents ultimately results in prisoners being sanctioned to ever lengthier stays in solitary confinement because, as the WAC [notes](#), the prisoner's disciplinary record, prior conduct, and facility adjustment are commonly used to determine the duration of confinement imposed for subsequent sanctions.

In time, these collateral consequences result in many prisoners being locked away on a status called "administrative segregation" on the basis that they pose a continuing threat to the orderly



operation of the correctional facility—the months and years spent in solitary confinement equate to increased dosages meant to eradicate a diagnosis of obstinacy.

It is astonishing what Ibuprofen and shared meals can lead to in prison.

### **There Are Alternatives to Solitary**

Maintaining order in prisons is admittedly challenging. Capturing the mindset of many correctional officials, the Supreme Court [observed](#):

Prisons, by definition, are places of involuntary confinement of persons who have a demonstrated proclivity for anti-social criminal, and often violent, conduct.

Inmates have necessarily shown a lapse in ability to control and conform their behavior to the legitimate standards of society by the normal impulses of self-restraint; they have shown an inability to regulate their conduct in a way that reflects either a respect for law or an appreciation for the rights of others.

Yet despite the inherent difficulties in maintaining order and security with such a population, there are ways to accomplish this without reflexively sending prisoners to solitary confinement for their misdeeds.

Working in conjunction with the Vera Institute, WDOC has halved its population of prisoners in solitary confinement, establishing transition pods to reintegrate prisoners from long-term solitary confinement and creating cognitive behavior therapy programs to help them better adjust when they return to the general prison population.

In recent remarks about this effort to curtail the use of solitary confinement, WDOC Secretary Steve Sinclair [stated](#) on a local public access program, “This is important. We can make change here.”

He envisions that within a decade solitary confinement in Washington prisons will be reserved for “a pretty small group of dangerous individuals.”

As laudable as this effort is, the use of solitary confinement is being curtailed under the same control model. Todd Olmsted-Fredrickson, who heads the Disciplinary Department at Washington State Reformatory, illustrates WDOC’s effort to ratchet up misery without resorting to solitary confinement as a deterrent.

When prisoners arrive at Washington State Reformatory and undergo their orientation session, the taciturn Lt. Fredrickson walks in and outlines what he has in store for those who face him for violating the facility’s disciplinary rules.

He’ll confine them to their cells for weeks and only allow them to leave to go to work, school, shower, or eat.

He'll ban them from lifting weights, going to yard, entering the day room, ordering commissary, or a combination thereof.

He'll confiscate their televisions, MP3 players, or all of their property.

He'll even prohibit them from using the telephone or receiving visits from friends and family.

But he does not send prisoners to solitary confinement except in cases of serious disciplinary misconduct. The retributive effect of these sanctions undoubtedly produces sufficient suffering. I witnessed countless prisoners return from their disciplinary hearings, heaping invective on the agent of their misery, infuriated as they contemplate the temporary loss of such privileges.

Having spent over seven years cumulatively in solitary confinement, I am utterly convinced that it is better to endure temporary misery from lost privileges in general population than risk permanent damage to one's psyche from too much time in isolation.

Yet, order and discipline can be maintained in prison through positive incentives rather than simply using alternative forms of punishment.

### **Promises Work Better Than Threats**

North Dakota's prison system is a case in point.

In 2010, [Leanne Bertsch](#), until recently director of the North Dakota Department of Corrections, overhauled her agency by instituting a program that offers positive reinforcements to prisoners, and trained 800 staff members to see this effort through, according to the National Consortium on Racial and Ethnic Fairness in the Courts.

Her effort was redoubled after she and other DOC officials visited a maximum-security facility in Norway that is modeled to make the prison environment reflect life on the outside.

Dr. Lisa Peterson, Clinical Director of North Dakota's DOC, highlights why overhauling the system of solitary confinement was necessary.

"The idea that somebody is just going to sit there and think about what they did and magically know how to handle a situation differently in the future is not accurate. So we have to be proactive in helping people know how to change," Peterson [explained](#) to NPR.

The key component adopted from Norway is to connect the goal of maintaining order to establishing bonds with the prison population as a means for enhancing security.

WDOC is taking small, measured steps in this direction.

Washington One, the agency's new risk management system, is built around collaboration between prisoners and their counselors to identify areas of need, and utilizes "behavioral

observations,” that staff members note and counselors convey to prisoners both verbally and in writing, as a means to reinforce positive behavior.

Washington State Reformatory is also in the early stages of implementing an incentives program, where prisoners who have remained disciplinary infraction free for over a year can receive extra privileges.

Jeremy “Hakeem” King, who has been confined since 1998, is somewhat skeptical about these efforts, remarking, “If it works the way it’s supposed to, it will be good. But if it just turns into another experiment, it will be a disaster.”

King, who is the former head of the “Improvement Team” at Clallam Bay Corrections Center (CBCC), emphasizes that incentive programs are only successful when prisoners are invested, and the CBCC Improvement Team was unique in this respect.

“It was by us, for us. We had complete control,” he recalls.

The incentives at this high security facility included an ice cream shack, where prisoners could buy everything from steak-and-cheese burritos, pies, and hamburgers. Baked goods could be purchased through the culinary arts program at the facility. Every quarter, prisoners could even spend up to \$100 to order food from Schwan’s.

“There were concerts every quarter, too, and father-daughter day on the prison yard,” King recalls fondly.

Despite the success, his efforts to establish a similar incentive program at other WDOC facilities have been rebuffed by administrators. The resistance is perplexing to King, who points out, “Clallam Bay is a high security prison, and they did it. There ain’t no reason to deny it at facilities that are supposed to be less restrictive.”

His frustration is echoed by Josh Goldman, a member of Washington State Reformatory’s newly founded “Incentive Committee,” whose members work in collaboration with the facility’s Captain, Paula Chandler.

While he hopes the Incentive Committee can transform the institution, Goldman, confined at age 16, admits that he has difficulty envisioning being confined in a place where administrators utilize incentives instead of coercion in order to gain compliance.

“It would be great if DOC did it,” he mused. “But given the difficulty of even getting more time out of the cells at this place, I can’t see anything like that ever happening throughout the system.”

Whether WDOC is sincere in its effort to transform into a system that uses the least amount of control to maintain security and gives prisoners greater autonomy and opportunities to act responsibly, remains to be seen.



## **Jeremiah Bourgeois**

But the question is neither a small nor a simple one. If we are to break the stranglehold that solitary confinement has on American prisons, we need alternatives that bring real change, and are not just palliatives to the existing system.

Jeremiah Bourgeois spent 27 years imprisoned for crimes committed when he was fourteen years old. This work is supported by a grant from the Solitary Confinement Reporting Project, managed by Solitary Watch with funding from the Vital Projects Fund. An anthology of Jeremiah's prison columns for The Crime Report can be [downloaded here](#).

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## **READ NEXT**

- [One in Eight Florida Prisoners Held in Solitary](#)

According to the Southern Poverty Law Center, roughly 10,000 people, a majority young, black, and male, are in solitary confinement in Florida. Florida authorities say it's not solitary but a restrictive form of housing without a cellmate called "Close Management."

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**SB-3344**

Submitted on: 2/26/2022 8:17:55 AM

Testimony for JDC on 3/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Echo Wyche	Individual	Support	No

Comments:

There must be clear understandable guidance available to all regarding solitary or segregation – what infractions can send a person there and what are the steps a person can take to exit solitary/segregation. Recent studies show that time spent in solitary confinement shortens lives, even after release causes irreparable harm. The impacts of solitary are well-documented and the effects are long-lasting on a person’s mental and physical health. Those incarcerated individuals will be re-entering our communities and it's our responsibility to ensure they are doing so without increased trauma, health issues, and mental health issues **CAUSED BY OUR CORRECTIONAL SYSTEM.**

This is not an opinion but a fact, evidenced by multiple scientific studies. We have a duty to our community to support our incarcerated community members through programming, physical/mental health treatment, and allowing them re-entry into society with an improved position not added challenges. There is zero efficacy of segregation, only significant harm, to continue allowing this shows blatant disregard for our community as a whole.



February 27, 2022

TO: Senator Karl Rhoads, Chair; Senator Jarrett Keohakalole, Vice Chair; and members of the Senate Committee on the Judiciary.

FROM: Barbara Polk

**STRONG SUPPORT FOR SB3344, with SUGGESTIONS FOR CLARIFYING AMENDMENTS**

Solitary confinement, by whatever name, is a cruel punishment and internationally recognized as such. **I strongly support SB3344**, which restricts its use. However, I would recommend a couple of amendments to provide clarity and consistency.

1. There are two places in the bill that are confusing about how long a person can be held in solitary confinement:

p. 7 part a (4) (A): States that a person placed in solitary confinement shall be reviewed every 15 days.

p. 8 part a (9) states that a person “shall not be placed in solitary confinement for more than 15 consecutive days . . . .”

If the intent of this bill is to ensure that people are not held in solitary confinement for more than 15 days (which would be considered torture under international law, no matter what the reason), part (4)(A) needs to be eliminated. Otherwise, it provides an way to keep someone almost indefinitely in solitary confinement by continually delaying a hearing, while evaluating a person held every 15 days.

2. Section I of the bill says that one of its purposes is to: “Prohibit placement of an inmate in a dark or constantly lit cell” (p 4, line 17), but I do not find any explicit prohibition of this anywhere in the bill.

3. Finally, I would like to see a requirement that a person who contests his/her placement in solitary confinement be provided with a copy of his/her written or transcribed oral statement at no cost.

Thank you for considering these amendments to an otherwise excellent bill! I urge you to pass SB3344 to eliminate the torture which currently goes on in our “correctional facilities”!

**SB-3344**

Submitted on: 3/2/2022 12:17:29 PM

Testimony for JDC on 3/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Abby Evans	Individual	Support	No

Comments:

**Dear Members of the Hawaii State Legislature,**

**My name is Abby Evans, and I am a junior in Highschool. I am testifying in support of SB3344, and in support of the restriction of solitary confinement in correctional facilities.**

**Solitary confinement is often justified as a means to prevent violence and maintain order; however, the negative effects of this method on prisoners can be long-lasting and prevent them from functioning normally in society. The role of a prison is to correct the wrongs made by people, but by subjecting inmates to practices proven to have detrimental effects on mental capacity and emotional well-being, our society is enabling the harm that we so desperately oppose.**

**As we are all human beings, it is crucial to empathize with what others may be enduring. While people must face repercussions for their actions and misdemeanors, these repercussions need to be done in a humane manner.**

**Thank you for your time and consideration.**

**LATE**

**SB-3344**

Submitted on: 3/2/2022 8:45:51 PM

Testimony for JDC on 3/3/2022 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Carolyn Eaton	Individual	Support	No

Comments:

Aloha, Chair Rhoads, Vice Chair Keohokalole and members of the Committee,

I hope you will close any and all loopholes the Department of Public Safety has used to evade the intent of this bill. Help bring our State into a new era centering rehabilitative justice. Direct DPS to follow the research, and eliminate completely harmful practices like solitary confinement or segregation. Mahalo for allowing me to place my views before you.