

EXECUTIVE CHAMBERS  
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA

Testimony of **James Koshiba**  
Governor's Coordinator on Homelessness  
Before the  
**House Committee on Judiciary & Hawaiian Affairs**  
February 14, 2023  
2:00p.m., Via Video Conference  
Conference Room 325

In consideration of  
**House Bill No. 1404 HD1**  
**RELATING TO THE COMMUNITY OUTREACH COURT PROJECT**

Aloha Chair Tarnas, Vice Chair Takayama, and Committee Members,

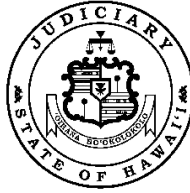
I am writing in strong support of HB1404 HD1 to ensure that persons experiencing homelessness or who have recently experienced homelessness have access to Community Outreach Court. I commend the legislature for establishing this program, and the judiciary for its efforts to reach those experiencing homelessness.

I have accompanied Community Outreach Court staff during outreach to multiple encampments, and have witnessed how the program benefits those who are unhoused. Many people who have lost their housing quickly accumulate citations, fines, and criminal records for nonviolent, misdemeanor offenses such as expired vehicle registrations, sitting or lying on sidewalks, or remaining in parks after hours. Fines and criminal history then become a barrier to employment and housing. For several individuals I know, old unpaid vehicle citations resulted in stoppers on their drivers license, which then deprived them of the ability to commute to work.

Community Outreach Court enables these individuals to clear these hurdles, and to do so in a place and manner that does not require them to travel long distances, or to leave their belongings behind for long durations. It is an essential service for those experiencing homelessness and I strongly support its expansion.

Mahalo,

James Koshiba  
Governor's Coordinator on Homelessness



## *The Judiciary, State of Hawaii*

**Testimony to the Thirty-Second State Legislature, 2023 Regular Session**

**House Committee on Judiciary and Hawaiian Affairs**

Representative David A. Tarnas

Representative Gregg Takayama, Vice Chair

Tuesday, February 14, 2023 at 2:00 PM.

Conference Room 325 & Via Videoconference

by

Brook Mamizuka

Probation Administrator, First Circuit Court

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**Bill No. and Title:** House Bill No. 1404, H.D. 1, Relating To the Community Court Outreach Project.

**Purpose:** Makes the community court outreach project permanent. Amends the project to address homeless defendants and expand the opportunities for eligible defendants to participate. Appropriates funds for additional personnel and enhanced security services.

### **Judiciary's Position:**

The Judiciary strongly supports House Bill No. 1404, H.D. 1 and requests an amendment to the method by which the Judiciary's receives funding to administer the Community Outreach Court program, as detailed below.

This measure will afford much needed resources, staffing, and funding for the Community Outreach Court. The Judiciary recognizes the ongoing need to address the growing houseless community and would like to expand the Community Outreach Court to include referrals from judges, probation officers, and court-appointed attorneys. This will allow the program to reach a larger number of the houseless individuals under the jurisdiction of the courts.

The Community Outreach Court was established in 2017 as a mobile justice system that travels to neighborhoods to resolve non-violent offenses, providing an alternative for individuals



whose personal circumstances might preclude them from appearing for court in a traditional court setting. The goal of Community Outreach Court was to help non-violent offenders who face problems such as substance use disorders and mental health challenges obtain basic services and necessities, like food and shelter. Since its inception, 470 people have participated in the program, 7,663 cases have been cleared, and 5,645 community service hours have been completed. As the number of persons and families experiencing houselessness continues to grow, the Judiciary would like to expand Community Outreach Court to serve them and the communities in which they currently live.

Currently, the Community Outreach Court program on Oahu is held three times per month. A program administrator and specialist oversee the program. However, there are no dedicated positions for court clerks, bailiffs, judicial clerks, all of whom are necessary to support the court sessions that are held in the community. Without an appropriation for these positions, expansion of the program will be limited.

This bill will appropriate out of the general revenue of the State of Hawai'i the sum of \$300,000 for fiscal year 2023-2024 for one (1) full-time court clerk position; one full time court bailiff; and two full time judicial clerk positions and associated costs for these positions to operate.

Community Outreach Court convenes in non-traditional settings, away from Judiciary facilities. In order to ensure the safety of the participants, family members, attorneys, the judge, court staff, and service providers, two (2) security guards check participants in and two (2) law enforcement officers are present throughout the hearings. At each hearing, the Judiciary expends \$440.00 for law enforcement services and \$270.93 for security guards, in total of \$710.93. The Judiciary's goal is to increase the number of hearings per week as the Community Outreach Court expands. This bill, therefore, seeks an appropriation of \$50,000 for security services for fiscal year 2023-2024.

The Judiciary recognizes the challenges of the houseless communities and is working with non-profit community programs to address immediate needs (i.e., food, shelter, wound care) and long term solutions. Providing for expansion of the court, services and funding will ensure that the work continues.

### **Request for an amendment to the Judiciary's funding for the program:**

The Judiciary respectfully requests an amendment to the mechanism for appropriating funds for the Judiciary's administration of the Community Outreach Court program. Currently, in the first year of each fiscal biennium, the Judiciary's share of funding for the program is provided through an appropriation first made to the Office of the Public Defender, a portion of which is then transferred to the Judiciary. See section 10 of Senate Bill No. 354 and House Bill



House Bill No. 1404, H.D. 1, Relating to the Community Court Outreach Project.  
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No. 300, the companion measures for the General Appropriations Act of 2023. For improved fiscal efficiency, we request that the Judiciary's share of this funding be deleted from the General Appropriations Act and replaced with either:

- (1) An amendment to this measure to add a direct appropriation to the Judiciary for its share of costs to administer and operate the Community Outreach Court program in the fiscal biennium 2023-2025; or
- (2) An amendment to the Judiciary Appropriations Act of 2023 (House Bill No. 382 and Senate Bill No. 482) to add the Judiciary's share of Community Outreach Court funding to the program appropriation for the First Judicial Circuit (program ID JUD310),

provided that any appropriation made to the Judiciary under this measure or the Judiciary Appropriations Act to administer and operate the Community Outreach Court program does not supplant the Judiciary's other existing funding and budget requests. To clarify, we do not want the Community Outreach Court funding to come out of the First Circuit's other existing or requested funding.

Thank you for the opportunity to testify on House Bill No. 1404, H.D. 1.

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

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the House Committee on  
Judiciary and Hawaiian Affairs**

February 15, 2023

H.B. No. 1404 HD1: RELATING TO THE COMMUNITY OUTREACH COURT  
PROJECT

Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The Office of the Public Defender (“OPD”) supports H.B. No. 1404 HD1 with comments.

H.B. No. 1404 HD1 seeks to make the Community Outreach Court (“COC”) project permanent, amends the project to address homeless defendants, and expands the opportunities for eligible defendants to participate. The bill also seeks to appropriate funds for additional personnel and enhanced security services.

**COC should be made permanent**

The OPD supports the portion of the bill which makes the COC permanent. The COC has been and continues to be a successful program in assisting nonviolent offenders who face problems such as homelessness and unemployment, obtaining basic services and necessities, like food and shelter, and to offer combined accountability and treatment options to offenders that would reduce crime and recidivism.

The COC started in January 2017 as a collaborative pilot project among the Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu (“Prosecutor’s Office”), and the OPD after the Prosecutor’s Office received a grant for this project from the Center for Court Innovation. Although the Judiciary did not receive funding from this grant, it committed to participate in this project by utilizing existing resources, including designation of a COC judge. The 2017 Legislature passed Senate Bill No. 718, C. D. 1, to further develop Hawai‘i’s COC program. The bill was signed into law as Act 55, SLH 2017 by Governor David Ige on June 22, 2017 to take effect on July 1, 2017.

As envisioned, the mobile court travels to the communities where defendants are located and convenes court sessions in non-traditional court settings. The COC is structured to dispose of cases in which defendants, after negotiations between the prosecutor's office and the OPD, enter into plea agreements.

Since 2017, the COC continues to be successful in clearing cases and providing life-changing opportunities for its participants. Many participants have obtained driver's licenses, housing or shelter services, and employment. The Judiciary, the Prosecutor's Office, and the OPD have collaboratively made progress developing a mobile-COC and have continued to meet the common goal of working with people who want to restart and improve their lives in our community.

### **Codification of the procedures is not necessary**

Although the OPD supports the bill, the OPD is opposed to the codification of the detailed policy and procedures for eligibility, admission, and supervision of participants as set forth in the bill under the heading, "-3 Project process" from page 4, line 14 to page 9, line 2. Rather than set forth rigid rules and procedures, the Legislature should allow the Judiciary, the Prosecutor's Office and the OPD to develop and establish an agreed upon procedure through a memorandum of agreement ("MOA"). Indeed, the COC has been functioning under an MOA since its inception.

Previous bills establishing specialty courts such as Drug Court, Veterans' Court, Women's Court, Girls' Court, and Mental Health Court, did not include a detailed procedure for admission and supervision. The details were left for the stakeholders (e.g., the Judiciary, the county prosecutor's office, and the OPD) to work together collaboratively, to develop and establish the process to admit and supervise the participants, and to have the final plan memorialized in an MOA. The specialty courts have been successful due to the shared and cooperative efforts of the stakeholders, and we believe, the success was partly due to allowing the stakeholders to define the terms of the projects.

Moreover, an MOA, as opposed to legislative mandates, will provide the COC program the necessary flexibility to adjust, modify, and improve the program without the need to have to go to the legislature to amend the law.

## **Funding of the COC Project**

Finally, if the bill is to pass in some form, the Committee should also reevaluate the current method of the distribution of funds for the COC project to the Judiciary and to the prosecutor's office. Every two years, the most recent in 2021, the Legislature must include in the Executive biennium budget bill the following language:

### INDIVIDUAL RIGHTS

SECTION 19. Provided that of the general fund appropriation for the office of the public defender (BUF151), the sum of \$126,364 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be transferred to the judiciary for the administration and operation of the community outreach court project.

SECTION 20. Provided that of the general fund appropriation for the office of the public defender (BUF151), the sum of \$165,404 or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 shall be transferred to the office of the prosecuting attorney of the city and county of Honolulu for the operation of the community outreach court project.

*See, e.g., H.B. No. 200 H.D.1 S.D.1 C.D.1, page 60.*

The OPD recommends that the bill should be amended so that the Judiciary and the Honolulu Prosecutor's Office receive the aforementioned funds directly from the state general fund rather through the OPD.

As stated previously, the COC has been and continues to be a successful project in assisting nonviolent offenders experiencing homelessness or who have recently experienced homelessness. There is no shortage of applicants, as there is currently a backlog in the screening process. The OPD understands that there is a high demand to provide services for the homeless. Legislators consistently hear complaints from their constituents that not enough is being done to address the homelessness situation in their neighborhoods. More should be done, but in order to expand the project, additional personnel and resources from the OPD and the Honolulu Prosecutor's Office will be required, but not through statutory change.

Thank you for the opportunity to comment on this measure.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

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1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
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STEVEN S. ALM  
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THOMAS J. BRADY  
FIRST DEPUTY  
PROSECUTING ATTORNEY

**THE HONORABLE DAVID A. TARNAS, CHAIR**  
**HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS**  
**Thirty-Second State Legislature**  
**Regular Session of 2023**  
**State of Hawai`i**

February 14, 2023

**RE: H.B. 1404, H.D. 1; RELATING TO COMMUNITY COURT OUTREACH PROJECT.**

Chair Tarnas, Vice-Chair Takayama and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney, City and County of Honolulu (“Department”), submits the following testimony regarding H.B. 1404, H.D. 1, with comments.

First and foremost, the Department would like to thank the Legislature for supporting and passing Act 55 (2017), which created a permanent Community Court Outreach Project in the City and County of Honolulu. As the Committee is aware, this began as an independent, collaborative effort and unfunded pilot project between the Department, the Office of the Public Defenders and the Judiciary, which was later fortunate to secure a modest federal grant for start-up costs. We greatly appreciate the subsequent funding that the Legislature dedicated to this project as well.

One of the unique aspects of this project is that we have always touted that our three agencies work together like three legs of a chair, in that we move, adjust and evolve as one unit. With that said, the Department would note that—over the last few months—the three agencies have voluntarily had preliminary talks about potential changes to the project that would mean substantial changes to the project’s complexity and specific procedures. The Department believes that these potential changes will not alter the original mission of Community Outreach Court or the individuals that all three agencies aim to assist, but they will take concerted time and effort to discuss, plan, and implement internal policies and procedures, as we continue to transition out of the COVID pandemic.

H.B. 1404, H.D. 1 proposes to codify the Community Outreach Court Project in a way that goes far beyond what other codified specialty courts have put into statute; in recent memory, enabling legislation for Women’s Court and Environmental Court simply outlined the most general concepts and/or procedures. The degree of specificity presented in H.B. 1404, H.D. 1 is problematic, as the court over the years has had to make swift and necessary changes



to procedures, in order to adjust to this somewhat unpredictable target population, numerous COVID restrictions, and the integration of new technology. If H.B. 1404, H.D. 1 were to pass, any changes that would need to be implemented, regardless of any agreement between the three agencies would have to go through the sometimes arduous path of being legislated and adopted into statute. To provide efficiency and flexibility, the Department believes that codification is not necessary at this juncture as all three agencies have still showed a willingness to engage in meaningful conversation.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu submits comments on H.B. 1404, H.D. 1. Thank you for the opportunity to testify on this matter.

# PARTNERS IN CARE

*Oahu's Continuum of Care*

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*Our mission is to eliminate homelessness through open and inclusive participation and the coordination of integrated responses.*

## **TESTIMONY IN STRONG SUPPORT OF HB 1404 HD1 RELATING TO THE COMMUNITY COURT OUTREACH PROJECT**

TO: House Committee on Judiciary & Hawaiian Affairs

FROM: Partners In Care (PIC)

**Hearing: Tuesday, February 14<sup>th</sup>, 2pm, Conference Room 325/videoconference**

Chair Tarnas and Members of the House Committee on Judiciary & Hawaiian Affairs:

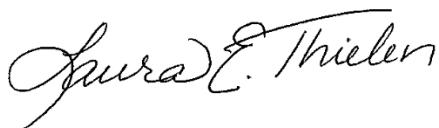
Thank you for the opportunity to provide testimony in **STRONG SUPPORT of HB1404 HD1** which makes the Community Outreach Court (CoC) permanent.

Partners In Care (PIC), a coalition of more than 60 non-profit homelessness providers and concerned organizations, works on Oahu to end homelessness. For many who are experiencing homelessness, legal entanglements are prevalent and need to be addressed in a way that traditional courts are not always able to spend time on. Without the CoC in place many individuals will have a more challenging time finding and maintaining housing as well as other services.

The Community Outreach Court participates in many service fairs for those experiencing homelessness as well as connecting with individual homelessness services agencies to provide court services on site. Making this court permanent will not only prevent other courts from being overwhelmed and having a higher percentage of defendants appearing before a traditional court, it also helps to provide access to other services such as substance abuse treatment and mental health treatment.

Thank you for the opportunity to testify today in **STRONG SUPPORT OF HOUSE BILL 1404 HD1**.

Sincerely,



Laura E. Thielen  
Executive Director  
Partners In Care

## TESTIMONY IN SUPPORT OF HB 1404, HD 1

TO: Chair Tarnas, Vice Chair Takayama, & Committee Members

FROM: Nikos Leverenz  
Grants & Advancement Manager

DATE: February 14, 2023 (2:00 PM)

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Hawai'i Health & Harm Reduction Center (HHRC) **supports** HB 1404, HD 1, which makes the community outreach court (COC) permanent and expands opportunities for eligible defendants to participate in the program.

HHRC has been a supporter of the community outreach court since it started, providing on-site case management and linkage for the participants. In late 2022 HHRC began sponsoring the COC in our Kaka'ako offices once per month, which continues to this day. We've seen significant progress among those who've participated, and will continue to extend needed support to requiring access to services.

HHRC'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, and have been deeply impacted by trauma from physical, sexual, and psychological abuse.

Thank you for the opportunity to testify on this measure.

**HB-1404-HD-1**

Submitted on: 2/10/2023 3:49:41 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support

**HB-1404-HD-1**

Submitted on: 2/12/2023 11:43:54 AM

Testimony for JHA on 2/14/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lindsay Ann Pacheco	Individual	Support	Written Testimony Only

Comments:

Aloha Chairs and Committees:

My name is Lindsay Ann Pacheco and I am writing in support of HB1404 related to making Community Outreach Court a permanent program.

As someone who has lived as a homeless individual for nearly 9 years to now being housed for almost 3 years, I can honestly tell you that it has not been easy to get here. Being homeless here in Hawaii has literally become a crime which makes getting off the streets even more difficult especially when it comes to trying to get into housing or finding a job when everywhere you go someone wants to run a criminal background check. From experience, being homeless literally puts a person into a cycle of criminal offenses and tickets that turn into contempt of courts often resulting in criminal warrants for our arrest. This becomes a repetitive cycle which is pointless and is of no help whatsoever to anyone who is actually trying to get out of homelessness. What's even worst is that this cycle becomes one very difficult to get out of.

Thanks to the help of Community Outreach Court I was able to take care of a lot of tickets and warrants that I had accumulated as a result of being homeless, and I was able to get things cleared and dismissed. It really sucks always having to watch your back and do your best to not get arrested as a homeless individual, because once you get arrested and released, unless you have somewhere to go or someone to help you once you get released from police custody, you come right back out onto the street with absolutely nothing to your name, not even a blanket to keep you warm at night.

Also, thanks to the help of Community Outreach Court, this program really helps individuals hold themselves accountable for their actions while at the same time being responsible adults in taking care of outstanding legal matters that might otherwise never get taken cared of often resulting in creating more mess in an individual's life.

I strongly support HB1404.

Thank you for allowing me to submit this testimony,

Lindsay Ann Pacheco

**HB-1404-HD-1**

Submitted on: 2/12/2023 2:28:47 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Support	Written Testimony Only

Comments:

The community court outreach project established by Act 55, Session Laws of Hawaii 2017, has been successful in establishing a mobile court to hold hearings at community sites to dispose of cases for which the prosecuting attorney and public defender have negotiated and reached plea agreements on the disposition of defendants charged with nonviolent, non-felony offenses.

The project needs to be updated to ensure that persons experiencing homelessness or who have recently experienced homelessness have access to the project at community sites in the judicial districts where those persons currently live or receive mental health services, substance abuse treatment, sustenance, shelter, or other social services. Please support HB1404 HD1.