

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 Public Safety, Intergovernmental, and Military Affairs
Senator Clarence K. Nishihara, Chair
Senator Lynn DeCoite, Vice Chair,

Tuesday, February 15, 2022; 1:30 p.m.
State Capitol, Via Video Conference

Chair Nishihara, Vice Chair DeCoite, and Members of the Committee:

The Department of Public Safety (PSD) has reviewed Senate Bill (SB) 3344, which seeks to restrict the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain 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.

The Department opposes this measure and offers the following comments. As written, SB 3344 has many similarities with PSD's established policies and procedures, which are periodically reviewed and updated as appropriate. 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 posted on the Department'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

inacceptable, disruptive, violent, etc. behaviors displayed by some inmates. As written, SB 3344 would restrict the Department's ability to ensure the health and safety of inmates by instituting unneeded barriers which would prevent PSD from acting promptly to address volatile situations that routinely occur in Hawaii correctional facilities and state-contracted facilities, as well. Recently, an inmate launched an unprovoked attack on two Correctional Officers, one of whom suffered serious facial structural injuries. Also, a Nurse was attacked by an inmate for no apparent reason while she attempted to provide treatment services. If enacted, the requirements of SB 3344 would have hindered or delayed PSD Staff's intervention, which would serve to increase the levels of danger and disruption in the facilities.

The Department notes, the age of an inmate, developmental disability, and/or mental illness have very little, if anything, to do with harming, assaulting, and/or killing another human being, including attacking staff members, who have relatively less exposure to the broader inmate population. In attempting to cover most scenarios, the measure's requirements tend toward generalities, which run counter to the updated national standards that are moving towards more specificity in administrative and disciplinary segregation. PSD's current policies and procedures regarding inmate classification, housing, internal disciplinary processes, including inmates' ability to avail themselves of the complaint and grievance processes, all help to ensure inmates are not abused and are housed in locations/levels of security appropriate to their classification levels to foster participation in programs. For these reasons, the Department respectfully requests that this measure be held.

Thank you for the opportunity to provide testimony on SB 3344.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Senator Clarence Nishihara, Chair

Senator Lynn DeCoite, Vice Chair

Tuesday, February 15, 2022

1:30 PM

SB 3344 - STRONG SUPPORT FOR TRANSPARENCY & ACCOUNTABILITY RELATING TO SOLITARY CONFINEMENT - OR ITS EUPHEMISMS - ADMINISTRATIVE OR DISCIPLINARY SEGREGATION

Aloha Chair Nishihara, Vice Chair DeCoite, 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 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 sanction¹.

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.

¹ What are the effects of solitary confinement on health?

<https://www.medicalnewstoday.com/articles/solitary-confinement-effects>

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 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.”

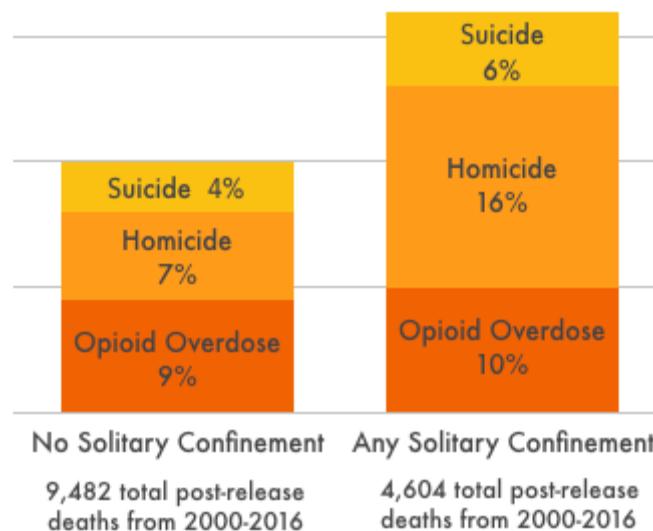
How can we allow such violations of basic constitutional rights in our names?

The reality that must be faced is that Hawai`i allows CoreCivic to ‘operate‘ their prison their way. And then the 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.

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.²

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 curtailed. 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.

² 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/

We have reviewed Policy No. Cor.11.01³ 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. "Section 2.(e) that no later than July 1, 2023, the department will develop written policies and implement procedures to (1) Establish less restrictive interventions as alternatives to solitary confinement; (2) Require periodic training of disciplinary staff and all other staff who interact with inmates held in solitary confinement; (3) Require documentation of all decisions, procedures, and reviews of inmates placed in solitary confinement; (4) Require monitoring of compliance with all rules governing cells, units, and other spaces used for solitary confinement; (5) Require the posting of quarterly reports on the department's official website; (6) Update the department's corrections administration policy and procedures manual, as necessary and appropriate, to comply with the provisions of this section, including the requirement to use appropriate alternatives to solitary confinement for inmates who are members of a vulnerable population."

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 housing⁴. The Report's "Guiding Principles" include:

- Inmates should be housed in the least restrictive setting necessary to ensure their own safety, as well as the safety of staff, other inmates, and the public.
- Correctional systems should always be able to clearly articulate the specific reason(s) for an inmate's placement and retention in restrictive housing. The reason(s) should be supported by objective evidence. Inmates should remain in restrictive housing for no longer than necessary to address the specific reason(s) for placement.
- Restrictive housing should always serve a specific penological purpose.
- An inmate's initial and ongoing placement in restrictive housing should be regularly reviewed by a multi-disciplinary staff committee, which should include not only the leadership of the institution where the inmate is housed, but also medical and mental health professionals.
- For every inmate in restrictive housing, correctional staff should develop a clear plan for returning the inmate to less restrictive conditions as promptly as possible. This plan should be shared with the inmate, unless doing so would jeopardize the safety of the inmate, staff, other inmates, or the public.

³ 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>

⁴ 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>

- All correctional staff should be regularly trained on restrictive housing policies. Correctional systems should ensure that compliance with restrictive housing policies is reflected in employee-evaluation systems.
- Correctional systems should establish standing committees, consisting of high-level correctional officials, to regularly evaluate existing restrictive housing policies and develop safe and effective alternatives to restrictive housing.
- Absent a compelling reason, prison inmates should not be released directly from restrictive housing to the community.
- Correctional systems should seek ways to increase the minimum amount of time that inmates in restrictive housing spend outside their cells and to offer enhanced in-cell opportunities. Out-of-cell time should include opportunities for recreation, education, clinically appropriate treatment therapies, skill-building, and social interaction with staff and other inmates.

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 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.⁵

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 building in these institutions that are ostensibly about rehabilitation?

And § 5-7.5 "Aloha Spirit" reminds the state that each person must think and emote good feelings to others. In the contemplation and presence of the life force and in exercising their power on behalf of the people and in fulfillment of their responsibilities, obligations and service to the people, the legislature, governor, lieutenant governor, executive officers of each department, the chief justice, associate justices, and judges of the appellate, circuit, and district courts may contemplate and reside with the life force and give consideration to the "Aloha Spirit". [L 1986, c 202, § 1]

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.

*"We must learn to regard people less in the light of what they do or omit to do,
and more in the light of what they suffer."*

Dietrich Bonhoeffer

⁵ 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>

TESTIMONY IN SUPPORT OF SB 3344

TO: Chair Nishihara, Vice-Chair DeCoite, & Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: February 15, 2022 (1:30 AM)

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.

The American Public Health Association called for an end to punitive segregation in its statement in its 2013 policy statement ("[Solitary Confinement as a Public Health Issue](#)"):

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.”

The ABA also 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.”*

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.

Thank you for the opportunity to testify on this important measure.

SB-3344

Submitted on: 2/11/2022 6:25:05 PM

Testimony for PSM on 2/15/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
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.

SB-3344

Submitted on: 2/14/2022 9:39:55 AM

Testimony for PSM on 2/15/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Loren Walker	Testifying for Hawai'i Friends of Restorative Justice	Support	No

Comments:

The Hawai'i Friends of Restorative Justice (HFRJ) strongly supports this measure. HFRJ has worked with and conducted research on Hawai'i state prisons for almost twenty years. HFRJ has direct experiences with the consequences of unrestricted solitary confinement on the lives of incarcerated people and prison staff too. One young, wonderful mother who had great promise, died in solitary confinement, which we believe is responsible for her death. Other incarcerated people we have worked with have also suffered serious emotional harm from solitary confinement. And while some prison staff may believe solitary confinement is effective, others have been disturbed by the harmful effects that this barbaric punishment causes.

The research is clear that solitary confinement is [detrimental](#) and should be abolished, and if used it must be strictly regulated. Research shows that [managing incarcerated people in humane ways is more effective](#) than extreme emotional deprivations, which are not only ineffective but they are harmful and dangerous and for the state to carry them out is a great disservice to our community.

Hawai'i's corrections system needs to be reformed and ending unrestricted solitary confinement is a step forward that will help all our community. Please support this measure.

Please contact Loren Walker at lorenn@hawaiiifriends.org if you need more information about our strong support for this bill. Mahalo for your public service.



Hawai'i

LATE

Committees: Committees on Public Safety, Intergovernmental and Military Affairs
Hearing Date/Time: Tuesday, February 15, 2022 at 1:30 p.m.
Place: Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in Support of S.B. 3344
Relating to Corrections**

Dear Chair Nishihara, Vice Chair Decoite 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 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.¹ 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.² Research also shows that incarcerated

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

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

people deprived of normal human contact cannot properly reintegrate into society, resulting in higher recidivism rates.³

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.⁴ 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 practice. 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.

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 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 Shiota
Carrie Ann Shiota
Policy Director
ACLU of Hawai'i

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

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³ See, e.g., KERAMET REITER, PAROLE, SNITCH, OR DIE: CALIFORNIA'S SUPERMAX PRISONS AND PRISONERS 50 (2006).

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



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February 14, 2022

**COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL &
MILITARY AFFAIRS**

Senator Clarence Nishihara, Chair
Senator Lynn DeCoite, Vice Chair
Tuesday, February 15, 2022
1:30 pm

SB 3344 – RELATING TO CORRECTIONS/CONFINEMENT

There is a robust body of literature on the harms caused by solitary confinement, administrative, or disciplinary segregation. Prisons and jails are already inherently harmful, and placing people in solitary confinement adds an extra burden of stress that has been shown to cause permanent changes to people's brains and personalities.

In fact, research has shown that the part of the brain that plays a major role in memory has been shown to physically shrink after long periods without human interaction. And since humans are naturally social beings, depriving people of the ability to socialize can cause "social pain," which researchers define as "the feelings of hurt and distress that come from negative social experiences such as social deprivation, exclusion, rejection, or loss." Social pain affects the brain in the same way as physical pain, and can actually cause more suffering because of humans' ability to relive social pain months or even years later.

Reports have shown that the effects of solitary confinement on mental health can be lethal. Even though people in solitary confinement a small percentage of the total prison population, they account for approximately half of those who die by suicide.

Our firm has witnessed the lasting harms that this isolation causes. Knowing that most people will be returning citizens some day, the way they are treated while incarcerated will impact how they will interact (or not) in the community.

Please pass SB 3344. Mahalo for this opportunity to testify.


Myles S. Breiner

SB-3344

Submitted on: 2/14/2022 10:18:48 AM

Testimony for PSM on 2/15/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
E. Ileina Funakoshi	Individual	Support	No

Comments:

I am e. ileina funakoshi who have been testifying on the inhumane conditions of solitary confinement for over 14 years.

It is more divisive instead of corrective separating loved ones when the inmate and families need the support of each other.

Thank you for the opportunity to testify on SB3344 and ask humbly for your favorable consideration.

e. ileina funakoshi, Chair

Public safety Committee

Pearl City Neighborhood Board #21

SB-3344

Submitted on: 2/14/2022 11:18:11 AM

Testimony for PSM on 2/15/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dara Carlin, M.A.	Individual	Support	No

Comments:

Stand in Support.

SB-3344

Submitted on: 2/14/2022 12:53:26 PM

Testimony for PSM on 2/15/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Wendy Gibson-Viviani	Individual	Support	No

Comments:

To: THE SENATE-- COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

From: Wendy Gibson-Viviani RN/BSN

RE: SB3344 Related to Corrections --in STRONG SUPPORT

Dear Chair Clarence K. Nishihara, Vice-Chair Lynn DeCoite, and Members of the Committee,

I am Wendy Gibson-Viviani an RN who has lived on Oahu for 29 years. I **support SB3344** as it may help curb the use of solitary confinement and provide some transparency so that we will be able to know how it is currently being used. I'm concerned about the practice of solitary confinement because I have recently learned that it is a form of TORTURE. Many groups who have studied this, including U.N. Committee Against Torture, say so. If Hawaii's current practices include solitary confinement I believe we are likely causing more harm to society and our most vulnerable populations, than benefits.

I found this on American Friends Service Committee's **Solitary confinement facts**:

https://www.afsc.org/resource/solitary-confinement-facts?gclid=Cj0KCCQiAmKiQBhCIARIsAKtSj-IO-F-2h_lgEI_URNvJDw704Ymtox7kMgo9Wgq2ahS7yulCXjQ7e3waAtj4EALw_wcB

Q: How does long-term solitary confinement affect a person?

A: [Numerous studies have documented the harmful psychological effects of long-term solitary confinement](#), which can produce debilitating symptoms, such as:

- Visual and auditory hallucinations
- Hypersensitivity to noise and touch
- Insomnia and paranoia
- Uncontrollable feelings of rage and fear
- Distortions of time and perception

- **Increased risk of suicide**
- Post-traumatic stress disorder (PTSD)

These effects are magnified for **two particularly vulnerable populations: [juveniles, whose brains are still developing](#)**, and people with **mental health issues**, who are estimated to make up **one-third of all prisoners in isolation**.

AND, If a person isn't mentally ill when entering an isolation unit, by the time they are released, their mental health has been severely compromised. Many prisoners are released directly to the streets after spending years in isolation. [Because of this, long-term solitary confinement goes beyond a problem of prison conditions, to pose a formidable public safety and community health problem.](#)

Q: Is solitary confinement considered “torture?”

A: Yes. Prison isolation fits the definition of torture as stated in several international human rights treaties, and thus constitutes a violation of human rights law. [The U.N. Convention Against Torture](#) defines torture as any state-sanctioned act “by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person” for information, punishment, intimidation, or for a reason based on discrimination.

Since the 1990s, the U.N. Committee Against Torture has repeatedly condemned the use of solitary confinement in the U.S.

[In 2011, the U.N. special rapporteur on torture warned that solitary confinement “can amount to torture or cruel, inhuman, or degrading treatment or punishment when used as a punishment, during pre-trial detention, indefinitely or for a prolonged period, for persons with mental disabilities, or juveniles.”](#)

[In 2014, AFSC submitted a “shadow report” to the U.N. Committee Against Torture](#), featuring testimonies from people subjected to long-term isolation.

For these reasons, I agree that prison isolation must end—for the safety of our communities, to respect our responsibility to follow international human rights law, to take a stand against torture wherever it occurs, and for the sake of our common humanity.

Thank you for the opportunity to testify on this important issue. Please lend your support to SB3344.

Wendy Gibson-Viviani RN/BSN

Kailua (Oahu resident for 29 years)

SB-3344

Submitted on: 2/14/2022 1:14:32 PM

Testimony for PSM on 2/15/2022 1:30:00 PM

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

Comments:

Aloha Chair Nishihara, Vice Chair DeCoite and members of the Senate Committee on Public Safety, Intergovernmental Affairs and Military Affairs

Although I support the intent and most of the provisions of this bill, I am concerned that it contains an “out” that would allow correctional facilities, individually or working together, to hold a person in solitary confinement for more than 15 days. The Nelson Mandela Rules of the United Nations consider that to be torture, and so do I.

Subsection (a)(9) appropriately limits use of solitary confinement, in the rare cases that it meets the other conditions of the bill, to 15 days. However, it is contradicted by subsection (a)(4)(A) by allowing a person to be *reviewed* every fifteen days while awaiting a hearing, and thus, presumably, held longer—possibly ever much longer—than 15 days.

"(A) An initial hearing held within seventy-two hours of placement in solitary confinement and a **review** every fifteen days thereafter, in the absence of exceptional circumstances, unavoidable delays, or reasonable postponements;"

Please reconsider this provision.

I also note that although the introduction in SECTION 1 of this bill included the intent to ensure that a person in solitary confinement would not be held in a continuously lighted environment, I didn't see that included in the rest of the bill.

When a bill limiting solitary confinement was heard in 2019, the Department of Public Safety testified that the bill was unnecessary, since their on policies prevented solitary confinement for longer than 15 days. That was not true at the time, since their policies only provided that a person in solitary confinement would be *reevaluated* every 15 day. I point this out now, so that the committee members and/or staff will look carefully at the DPS policies if similar claims are made about why this bill is unnecessary.

With appropriate amendment to subsection (a)(4)(A), I urge you to pass this bill.

Thank you for the opportunity to testify.

SB-3344

Submitted on: 2/14/2022 1:17:33 PM

Testimony for PSM on 2/15/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Daphne Barbee, Attorney	Individual	Support	No

Comments:

Dear Seantors:

I am attorney who has practiced law in Hawaii for many yers. I was once a state Public Defender. One of my cases involeved an inmate who was placed in Solitary Confinment for Robbery in the 1st Degree. Sadly, after being placed in solitary confinement I was told he hung himself. I recall no one visiting him as his family had left town. It saddens me to think that solitary confinement still continues in Hawaii Prisons. I read with graeat interest and admiration about the Nelson Mendaa Rules regarding inmprisonent. I hope Hawaii adopts these rules, we must respect himan dignity and not torture and maltreat those who are confined. I support this Bill and urge its passage. Sollitary confinement is a form of torture and leads to depression amongst other illness. Let's remeber inmates are fellow human beings. Thank you.

LATE

SB-3344

Submitted on: 2/14/2022 3:53:08 PM

Testimony for PSM on 2/15/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nicholas Chagnon	Individual	Support	No

Comments:

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

This bill is an absolute must. As a criminologist, I can say without equivocation that the research on this topic clearly shows that solitary confinement is neither morally defensible, nor is it in the interests of public safety. Solitary confinement may be necessary under some rare and exceptional circumstances. However, it is a form of torture in most cases, which only further brutalizes inmates living under brutal conditions. Such treatment increases the likelihood that inmates will engage in subsequent violence, and possibly harm members of the public when/if they are released. If we want safe communities, we must engage in correctional practices that actually promote safety. Solitary confinement does exactly the opposite.

Thanks for your time and consideration,

Nicholas J. Chagnon