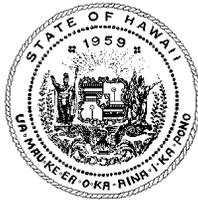


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**
*Ka 'Oihana Ho'omalu Kalaima
a Ho'oponopono Ola*
1177 Alakea Street
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No. _____

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL 104, SENATE DRAFT 1
RELATING TO CORRECTIONS.

by
Tommy Johnson

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Wednesday, February 19, 2025, 10:16 a.m.
State Capitol, Conference Room 211 & via Videoconference

Chairs Rhoads, Dela Cruz, Vice Chairs Gabbard, Moriwaki, and Members of both Committees:

The Department of Corrections and Rehabilitation (DCR) **strongly opposes** Senate Bill (SB) 104, Senate Draft (SD) 1, 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 DCR to use appropriate alternatives to "solitary confinement" for vulnerable inmates as defined in SB 104, SD 1, and requires a progress report on full compliance with the Act to the 2026 Legislature.

DCR strongly opposes this measure as it is unnecessary and, in many ways, duplicative in several areas of DCR's attached correctional policy (COR.11.01) Administrative Segregation and Disciplinary Segregation. DCR's policies and

procedures ~~and~~ are periodically reviewed and updated to ensure continued alignment with the guidelines of the National Institute of Corrections (NIC), and the American Correctional Association (ACA). As written, SB 104, SD 1 does not follow the guidelines of the NIC nor the ACA. The attached DCR policy was recently updated during 2024, as part of the periodic review and update procedures, and is posted on our website for anyone to access and review.

The DCR notes, that 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 both the safety and well-being of inmates, and to address unacceptable, disruptive, and violent behaviors displayed by some inmates. As written, SB 104, SD 1, would restrict DCR’s ability to ensure the health and safety of inmates; placing unneeded barriers that would prevent DCR from acting promptly to address volatile situations that routinely occur in correctional facilities across the nation.

It should be noted; the Hawaii Correctional Systems Oversight Commission (HCSOC) has had access to all DCR’s policies for some time, including the attached policy, and has never previously raised concerns. It is also noted that SB 104, the SD1 version, and Standing Committee Report No. 87 are incorrect. In that, DCR’s attached policy is in line with the national guidelines of the NIC and ACA as stated above and is periodically reviewed with the most recent review and updates concluded during 2024. As written, this measure attempts to resolve a problem that does not exist.

Recently, there have been unprovoked attacks by inmates on correctional staff resulting in serious injuries. One officer suffered a serious skull fracture, another was seriously injured because of being pushed down a flight of stairs as he rushed to intervene and assist an inmate being assaulted, and yet another officer sustained facial injuries after being punched in the face by an inmate. Several nurses have been injured by inmates for no apparent reason, while attempting to provide them with treatment. If enacted, the requirements of SB 104, SD 1 would hinder, or delay DCR staffs’

intervention, which would increase the levels of danger and disruption to staff, other inmates, and the good governance of facility operations.

The Department notes, that 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. DCR has the responsibility to assure the safety and well-being of all offenders. Separating and monitoring offenders exhibiting inappropriate behaviors is 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. DCR's current policies and procedures regarding inmate classification, housing, and 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.

Thank you for the opportunity to provide testimony in **strong opposition** to SB 104, SD 1.

Encl.

	DEPARTMENT OF CORRECTIONS AND REHABILITATION CORRECTION ADMINISTRATION POLICY AND PROCEDURES	EFFECTIVE DATE: January 1, 2024	POLICY NO.: COR.11.01
		SUPERSEDES (Policy No. & Date): COR.11.01 of November 28, 2014	
	SUBJECT: ADMINISTRATIVE SEGREGATION AND DISCIPLINARY SEGREGATION		Page 1 of 13

1.0 PURPOSE

To establish a statewide policy and procedure for the segregation of inmates from the general population based on supervision requirements, offender status, medical and mental health considerations and other conditions of confinement at a Department of Corrections and Rehabilitation (DCR) Correctional Facility.

2.0 SCOPE

This policy shall apply to all Departmental Facilities of the Corrections Division, and it is applicable to all staff, contractors, volunteers, and inmates.

3.0 REFERENCES, DEFINITIONS & FORMS

.1 References:

- a. Hawaii Revised Statutes (HRS), Section 353-A, Director of Corrections and Rehabilitation, Powers and Duties.
- b. Department Directives from Director Ted Sakai dated May 7, 2013, Placement of Inmates in Segregation is hereby superseded by this policy.
- c. Department Policy and Procedure (P&P), COR 13.02, Adjustment Committee Composition.
- d. Department Policy & Procedure, COR 13.03, Adjustment Procedures Governing Serious Misconduct Violations and the Adjustment of Minor Misconduct Violations.
- e. Department Policy & Procedure, COR.10.1A.01, Health Care Section, Access to Care.
- f. Department Policy & Procedure, COR.10.1E.09, Health Care Section Segregated Inmates.

.2 Definitions:

- a. Adjustment Committee Hearing – An administrative due process hearing to determine if there is a preponderance of evidence to find an inmate guilty of a misconduct violation as defined in COR.13.03.

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- b. Administrative Segregation – Inmates may be segregated on a temporary basis from the general inmate population on the order of a watch commander or higher authority, when their continued presence in general population presents an immediate threat to the safety of self or others, jeopardizes the integrity of an investigation of alleged serious misconduct or criminal activity, or endangers institutional security. The terminology “administrative segregation” is not applicable to general population maximum custody or general population protective custody inmates housed in segregation unit.
- c. Disciplinary Segregation – Placement of an inmate in a designated segregation housing unit in a cell separated from the general population, after being found guilty of a misconduct violation and issued a sanction by a formal adjustment committee hearing. Disciplinary segregation includes the loss of certain privileges consistent with DCR policy and as authorized by the Warden or designee.
- d. Program Committee – The Warden or designee shall assign more than one staff member from the following programs/sections: case management, medical/mental health professionals, and/or security staff to conduct this hearing. The Program Committee hearing may be conducted by utilizing video technology.
- e. Segregation – Confinement of an inmate in a cell that is separated from general inmate population.
- f. Serious Misconduct – A greatest (6), high (7), or moderate category (8) misconduct, all of which are considered to pose a serious threat to the safety, security or welfare of the staff, other inmates, the community, or the institution, and subjects the inmate to the imposition of serious penalties such as segregation for longer than four hours.
- g. Serious Misconduct Adjustment – A serious misconduct shall be addressed through the formal adjustment committee hearing process.
- h. Wardens or Designees – The facility administrator or next supervisory level in chain of command at a correctional center or correctional institution (i.e. Deputy Warden or Chief of Security or Correctional Supervisor), who may be authorized temporary assignment into the Warden’s position.

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.3 Forms

- a. Administrative Segregation Form (DCR 8226), Parts A, B, C, D.
- b. Weekly Administrative Segregation Unit Log (DCR 8316).
- c. Administrative Segregation Facility Report for the Institutions Division Administrator.

4.0 POLICY

It is the policy of DCR, Corrections Division, to develop procedures to ensure that an inmate is treated fairly and receives due process, through a multi-disciplinary approach when being assessed and placed in segregation. Placement in segregation is intended to support the rehabilitative process while maintaining security, the orderly running and the good governance of the facility, and as a means to promote an environment of rehabilitation and safety.

5.0 PROCEDURES

.1 ADMINISTRATIVE SEGREGATION

- a. Inmates may be segregated from the general inmate population according to DCR policy by the Watch Commander or higher authority, when the continue presence of the inmate in the general inmate population presents an immediate threat to the safety of self or others, jeopardizes the integrity of an investigation of an alleged serious misconduct or criminal activity or endangers institutional security.
- b. This placement is subject to the review of the Warden or designee within twenty-four (24) hours or as soon as is practicable on the next business day following a weekend or holiday (i.e. If placed on Saturday and Monday is a holiday, then the Warden will review on Tuesday) of the inmate's placement at which time a decision shall be made to continue administrative segregation or to release the inmate back to the general inmate population.
- c. All inmates have the right to seek administrative review of their placement in administrative segregation through the inmate grievance process.

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d. Placement

1. The Watch Commander or higher authority is authorized to place an inmate in administrative segregation, and is required to document that placement as described below.
2. The Warden or designee shall consider whether an inmate's continued presence in the general inmate population presents an immediate threat to the safety of self or others, jeopardizes the integrity of an investigation related to an alleged serious misconduct or criminal activity, or endangers the institutional security as determining factors for placement of an inmate in administrative segregation.
3. The Warden or designee may consider reliable sources of information, including confidential information, to substantiate that the inmate's continued presence in the general inmate population poses a threat to the community, property, self, staff, other inmates, security, or the orderly running and good government of the facility and thereby warrants placement in administrative segregation.

e. Required Documentation

1. The inmate's conduct along with any confidential or other reliable information shall be documented on an Incident Report, DCR 8214 (Attachment A) or in an Inter-Office Memorandum (IOM) to substantiate the facts that warrant administrative segregation.
2. This report must be completed and forwarded to the person who authorizes placement of the inmate in administrative segregation prior to the end of their shift.
3. The Watch Commander or higher authority who authorizes placement shall complete the Administrative Segregation Form, Part A (DCR 8226), which functions as the "written authorization" for placement in administrative segregation and is subject to the Warden's review by the next business day following a weekend or holiday.
4. A copy of "DCR 8226, Part A" shall be provided to the inmate within twenty-four (24) hours of placement in administrative segregation.

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5. The "DCR 8226, Part A" shall include the following information:
 - a) Reason for the inmate's placement in administrative segregation; and
 - b) The approximate length of segregation and/or the date of the next scheduled review.

f. Notification

1. The Watch Commander or higher authority shall immediately notify health care staff of the placement of an inmate in administrative segregation.
2. At the facility without twenty-four (24) hour on site health care, the inmate's placement in administrative segregation shall be reviewed immediately when health care staff next reports for duty. The facility shall ensure the inmate has more frequent observations (15 minute checks or constant observation) until the inmate is reviewed by health care staff and/or mental health staff.
3. The designated health care staff shall assess the inmate's placement in administrative segregation prior to admission into the segregation unit or as indicated above for facilities without twenty-four (24) hour on site health care. The health care staff shall determine whether physical health or mental health issues exist that contraindicate the inmate's placement in administrative segregation. The health care staff shall immediately notify a mental health professional if there are any indications that the inmate has mental health issues.
4. Mental health staff shall conduct a mental health review within twenty-four (24) hours of an inmate's placement in administrative segregation. This review applies to all inmates and is not limited to those inmates with known or suspected mental health issues or inmate who exhibit behaviors that impact their ability to be safely placed in administrative segregation. If an inmate is placed in administrative segregation during a weekend in a facility without seven-day mental health coverage, mental health staff shall conduct a review immediately upon next reporting to duty.
5. If there are compelling security reasons for the continued placement of an inmate in administrative segregation, despite health care

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concerns, the Warden shall be immediately notified by the Watch Commander or higher authority.

The Warden shall review the findings of the Watch Commander and health care staff. Based on these findings, the Warden shall determine the most appropriate placement for the inmate, and notify in writing the Institutions Division Administrator (IDA) of the placement and reasons for the inmate's placement.

g. Review of Inmate's Status In Administrative Segregation

1. The Warden or designee shall review the documentation related to the inmate's placement in administrative segregation within twenty-four (24) hours of placement or as soon as is practicable on the next business day following a weekend or holiday. This is when the Warden or designee shall make the initial decision as to whether the inmate is to be placed on administrative segregation or released back to the general inmate population.
2. The Warden or designee shall conduct a personal interview with the inmate no later than seventy-two (72) hours from the date of the placement in administrative segregation to determine if administrative segregation is still warranted.
3. The Warden or designee shall prepare a written record to document the interview, the decision whether to continue placement, and the justification for the recommended action. A copy of the decision and justification shall be provided to the inmate on DCR 8226, Part B.
4. By the fifteenth (15th) day after an inmate's initial placement in administering segregation, the Facility Program Committee shall hold a due process hearing to assess the need to continue an inmate's placement in administrative segregation. This shall be the inmate's formal due process opportunity to contest his/her placement in administrative placement.
5. The Facility Program Committee shall formulate a case management action plan for the inmate's "progression out" of administrative segregation and include a written record of their decision to confirm the administrative segregation placement or to release the inmate back to the general inmate population. A copy of the decision shall be provided to the inmate on DCR 8226, Part C.

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6. Thirty (30) days after an inmate's initial placement in administrative segregation and every thirty (30) days thereafter, the Warden or designee shall personally interview the inmate, reassess the case management action plan, and make a written record of his/her decision to either confirm the continued administrated segregation housing or to release the inmate back to the general inmate population. A copy of the decision shall be provided to the inmate on DCR 8226, Part D.
7. The Warden shall notify the IDA every thirty (3) days of an inmate's continued placement in administrative segregation and the status of the inmate's compliance with the case management action plan.
8. The IDA shall conduct monthly reviews of all inmates who have been in administrative segregation for thirty (30) days or more. This shall include a review of all documentation relevant to the inmate's placement including, but not limited to: Incident reports or IOMs generated as part of the initial placement; case management action plan; documentation justifying continued placement; grievance appeals; and medical/mental health assessments.
9. The IDA shall consider whether a transfer of the inmate to a facility where he/she may be placed in the general inmate population would be appropriate or if continued placement in administrative segregation is warranted.
10. The IDA shall submit a written report of the results of each thirty (30) day review to the Deputy Director of Corrections (DEP-C).
11. The DEP-C shall consider whether a transfer of the inmate to a facility where he/she may be placed in the general inmate population would be appropriate or if continued placement in administrative segregation is warranted.

.2 DISCIPLINARY SEGREGATION

- a. Inmates may be required to serve a period of disciplinary segregation as a consequence of a guilty finding for a violation of a serious misconduct. Disciplinary segregation includes the loss of certain privileges as dictated by facility policy.

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- b. All inmates have the right to seek administrative review of an adjustment committee's decision of placement in disciplinary segregation through the grievance process.
- c. Placement
 - 1. The Watch Commander or higher authority is authorized to place an inmate in disciplinary segregation based on an adjustment committee hearing and finding of guilt based on a preponderance of the evidence for violating a serious misconduct (COR.13.03).
 - 2. If an adjustment committee issues a sanction of disciplinary segregation exceeding a period of sixty (60) days, he expressed written approval of the IDA is required.
 - 3. Any disciplinary segregation sanction shall consider an inmate's medical and mental health needs, the gravity of the facts, and the severity of the serious misconduct violation.
 - 4. The Warden or his/her designee may modify any adjustment committee's sanction in accordance with COR.13.03.
- d. Required Documentation
 - 1. The Adjustment Committee shall document their findings and disposition on the Notice of Report of Misconduct and Hearing form (DCR 8210A).
 - 2. A copy of the Notice of Report of Misconduct and Hearing form (DCR 8210A) shall be signed by the inmate and a copy shall be provided to the inmate. The inmate's refusal to sign shall be documented.
 - 3. The Notice of Report of Misconduct and Hearing form shall include, but not be limited to the following information:
 - a) A listing of the misconduct violated;
 - b) Findings of the adjustment committee;
 - c) The evidence relied upon;
 - d) The denial of witnesses;
 - e) Listing of any privileges revoked and the justification;
 - f) Length of the disciplinary segregation.

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e. Notification

1. The Watch Commander/Correctional Supervisor or higher authority shall immediately notify health care staff of the placement of an inmate in disciplinary segregation.
2. At any facility without twenty-four (24) hour on site health care, the inmate's placement in disciplinary segregation shall be reviewed immediately when health care next reports for duty. The facility shall ensure that the inmate has more frequent observations (15 minute checks or constant observation), until reviewed by health care staff and/or mental health staff. It should be noted that a facility is able to schedule placement when health care staff is on duty.
3. The designated health care staff shall assess the inmate's placement in disciplinary segregation prior to his/her assignment to the segregation unit. As any facility without twenty-four (24) on site health care to assessment shall occur when health care staff next reports for duty to determine whether physical health or mental health issues exist that contraindicate the inmate's placement in disciplinary segregation. The health care staff must immediately notify a mental health professional if there are any indications that the inmate has mental health issues.
4. Mental health staff shall conduct a mental health review within twenty-four (24) hours of an inmate's placement in disciplinary segregation. This review applies to all inmates, and is not limited to those inmates with known or suspected mental health issues or inmates who exhibit behaviors that impact their ability to be safely placed in disciplinary segregation. If an inmate is placed in disciplinary segregation during a weekend in a facility without seven-day mental health coverage, mental health staff shall conduct a review immediately upon next reporting day.
5. If there are compelling security reasons for the continued placement of an inmate in disciplinary segregation despite health care concerns, the Warden shall be immediately notified by the Watch Commander or higher authority.
6. The Warden shall review the written findings of both the Watch Commander and the health care staff. Based on these findings, the Warden shall determine that most appropriate placement for the

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inmate, and notify in writing the Institutions Division Administrator of the placement and reasons for the inmate's placement. The IDA will discuss the matter or any conflict with the Deputy Director of Corrections, who will make the final decision on the inmate's placement.

f. Review of Inmate's Status In Disciplinary Segregation

1. The Warden shall review the adjustment hearing documentation (DCR 8210A) related to an inmate's placement in disciplinary segregation within twenty-four (24) hours, or on the next official business day if placement was effectuated on a weekend or holiday.
2. The IDA shall be notified in writing prior to day sixty (60) of an inmate's disciplinary segregation to seek authorization for any consecutive sanction.

g. Inmate Monitoring in Administrative Segregation and Disciplinary Segregation

1. A health care professional shall tour each segregation housing unit by observing each inmate at cell front once per day. The health care professional shall communicate with the staff on duty in the segregation unit to identify any inmate with medical or mental health concerns.
2. Each segregation unit shall have a locked inmate medical request collection box located in an area accessible to inmates during out of cell timer (i.e. showers, recreation, phone calls). Only health care staff shall have access to the contents of these boxes. Health care staff shall retrieve the contents of these boxes daily, review and address any inmate request slips located within the box or make a referral to the appropriate health care professional.
3. The health care professional shall review any inmate request slips deposited in the units' medical request collection boxes to ascertain any other health related issues or concerns. Any action taken shall be documented in the inmate's official medical record file. The health care professional's tours shall be documented in the segregation unit logbook.

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4. A mental health professional shall tour each segregation housing unit(s) not less than five (5) times per week. The mental health professional shall communicate with the staff on duty in the segregation unit to identify any inmate with mental health or well-being concerns. Any action taken shall be documented in the inmate's official medical record file. The mental health care professional's tours shall be documented in the segregation unit logbook.
5. The Adult Correctional Office (ACO) in the segregation unit shall personally observe each inmate in segregation once every thirty (3) minutes at irregular intervals, unless an inmate's behavior requires more frequent observations (15 minute checks or constant observations), based on a recommendation from a health care professional or as required by Section 4.1.f.2. The ACO shall document his/her observations in the unit logbook.
6. The ACO shall document in real time the following: meals, showers, hygiene, cell inspections, recreation, visits, telephone calls, and interaction with medical, mental health, facility administration, watch supervisors, case managers, grievance specialist, and other program staff on the Weekly Segregation Activity form (DCR 8316). The ACO shall maintain the unit logbook in accordance with COR.05.08: Post and Area Logbooks. This shall be maintained for the purpose of review and a formal record.
7. The Segregation Unit Sergeant, Security Lieutenant, and Watch Commander shall observe every inmate in the segregation unit at least once on each shift, inclusive of weekends and holidays. These individual's observations shall be documented in the unit logbook and the visit shall be documented on DCR 8316.
8. The Warden, Deputy Warde, and COS shall tour each segregation unit once each week to observe each inmate, review DCR 8316, and sign the unit logbook. This is to assure that an inmate's visits, activities, privileges, recreation, observations by staff, and reviews are being conducted as required by this policy.
9. The IDA shall tour each segregation unit once every ninety (90) days for compliance and observation of each inmate, review DCR 8316, and sign the unit logbook.

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h. Basic Living Conditions for Administrative Segregation and Disciplinary Segregation

1. Inmates in segregation shall receive privileges consistent with a facility's available resources and security consideration.
2. Disciplinary segregation is a punitive action for an inmate found guilty of serious rule misconduct. An Adjustment Committee may deny the inmate any number of privileges as set forth in the misconduct policy and disciplinary record.
3. Inmates in segregation shall have non-contact personal visits in accordance with the facility visit policy. All official visits shall be non-contact, except at the discretion of the Warden a contact official visit may be afforded. It is important to note that the presence of a security concern will always warrant non-contact official visits.
4. Inmates in segregation shall be allowed non-official telephone calls in accordance with the facility's telephone policy. All official or legal phone calls, such as attorney (if a docketed case exists), ombudsman, and other official State and Federal agencies shall not be restricted.
5. All inmates in segregation based on their status as administrative segregation or disciplinary segregation shall have the opportunity to maintain basic hygiene and shall have access to courts, health care, social workers, spiritual advisors, reading materials, and recreation.

i. Documentation for Administrative Segregation and Disciplinary Segregation

1. All completed administrative segregation documentation and adjustment hearing documentation shall be distributed as dictated on the relevant form(s).
2. The original documents for administrative segregation and disciplinary segregation shall be filed in the inmate's institutional file or jail file.
3. Each Warden shall submit the Administrative Segregation Facility Report to the IDA by Wednesday of the following week.

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4. It is important to retain all information as dictated by the State of Hawaii, Department of Accounting and General Services' (DAGS) records retention schedule.

APPROVAL RECOMMENDED:



Deputy Director for Corrections Date

JAN 0 1 2024

APPROVED:



DIRECTOR Date

JAN 0 1 2024

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**DEPARTMENT OF CORRECTIONS AND
REHABILITATION
ADMINISTRATIVE SEGREGATION
FORM PART A**

INMATE'S NAME:

INMATE'S SID:

HOUSING MOVEMENT FROM/TO:

REASON(S) FOR PLACEMENT IN ADMINISTRATIVE SEGREGATION (PART A)
TO BE COMPLETED BY WATCH COMMANDER OR HIGHER AUTHORITY

CHECK ALL THAT APPLY:

- INMATE PRESENTS AN IMMEDIATE THREAT TO SAFETY OF SELF OR OTHERS
- INMATE JEOPARDIZES INTEGRITY OF INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY
- INMATE ENDANGERS INSTITUTIONAL SECURITY
- OTHER

DESCRIPTION OR CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT:

CONTINUED ON ATTACHED PAGE IF BASED ON CONFIDENTIAL INFORMATION, DATE INMATE NOTIFIED _____

DATE OF PLACEMENT:	PRINT NAME AND TITLE OF AUTHORIZING PERSON:	SIGNATURE OF AUTHORIZING PERSON:
DATE AND TIME NOTICE SERVED ON INMATE: _____ HOURS	PRINT NAME AND TITLE OF STAFF SERVING PLACEMENT NOTICE:	SIGNATURE OF STAFF SERVING PLACEMENT NOTICE:
	INMATE SIGNATURE AND DATE:	<input type="checkbox"/> INMATE REFUSED TO SIGN. THE STAFF MEMBER SERVING THE FORM WITNESSED THE REFUSAL AND PROVIDED THE INMATE A COPY THIS FORM.

DISTRIBUTION: INMATE, INSTITUTIONAL FILE, SEG UNIT, FACILITY HCU CLINICAL SECTION ADMINISTRATOR, COS, CS III



**DEPARTMENT OF CORRECTIONS AND
REHABILITATION
ADMINISTRATIVE SEGREGATION
FORM PART B**

INMATE'S NAME: _____
 INMATE'S SID: _____
 CURRENT HOUSING: _____

FACE TO FACE REVIEW (PART B)
 THE FOLLOWING IS TO BE COMPLETED DURING THE 72 HOUR ADMINISTRATIVE REVIEW BY THE WARDEN OR DESIGNEE

INMATE WAIVERS: <input type="checkbox"/> INMATE WAIVES OR DECLINES INTERVIEW WITH REVIEWING PARTY <input type="checkbox"/> NO WITNESS(ES) REQUESTED BY INMATE	INMATE SIGNATURE _____	DATE/TIME: _____ / _____
--	---------------------------	-----------------------------

WITNESSES REQUESTED FOR REVIEW PROCESS

WITNESS NAME AND SID: _____	WITNESS NAME & SID: _____
WITNESS NAME AND SID: _____	WITNESS NAME & SID: _____

DECISION: RELEASE TO _____ MAINTAIN SEG HOUSING PENDING PROG COMMITTEE REVIEW
 MUST BE HOUSED IN A SINGLE CELL

REASON FOR DECISION (IF NECESSARY, ATTACH ADDITIONAL PAGES):

PRINT NAME OF WARDEN OR DESIGNEE : _____	SIGNATURE OF WARDEN OR DESIGNEE: _____ DATE/TIME: _____ / _____
--	---

PRINT NAME AND TITLE OF STAFF SERVING RESULTS: _____	SIGNATURE OF STAFF SERVING RESULTS: _____ DATE/TIME: _____ / _____
--	--

INMATE SIGNATURE AND DATE/TIME: _____	<input type="checkbox"/> INMATE REFUSED TO SIGN. THE STAFF MEMBER SERVING THE FORM WITNESSED THE REFUSAL AND PROVIDED THE INMATE A COPY THIS FORM.
---------------------------------------	--

**DEPARTMENT OF PUBLIC CORRECTIONS AND REHABILITATION
WEEKLY ADMINISTRATIVE SEGREGATION LOG**

WEEK OF _____

INMATE NAME:	SID #:	LOC OF UNIT:
DATE AND TIME ADMITTED:	TENTATIVE RELEASE DATE:	
DATE AND TIME RELEASED:	MH CASELOAD: Y / N	MEDICATION: Y / N

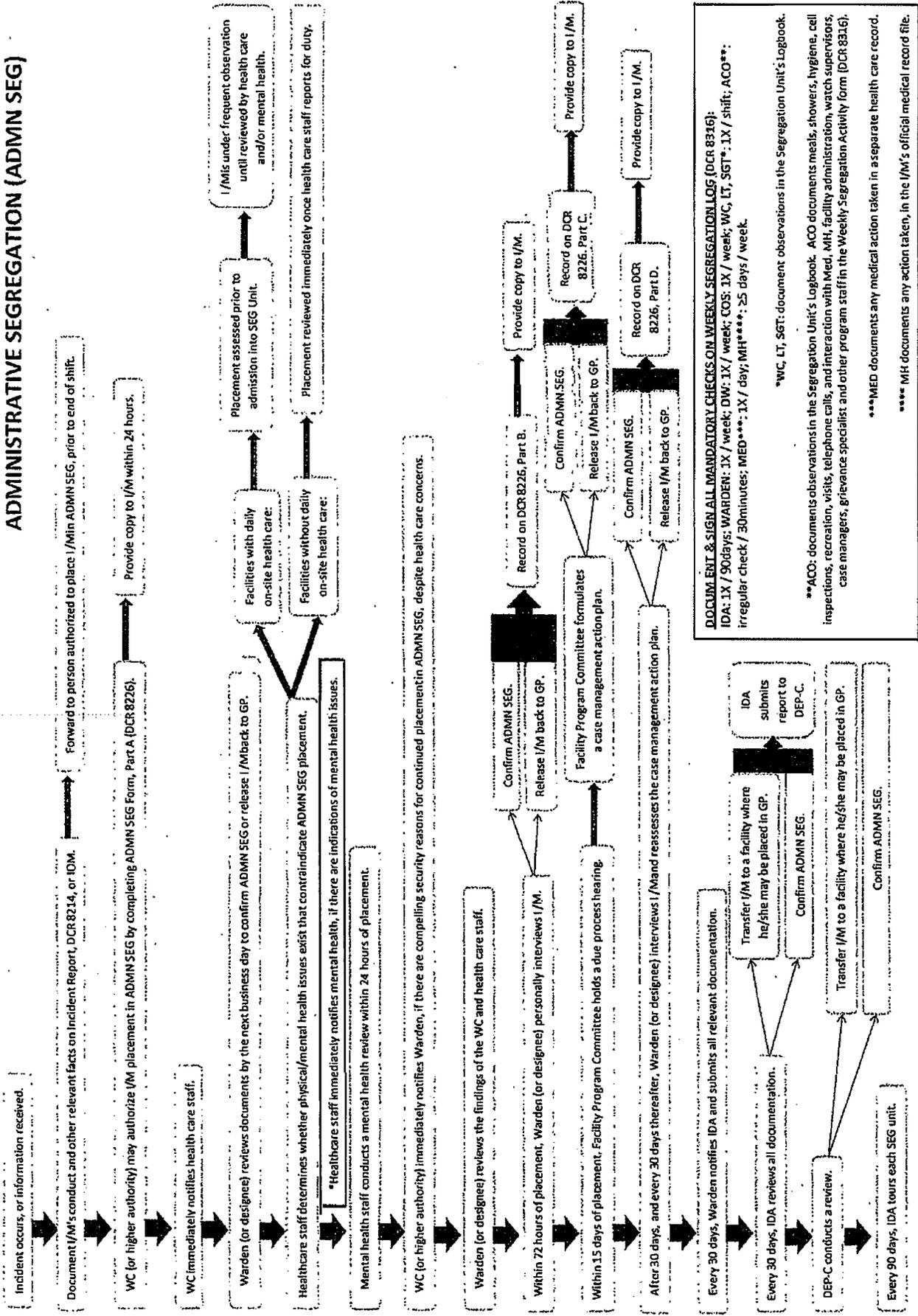
DATE	SHIFT	CHOW (P/D) (W/B/L)	SHOWER SHOWER	HYGIENE (P/D) (W/B/L)	CELL INSPECTION	RECREATION	VISITS (W) PHONE (P)	MENTAL HEALTH	MEDICAL	WARDEN/DUTY WARDEN/DUTY	WATCH COMMANDER/ SUPERVISOR	SW, JSP, GRIEV. VOL.	DAY
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CHOW, SHOWER, CELL INSPECTION, RECREATION: (Y) for YES; (N) for NO; (R) for REFUSED, PRINT INITIALS AND THE TIME. SCHEDULE OF MANDATORY CHECKS: WARDEN - 1X every week; DW - 1X every week; COS - 1X every week; WC - 1X every shift.

UNIT LOGBOOK: SEG UNIT LT/SGT - 1X every shift; SEG UNIT ACO - Irregular checks every 30 min.; MEDICAL - 1x per day; MH - 25x per week. TURN IN COMPLETED FORM TO COS AT THE END OF THIRD WATCH (SATURDAY).

REVIEWED BY ADMIN CAPT/LT/WC DATE _____

ADMINISTRATIVE SEGREGATION (ADMN SEG)



DOCUMENT & SIGN ALL MANDATORY CHECKS ON WEEKLY SEGREGATION LOG (DCR 8316):
 IDA: 1X / 90 days; WARDEN: 1X / week; DW: 1X / week; COS: 1X / week; WC, LT, SGT*: 1X / shift; ACO**:
 irregular check / 30 minutes; MED***: 1X / day; MH****: 25 days / week.

*WC, LT, SGT: document observations in the Segregation Unit's Logbook.
 **ACO: documents observations in the Segregation Unit's Logbook. ACO documents meals, showers, hygiene, cell inspections, recreation, visits, telephone calls, and interaction with Med, MH, facility administration, watch supervisors, case managers, grievance specialist and other program staff in the Weekly Segregation Activity form (DCR 8316).
 ***MED documents any medical action taken in a separate health care record.
 ****MH documents any action taken, in the I/M's official medical record file.

**STATE OF HAWAII
DEPARTMENT OF CORRECTIONS AND REHABILITATION**

INCIDENT REPORT

Facility: _____
Prepared on: _____

TO: _____ THRU: _____
(Administrator/Section Supervisor) (Watch Supervisor)

DATE	TIME	NARRATIVE (Specify inmate name & ID and location if related to misconduct)

By: _____
Reporting Officer/Employee Title

ORIG - FACILITY ADMINISTRATOR
CANARY - CONTROL OFFICER
PINK - ATTACH TO MISCONDUCT REPORT

JOSH GREEN, M.D.
GOVERNOR



MARK PATTERSON
CHAIR

CHRISTIN M. JOHNSON
OVERSIGHT COORDINATOR

COMMISSIONERS
HON. R. MARK BROWNING (ret.)

HON. RONALD IBARRA (ret.)

MARTHA TORNEY

HON. MICHAEL A. TOWN (ret.)

STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
E HUIKALA A MA'EMA'E NŌ
235 S. Beretania Street, 16th Floor
HONOLULU, HAWAII 96813
(808) 587-4160

TO: The Honorable Donovan Dela Cruz, Chair
The Honorable Sharon Moriwaki, Vice Chair
Senate Committee on Ways and Means

The Honorable Karl Rhoads, Chair
The Honorable Mike Gabbard, Vice Chair
Senate Committee on Judiciary

FROM: Mark Patterson, Chair
Hawaii Correctional System Oversight Commission

SUBJECT: Senate Bill 104 SD1, Relating to Corrections
Hearing: Wednesday, February 19, 2025; 10:16 a.m.
State Capitol, Room 211

Chair Dela Cruz, Chair Rhoads, Vice Chair Moriwaki, Vice Chair Gabbard and Members of the Committees:

The Hawaii Correctional System Oversight Commission (HCSOC) **supports** Senate Bill 104 Senate Draft 1, Relating to Corrections, which restricts the use of restrictive housing in state-operated and state-contracted correctional facilities.

The Commission has been concerned regarding the use of restrictive housing throughout the state and state contracted correctional facilities. A small example of this is the Commission's July 2022 reporting on the usage of a program called, Special Housing Incentive Program (SHIP) utilized by the contracted CoreCivic Saguardo facility in Arizona. Regarding SHIP, the July 2022 monthly Oversight Coordinator report states:

The Commission has serious concerns regarding the Special Housing Incentive Program (SHIP). Although SHIP is noted to be a programming house, **the reality is that it is 12-plus months in a segregated housing setting.** SHIP placement occurs after the violation of specific institutional rules. SHIP is broken down into three Phases, each four months long, with more out-of-cell time introduced in each phase. Phase one has one hour of outdoor recreation time per day (**23 hours in cell**), phase two has one hour of outdoor recreation and one hour of dayroom recreation per day (**22 hours in cell**), and phase three has three hours of combined outdoor and dayroom recreation time per day (**21 hours in cell**).

During the visit, more than 80 people from Hawaii were in the three phases of SHIP. Saguaro also houses people in custody from Idaho, and SHIP is not an option for or offered to those from Idaho. None of the facilities operated by Hawaii PSD offer SHIP either. For example, if an institutional rule violation occurs at Halawa Correctional Facility, the person in custody usually faces up to 60 days in disciplinary segregation if found guilty, not 12 months in SHIP.

The Commission is extremely concerned about the long-term physical and psychological effects of 12-plus months in a segregated housing setting, which are now well-documented and studied. The trend nationally is to decrease the amount of time in segregated housing settings. With the state of Hawaii's transition to a therapeutic model of corrections, SHIP should be reevaluated and potentially eliminated in totality as it does not align with a rehabilitative framework.

To this day, SHIP is still utilized daily and again, this is only one example. The Commission believes there are various examples of segregated and restrictive housing utilized throughout the corrections system and appreciates the legislature's foresight to include required quarterly reporting from the Commission on the usage of restrictive housing through the corrections system.

Should you have additional questions, the Oversight Coordinator, Christin Johnson, can be reached at 808-900-2200 or at christin.m.johnson@hawaii.gov. Thank you for the opportunity to testify.



OFFICE OF HAWAIIAN AFFAIRS

**TESTIMONY IN SUPPORT OF SENATE BILL 104 SD1
RELATING TO CORRECTIONS**

Senate Committee on Judiciary
Senate Committee on Ways and Means
Hawai'i State Capitol

February 19, 2025

10:16AM

Room 211

Dear Chair Rhoads, Chair Dela Cruz, Vice Chair Gabbards, Vice Chair Moriwaki, and Members of the Senate Committees on Judiciary and Ways and Means:

The Office of Hawaiian Affairs (OHA) **SUPPORTS SB 104 SD 1**, which restricts the use of solitary confinement in state correctional facilities, requires the Department to develop written policies and procedures for inmates currently in solitary confinement and going forward, requires a review of certain housing placements by the Commission, and requires a report be submitted to the Legislature and the Commission which will allow the bodies to pursue risk mitigations, as appropriate. Solitary confinement is a severe form of punishment which should only be used in exceptional circumstances, with a high degree of oversight and for limited periods of time. SB 104 reflects this, demonstrating a measured approach to uphold the rights of incarcerated persons.

OHA strongly supports policies which reduce harmful psychological, social, cultural, and economic impacts on pa'ahao, their 'ohana, and the greater Hawaiian community. Native Hawaiians continue to be disproportionately impacted by Hawai'i's criminal justice system, comprising approximately 37% of the state's correctional facilities, while representing only 21% of the total state population.¹ In 2021, 5.1% of Hawai'i's total prison population was held in solitary confinement.² 245 people were held in solitary confinement

¹ "Creating Better Outcomes, Safer Communities – Final Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the Hawai'i Legislature – 2019 Regular Session," HCR 85 Task Force; Legislative Reference Bureau (December 2018) at p. xiii, https://www.courts.state.hi.us/wp-content/uploads/2018/12/HCR-85_task_force_final_report.pdf

² "Time-In-Cell: A 2021 Snapshot of Restrictive Housing based on a Nationwide Survey of U.S. Prison Systems," The Correctional Leaders Association & The Arthur Liman Center for Public Interest Law at Yale Law School (August 2022) at p. 8, [time in cell 2021.pdf](https://www.courts.state.hi.us/wp-content/uploads/2018/12/HCR-85_task_force_final_report.pdf)

for 15 or more days, and 103 people in men's prisons were held in solitary confinement for one year or more.³

The Revised United Nations Standard Minimum Rules for the Treatment of Prisoners, as referenced in SB 104, prohibit the use of solitary confinement for a time exceeding fifteen consecutive days and characterize this disciplinary sanction as a form of "torture or other cruel, inhuman or degrading treatment or punishment".⁴ It is also worth highlighting that nationally it has been estimated that a year in solitary averages \$75,000 per prisoner – about three times the average annual cost of incarceration in the United States.⁵ Despite the significant cost, both to the prisoners and the public, solitary confinement does not actually reduce violence or prison problems.⁶

In addition to being overrepresented in prisons, the NHPI community experiences higher rates of depression, suicide, and anxiety compared to other ethnic groups in Hawai'i.⁷ Although the risk of serious harm exists for all prisoners, it is intensified for those who suffer from a pre-existing mental illness or other vulnerabilities.⁸ Solitary confinement often has catastrophic consequences for those who are subjected, including worsening symptoms such as depression, anxiety, and hallucinations, the impediment of

³ "Time-In-Cell: A 2021 Snapshot of Restrictive Housing based on a Nationwide Survey of U.S. Prison Systems," The Correctional Leaders Association & The Arthur Liman Center for Public Interest Law at Yale Law School (August 2022) at p. 8; p. 11, [time in cell 2021.pdf](#)

⁴ "The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)," United Nations Office on Drugs and Crime (2015) at p. 14, https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf

⁵ "Solitary Confinement in the United States: The Facts," Solitary Watch (2023), <https://solitarywatch.org/facts/faq/#:~:text=How%20much%20does%20solitary%20confinement,a%20regular%20maximum%20security%20prison.>

⁶ Keramet Reiter "The Root of America's Over-Use of Solitary Confinements in Prison – And How Reform Can Happen," Scholars Strategy Network (November 2, 2018), [The Root of America's Over-Use of Solitary Confinements in Prison — and How Reform Can Happen | Scholars Strategy Network](#)

⁷ Catherine Jara, Ngoc Phan, "Understanding Hawaiian Identity and Well-being to Improve Mental Health Outcomes for Hawaiian Young Adults," PMC PubMed Central (May 2024), [https://pmc.ncbi.nlm.nih.gov/articles/PMC11070781/#:~:text=Mental%20health%20is%20a%20serious,Pacific%20Islander%20\(NHPI\)%20community.&text=The%20NHPI%20community%20experience%20higher,ethnic%20groups%20in%20Hawai'i](https://pmc.ncbi.nlm.nih.gov/articles/PMC11070781/#:~:text=Mental%20health%20is%20a%20serious,Pacific%20Islander%20(NHPI)%20community.&text=The%20NHPI%20community%20experience%20higher,ethnic%20groups%20in%20Hawai'i)

⁸ Craig Haney, "Restricting the Use of Solitary Confinement," Annual Reviews (January 2018), <https://www.annualreviews.org/content/journals/10.1146/annurev-criminol-032317-092326>

rehabilitation, recovery, and community re-integration and adverse long-term consequences for cognitive and adaptive functioning.⁹

The impacts of solitary confinement on the mental and psychological health of incarcerated persons are extensive and well documented. Since 2009, 42 states have established laws restricting or eliminating solitary confinement.¹⁰ In 2018, Congress adopted the bipartisan First Step Act, which eliminated solitary confinement in federal prisons for young people except for those posing immediate, physical risks. Such an extreme form of punishment should accordingly be upheld to scrupulous standards of conduct, with frequent evaluations of inmates before, throughout, and following.

The Office of Hawaiian Affairs appreciates recent amendments which changed references to “solitary confinement” to “restrictive housing” throughout the measure, inserted an effective date of July 1, 2077, to encourage further discussion, and made technical, nonsubstantive changes for the purpose of clarity and consistency. “Restrictive housing” allows for a more broadened description than “solitary confinement” and conforms with current language utilized by the Department of Justice. For these reasons, OHA urges this committee to **PASS SB104 SD 1**. Mahalo nui for the opportunity to testify on this critical issue.

⁹ “Solitary Confinement,” NAMI (2025), <https://www.nami.org/advocacy/policy-priorities/stopping-harmful-practices/solitary-confinement/>

¹⁰ Hernandez D. Stroud, “Reforming Solitary Confinement Without the High Court,” Brennan Center for Justice (February 21, 2024), <https://www.brennancenter.org/our-work/analysis-opinion/reforming-solitary-confinement-without-high-court>



TESTIMONY FROM THE STONEWALL CAUCUS OF THE DEMOCRATIC PARTY OF HAWAII

JOINT SENATE COMMITTEES HEARING ON WAYS AND MEANS & JUDICIARY

February 19, 2025

Testimony in Support of Senate Bill SB104 SD1 Relating to Corrections

Aloha Chairs, Vice Chairs, and esteemed Members of the Committee:

My name is Abby Simmons, Chair of the Stonewall Caucus of the Democratic Party of Hawaii, and we are writing in strong support of SB104 SD1, which seeks to significantly restrict the use of solitary confinement in Hawaii's correctional facilities. This bill is a crucial step toward reforming our criminal justice system by ensuring that incarcerated individuals are treated with dignity and provided with the rehabilitation opportunities they need to successfully reintegrate into society.

The Harmful Effects of Solitary Confinement

Decades of research have demonstrated that solitary confinement causes severe and lasting harm to incarcerated individuals, including:

- Permanent psychological damage, leading to depression, anxiety, hallucinations, and increased suicide risk.
- Worsened physical health outcomes, including higher rates of heart disease, strokes, and premature death.
- Higher recidivism rates, as individuals released from solitary struggle to reintegrate into society.

Studies have also shown that solitary confinement disproportionately impacts vulnerable populations, including individuals with mental illnesses, young adults, and the elderly. It is neither an effective disciplinary tool nor a humane correctional practice.

SB104 SD1 Brings Hawaii in Line with Best Practices

By limiting the use of solitary confinement to only extreme and necessary situations, SB104 aligns Hawaii with national and international standards, including:

- The United Nations' Nelson Mandela Rules, which classify prolonged solitary confinement as a form of torture.
- Policies enacted in over 24 states that have restricted or banned solitary confinement.
- Scientific findings that show rehabilitation-focused practices lead to better outcomes for incarcerated individuals and public safety.

Key Reasons to Support SB104 SD1:

- ✓ It protects mental and physical health by limiting solitary confinement to no more than 15 consecutive days and prohibiting its use for vulnerable populations.
- ✓ It increases oversight and transparency by requiring the Department of Corrections and Rehabilitation to review solitary confinement placements and provide quarterly reports to the Legislature.
- ✓ It improves public safety by ensuring that incarcerated individuals receive rehabilitation services, education, and human interaction, which reduce recidivism and make reentry into society more successful.
- ✓ It prioritizes humane correctional practices while still allowing for emergency measures when necessary for safety reasons.

In summary, Hawai'i has an opportunity to be a leader in humane and evidence-based criminal justice reform by passing SB104 SD1. The current system of solitary confinement is not only inhumane but also counterproductive to rehabilitation and public safety. This bill ensures that solitary confinement is only used when absolutely necessary, while also providing clear guidelines for oversight and alternatives.

We urge you to pass SB104 SD1 without amendments to protect the well-being of incarcerated individuals, promote effective corrections policies, and strengthen our communities.

Thank you for the opportunity to testify.

Respectfully,

Abby Simmons (she/her)
Chair & SCC Representative
Stonewall Caucus
Democratic Party of Hawai'i
<https://linktr.ee/stonewalldph>
(808)352-6818

COMMUNITY ALLIANCE ON PRISONS

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

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

Today's Inmate; Tomorrow's Neighbor



COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

COMMITTEE ON WAYS AND MEANS

Senator Donovan DelaCruz, Chair

Senator Sharon Moriwaki, Vice Chair

Wednesday, February 19, 2025

Room 211 & VIDEOCONFERENCE

10:16 AM

STRONG SUPPORT FOR SB 104 SD1- RESTRICTIVE HOUSING

Aloha Chairs Rhoads and DelaCruz, Vice Chairs Gabbard and Moriwaki and Members of the Committees!

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 3,703 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Corrections and Rehabilitation as of February 10, 2025. We are always mindful that 937 - 25.3% - of Hawai'i's imprisoned male population are serving their sentences abroad -- thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons is grateful for the opportunity to share our **research and alternatives in strong support of SB 104** that restricts the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specified exceptions. Our testimony has been informed by the former Director of the Department of Public Safety,

¹ DCR Weekly Population Report, February 10, 2025

<https://dcr.hawaii.gov/wp-content/uploads/2025/02/Pop-Reports-Weekly-2025-02-10.pdf>

Ted Sakai, as well as the numerous letters and calls from people inside and their families outside about conditions in .

This bill prohibits the use of solitary confinement and requires the use of appropriate alternatives for committed persons who are members of a vulnerable population and requires DCR to develop UPDATED written policies and procedures by 7.1.26, review committed persons placed in solitary by 4.1.26 and report to the legislature.

When the Hawai`i Delegation went to Norway in 2015, led by Justice Michael Wilson, they toured Norwegian prisons with a Delegation from North Dakota, which included the Director and Deputy Director for Corrections. After they arrived home, the Director of the North Dakota Prisons asked for all the files of those in solitary. There were approximately 100 files of people in solitary at that time. The Director went through each file and released most people from solitary because the trip to Norway made her realize the harms the state was inflicting on its people by the use of solitary. Between January 2016 and December 2019, the number of people in solitary confinement in North Dakota decreased by more than 74% and the length of solitary sentences decreased by 59%

It is common knowledge that humans are social beings, and how they are treated while under the care and custody of the state matters greatly as they will eventually reenter their communities. Research has shown that isolation is one of the most damaging things that a human can endure. Luckily, there are alternatives to punitive sanctions such as Restrictive Housing, Special Housing Unit (SHU), or whatever other euphemisms are used to cover up the harms caused by the state.

ALTERNATIVES TO SOLITARY ²

“Alternatives to Solitary Enhance Prison Safety

Instead of addressing the root causes of violence in prisons, solitary confinement is used as a catch-all for responding to disobedience and managing populations. This has created a cycle within carceral facilities where both violent and nonviolent behaviors are punished with more violence. The following approaches have been shown to reduce violence against both correctional staff and incarcerated people.

Decarceration: When examining rates of prison violence in comparison with population levels, a 2007 study found that individuals with histories of violent behavior were more likely to commit violent acts when housed in an overcrowded facility. By decreasing overcrowding, facilities decrease the likelihood that a volatile individual will be placed in a situation that

² **NEW FACT SHEET EXPLODES THE MYTH THAT SOLITARY CONFINEMENT REDUCES VIOLENCE IN PRISONS,** by [Jean Casella](#) | February 28, 2023. <https://solitarywatch.org/2023/02/28/new-fact-sheet-explodes-the-myth-that-solitary-confinement-reduces-violence-in-prison/>

instigates violent acts. In addition, fewer people in prison means more resources for programming and other options shown to reduce violence.

Increased Visitation: A 2012 study found that individuals who were visited while incarcerated were less likely to commit both high and low-level misconduct. The same study found that those who had visitation were less likely to reoffend upon release. Through increasing opportunities to connect with loved ones, correctional departments can disrupt violence by fostering meaningful human connections and systems of support.

Racial Diversity Among Staff: Evidence gathered from a 1995 study found a correlation between prisons' ratios of white to Black correctional staff and rates of both inmate and staff assaults. This lack of diversity, combined with specific acts of racist discrimination and abuse, is a barrier to trust between staff and incarcerated individuals.

Positive Incentives: Reward systems in prison (RSPs), or remunerative controls, are used throughout the world as an alternative to punitive or coercive control methods of prison management. A review of current research on RSPs showed that they are "effective in advancing mental health among mentally ill participants, decreasing violent behavior among high-risk participants, increasing academic achievement, and reducing problem behavior among adolescents and young adults."

Increased Autonomy: As opposed to the "control model" that dominates U.S. prisons, some European prisons rely more on a "responsibility model" or "consensus model" that gives incarcerated people greater freedom and responsibility, while prison staff enact the minimum amount of control required to keep order. The principle of "normalization" is central to Norwegian prisons' approach. When building Halden Prison, Norway set out to "design life inside correctional facilities to resemble life outside prison as much as possible." Although "nearly half [of incarcerated people at Halden are imprisoned for violent crimes like murder, assault or rape," incidents of violent behavior or threats are extremely rare.

Enhanced Programming: Data collected and analyzed by the U.S. Bureau of Justice Statistics found that participation in substance abuse, sex offender, family and life skills, vocational, and educational programming was associated with significant reductions in prisoner-on-prisoner violence. Additionally, a 2003 study of 4,000 incarcerated people across 185 facilities showed that individuals "employed both inside and outside of the facility were significantly less likely to assault staff."

Staff Training and Approaches: The Norwegian Department of Correctional Services (NDCS) base their operations on principles of "dynamic security," emphasizing communications and relationship-building between staff and incarcerated people. In 2015, following participation in an exchange program with the NDCS, North Dakota began instituting reforms targeted at reducing the use of solitary confinement. Included in these reforms were the development of a transition unit for those exiting solitary, changes to disciplinary policies, changes to

correctional officer training, and “articulat[ing] individualized plans that incorporate positive reinforcement strategies to address negative behaviors.”

Restrictive Housing is inhumane. Like, North Dakota, Hawai`i can also realize that punitive sanctions like restrictive housing don't comport with the values that our communities hold dear. Restrictive Housing should not be a sanction to bed behavior. We must develop better and more positive ways to address disruptive behavior.

Community Alliance on Prisons cannot emphasize enough the importance of on-going training to professionalize both the uniform and civilian staff. The Department should explore Social Impact Bonds and other avenues that follow peer-reviewed research and best practices to keep their staff apprised of emerging strategies for better correctional management and outcomes. This emphasis on training has been heightened by the Civil Beat article³ number of suicides -- the highest number since 2020 as well as other reports of deaths and murders.

Something is very wrong in our correctional system. Are we addressing the real problems or do we just want fancy new buildings with no plan for training staff, no plan for addressing the needs and the issues that created individual's pathway to incarceration? WE CAN DO BETTER. Treating every individual as a person of value changes the environment and can lead to better outcomes for the individual, the community, and the system as a whole.

Community Alliance on Prisons is well-aware of the department's policies and procedures Policy No. COR. 11.01 that supersedes COR. 11.01, dated 12.12.09, this bill UPDATES COR. 11.01 dated 11.28.14. This bill is the work of CAP and Ted Sakai, who authored the current COR. 11.01 and felt that there needed to be a pathway out of restrictive housing. Ted and I worked on this bill incorporating his decades of correctional experience and best practices and Community Alliance on Prisons' direct communication with people while they are in difference forms of restrictive housing.

This bill is to ensure that the state develops more positive alternatives to harmful restrictive housing and is accountable and transparent in following their own policies and procedures.

Community Alliance on Prisons has never been convinced that isolating a human being from other humans is an appropriate sanction. Humans need contact, and many people decompensate while in restrictive housing, which aggravates their vulnerable condition. We have witnessed people who were mentally stable going into restrictive housing and who emerge from in poor shape. This is concerning as these folks can become prey for incarcerated predators, putting the facility in turmoil and potentially causing a lockdown, riot, or worse.

³ **The Mental Health Crisis in Hawai`i Prisons: The Suicides Keep Coming**, By Kevin Dayton, November 29, 2024. <https://www.civilbeat.org/2024/11/the-mental-health-crisis-in-hawaiis-prisons-the-suicides-keep-coming/>

In Saguaro, putting someone in restrictive housing appears to be arbitrary. We have received many letters from individuals who have refused the SHIP (Special Housing Incentive Program), which is lockdown for 23 hours a day, then 22 hours a day. THIS IS NOT A PROGRAM. IT IS LOCKDOWN, where Bronson Nunuha was murdered in 2010. Why doesn't a person have the right to refuse a program? **SHIP is a sanction, not a program.** People in restrictive housing need to keep their brains active. There must be some classes, mental health and substance treatment, and other forms of education, so that they can keep their minds active. What can people learn in a place of isolation and potential violence? (Nothing that helps build community!)

Other letters we have received talk about how restrictive housing in Saguaro is the ability of the facility to seize their property, which sometimes 'gets lost' when they are released from restrictive housing or before hearings their documents appealing the sanction are "lost". The unfairness is striking and doesn't bode well for people who will be returning to our communities. We don't need more bitter, angry people who exit incarceration with few skills to support themselves or their families. This helps no one.

Halawa's Special Holding Unit (SHU) also has problems as the letters and phone calls we receive indicate. gang activity appears to be alive and well there. We are concerned because people have said that they fear for their lives and many families have asked for our help. People should not fear for their lives when they are in the 'care and custody' of the state.

There is a plethora of research on the harms that restrictive housing causes - and it is not just while the person is incarcerated - these effects can last a lifetime. In other words, the state harms people in their care and custody and then returns them to the community where some people have committed suicide.

THE RESEARCH

CALCULATING TORTURE³

Recent research is entitled, **CALCULATING TORTURE** (2023)⁴, the first ever comprehensive accounting of the number of people in solitary in both prisons and jails, using data from the federal Bureau of Justice Statistics, two state prison systems that did not report to BJS, and

⁴ **CALCULATING TORTURE** - Analysis of Federal, State, and Local Data Showing More Than 122,000 People in Solitary Confinement in U.S. Prisons and Jails, A Report by Solitary Watch and the Unlock the Box Campaign, May 2023. <https://solitarywatch.org/wp-content/uploads/2023/05/Calculating-Torture-Report-May-2023-R2.pdf>

⁴ **Repetitive Self- Harm in Solitary Confinement**, Terry A. Kupers, M.D., M.S.P., Correctional Health Reporter, Volume 24, No. 3 Summer 2023 ISSN 1526-9450 Pages 53-76. <https://solitarywatch.org/wp-content/uploads/2023/07/CHC-2403-01-Kupers-Self-Harm.pdf>

⁵ **Nowhere Else to Go—Solitary Confinement as Mental Health Care**
Nathaniel P. Morris, MD; Jacob M. Izenberg, MD, June 16, 2023.
<https://jamanetwork.com/journals/jama/article-abstract/2806498>

Vera Institute of Justice's survey of local jails finds there are approximately 122,000 people locked in solitary for 22+ hours on any given day in the United States, far more than previously estimated.

This report documents that the incidence of solitary confinement in this country is far greater than anyone has previously reported. It is now more urgent than ever that local, state, and federal jurisdictions across the United States end this massive system of government torture that causes devastating harm; leads to death; increases the risks of violence in places of detention and outside communities; and is disproportionately inflicted on Black people, Latino/a/x people, Native people, and other people of color. Ending solitary confinement would stop torture, save lives, and improve safety—not only for 122,000 people, but for everyone.

REPETITIVE SELF-HARM IN SOLITARY CONFINEMENT⁴

Terry A. Kupers, M.D., M.S.P

A big part of the psychological harm of solitary confinement in prison and jail is the extraordinarily high risk of suicide and self-harm. Averaging the various states for which we have figures for prison suicide rates, 50% of prison suicides—actions leading to death, as distinct from attempts—occur among the 3% to 6% or 8% of the prison population consigned to some form of solitary confinement. It is important to examine the link between solitary confinement on the one hand, and prison suicide and self-harm on the other. A large amount of research provides evidence that solitary confinement for longer than 15 days causes emotional distress, damage and disability.

According to the United Nations' Standard Minimum Rules for the Treatment of Prisoners, the "Mandela Rules": "For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact."

But it is not social isolation alone that causes lasting damage; there is also the lack of meaningful activity.

(UNs' Standard Minimum Rules for the Treatment of Prisoners, the "Mandela Rules, U.N. Office on Drugs and Crime, December, 2015.)

...The strongest root "cause" of prison suicide is solitary confinement itself. In that light, self-harm in solitary is iatrogenic. The self-harm and the suicide are iatrogenic in the sense the prisoner known to be at very high risk of suicide or self-harm is sent to the place we know is correlated very strongly with self-harming and suicidal behavior. And typically, mental health staff perform a pre-segregation evaluation and approve the individual's return to solitary confinement. ...

The alternative to returning the self-harming prisoner to solitary confinement is transfer to a mental health setting, perhaps a "stepdown" residential mental health treatment unit within the prisons. A basic principle of the Hippocratic Oath sworn by physicians is "first, do no harm."

IN THE NEWS

else to go - Solitary Confinement as Mental Health Care ⁵

Solitary confinement, or the isolation of incarcerated people in housing that severely restricts out-of-cell time and other activities, is a controversial practice in jails and prisons. Placement into solitary confinement is associated with adverse health outcomes, including psychiatric distress, self-harm, and deterioration of physical well-being.^{1,2} Like incarceration broadly, solitary confinement disproportionately affects people from racial and ethnic minority populations, particularly Black people.³ For both its harms and racial inequities, long-term solitary **confinement** has attracted increasing scrutiny, **yet even short periods of such confinement can be harmful**. A troubling pattern has emerged across the US of using short-term solitary confinement to manage acute psychiatric distress; these practices reflect the ongoing crisis of inadequate community-based mental health services and the results of leaving such care to jails and prisons.

The Mayor Calls Solitary a Safety Measure. They Call It Torture.

More than a half-century after he was locked in solitary confinement on Rikers Island, Victor Pate still avoids elevators.

“The enclosure, that small space when the doors close: It’s so reminiscent of going into that cell and the door closing on me,” Mr. Pate, 71, said at a City Hall rally this week supporting a bill [banning solitary confinement](#) in most cases in New York. “I’ve not gotten beyond that.”

Community Alliance on Prisons urges the committee to look at the harms caused by the state and the big impact that has on the families and communities to which they return. We CAN stop the harm and give people a chance at success. Letting people sit idle with no programming or visitation is cruel and serves no one, including the correctional system.

Mahalo nui!

LATE



Hawai'i

Committee: Judiciary and Ways & Means
Hearing Date/Time: Wednesday, February 19, 2025 at 10:16am
Place: Conference Room 211 & via Videoconference
Re: Testimony of the ACLU of Hawai'i in support of SB104 SD1
Relating to Corrections

Dear Chair Elefante, Vice Chair Wakai and Committee Members:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in **support of SB104 SD1**. 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 of Corrections and Rehabilitation (DCR) to develop written policies and procedures regarding solitary confinement by 7/1/2026 and requires the Hawai'i Correctional System Oversight Commission to review certain housing placements. SB104 further requires DCR to develop policies and procedures to review committed persons placed in solitary confinement and develop a plan for committed persons currently in solitary confinement by 4/1/2026, as well as requires a report to the Legislature and the Hawai'i Correctional System Oversight Commission.

The ACLU of Hawai'i is committed to transforming Hawai'i's criminal legal system and building anew vision of safety and justice. First and foremost, we **advocate for diversion and 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.

Solitary confinement that lasts more than 15 consecutive days is recognized by the United Nations and various human rights organizations as torture. This practice places incarcerated persons alone in cells for 22-24 hours per day with little or no human interaction or outside stimulus, often causing 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 extremely costly, and studies show that it neither deters violent behavior in jails and prisons nor prevents recidivism.² Research also shows that incarcerated 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, Hawai'i'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 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

In the past, the Department of Public Safety (now renamed the Department of Corrections and Rehabilitation) has opposed similar bills, 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 in the past, PSD/DCR cited anecdotal data. **While anecdotal data should be considered in shaping public policy, it is not a substitute for system-wide data.** PSD, like all governmental agencies, have a responsibility to

¹ Roy King, The Rise and Rise of Supermax: An American Solution in Search of a Problem? 1 PUNISHMENT & SOC. 163, 177 (1999). See also, <https://news.un.org/en/story/2011/10/392012>

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

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).

provide agency wide data to assist Hawai'i lawmakers while deliberating on proposed bills that may become public policies.

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

1. Is it a goal or objective of DCR to reduce the number of people placed under administrative and disciplinary segregation?⁵
2. What is the **current total number and percentage** of people in **administrative segregation** compared to the general population in Hawai'i'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 Hawai'i'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 DCR implemented in the past five years to reduce the number of people placed under administrative and disciplinary segregation?
5. How are DCR's current policies and practices relating to administrative and disciplinary segregation **similar** to the proposed bill?
6. How are DCR'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 Hawai'i's jails and prisons, as well as Saguaro prison in Arizona?
8. How **many people** are placed under **disciplinary segregation** in Hawai'i'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**

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

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 re-entry and reintegration.

In closing, we respectfully request that you pass SB104 SD1.

Sincerely,

Carrie Ann Shirota

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

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

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SB-104-SD-1

Submitted on: 2/15/2025 7:13:07 PM

Testimony for JDC on 2/19/2025 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Tara Nash	Individual	Support	Written Testimony Only

Comments:

I support this bill because it restricts use of solitary confinement.

SB-104-SD-1

Submitted on: 2/17/2025 2:18:26 PM

Testimony for JDC on 2/19/2025 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Zoe Ryan	Individual	Support	Written Testimony Only

Comments:

Dear Hawaii Legislature,

Why is it so difficult to recognize the atrocity of "The Hole"? Under any guise, in any form, at any time, locking a human being inside a 8' x12' room with NO WINDOW (alone or with another) for month upon month upon month upon years, (you have put my husband in the hole for four out of the last five YEARS!!) depriving them of sunlight, human connection, nutrition, good water, an outlet of any sort, and expecting a positive outcome is sadistic at best!! My husband has been sent to solitary for "human" infractions! Standing in the pill call line at the wrong time, wearing a frinds chain/necklace, waiting for a promised response regarding visitation, standing up for himself, tattooing and more. He had every personal belonging taken away, was denied art paper and communication. He began to draw on his sheets, anything to keep his sanity and busy his hands and mind, they then took that away ... the result?? What do you think? HE TATTOOED "FUCK THE PATH" ON HIS FOREHEAD!! He will require laser tattoo removal, extensive mental health counseling and you have successfully rendered him unemployable. Hardly bettering the public good!! We WILL rise above, we ARE entrepreneurs, we WILL come out on top, but WHAT THE HELL DO YOU THINK YOU ARE DOING??

What is the solution? Kindness and respect, treat these men like human beings, and when they "misbehave" MAKE THEM WORK!! Solitary confinement/The Hole .. should be reserved only for murder and protection. I wonder if you realize disciplinary seg is actually used to the advantage of gangs so they can come together, manipulate the guards, and control the environment. You are simply being "played" in many cases. Regardless, the result of putting a grown man into the prison environment is a whole subculture that is toxic, volatile and acts of atrocity become necessary simply to survive. Lets get some healthy guidelines, more programs, and better training of officers inside.

thank you,

Zoe Ryan (Hams)

SB-104-SD-1

Submitted on: 2/17/2025 4:35:34 PM

Testimony for JDC on 2/19/2025 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Carla Allison	Individual	Support	Written Testimony Only

Comments:

I strongly support SB104 SD1 prohibiting the use of solitary confinement and requiring the use of appropriate alternatives for committed folx who are members of vulnerable populations. We need this bill to ensure that our state develops more positive alternatives to harmful restrictive housing and is accountable and transparent in following their own policies and procedures.

Thank you,

Carla Allison Honolulu

SB-104-SD-1

Submitted on: 2/17/2025 7:21:26 PM

Testimony for JDC on 2/19/2025 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Carolyn Eaton	Individual	Support	Written Testimony Only

Comments:

This bill is carefully, expertly crafted and extremely important. It is one which should guide the journey of Hawai'i's correctional system toward more humane treatment of the people we must house and care for in our correctional facilities.

Mahalo for the opportunity to submit testimony.

SB-104-SD-1

Submitted on: 2/17/2025 8:42:43 PM

Testimony for JDC on 2/19/2025 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Tasman Kekai Mattox	Individual	Support	Written Testimony Only

Comments:

Written policies and procedures regarding restrictive housing should absolutely be developed. More transparency in corrections choices is important.

SB-104-SD-1

Submitted on: 2/18/2025 9:46:31 AM

Testimony for JDC on 2/19/2025 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Wendy Gibson-Viviani	Individual	Support	Written Testimony Only

Comments:

Dear Chairs, Vice Chairs and Members of the Committee,

My name is Wendy Gibson-Viviani. I'm an RN, an Oahu resident for over 30 years who worked at Halawa Prison in both medium and high security--in the medical unit.

One prisoner said something I didn't like the guard I mentioned it to pulled us together for a meeting. The prisoner begged me to forgive him for his statement --as he would be placed in solitary if I did not. I absolutely forgave him as it wasn't a really threatening statement and that punishment absolutely did not fit the "crime" of his comment.

I support SB104 because it could help prevent psychological torture and physical damage to prisoners in vulnerable populations.

I believe that solitary confinement "restrictive housing" constitutes torture.

This is information that I gathered showing that solitary confinement (for more than 15 days) is considered to be torture (by the UN) and increases the risk of suicide:

In one study of California's prison system, researchers found that from 1999 to 2004 prisoners in solitary confinement accounted for **nearly half of all suicides**. <https://www.afsc.org/resource/torture-reports-and-testimonies-use-torture-us-prisons>

Arizona-- Studies have found that supermax confinement increases the risk of prisoner suicides, finding that Arizona's official prison-suicide rate is **60 percent higher** than the national average, and that the majority of suicides took place in **supermax units**. . . In addition, the conditions of **extreme isolation** and sensory deprivation in these units can exacerbate problems with existing mental illnesses and even **create symptoms in otherwise healthy people**. https://www.afsc.org/sites/default/files/documents/AFSC-Lifetime-Lockdown-Report_0.pdf

Per the United Nations: Prolonged solitary confinement amounts to psychological **torture**, says UN expert. 28 February 2020. Solitary confinement that lasts more than 15 consecutive days is recognized by the United Nations and various human rights organizations **as torture**. <https://www.ohchr.org/en/press-releases/2020/02/united-states-prolonged-solitary-confinement-amounts-psychological-torture>

In 2016, the National Commission on Correctional Health Care issued guidance to correctional health officials explaining that this type of confinement beyond 15 consecutive days is “inhumane, degrading treatment, and harmful to an individual’s health.” **Even short-term stays** can lead to permanent **psychological damage and suicidal ideation.**<https://www.nyclu.org/commentary/solitary-torture-corrections-unions-want-use-it-more-often>

For these reasons, I support SB104 SD1. I hope you will too. Thank you for the opportunity to provide testimony.

Wendy Gibson-Viviani RN

Kailua.

LATE

SB-104-SD-1

Submitted on: 2/18/2025 2:54:31 PM

Testimony for JDC on 2/19/2025 10:16:00 AM

Submitted By	Organization	Testifier Position	Testify
Colleen Rost-Banik	Individual	Support	Written Testimony Only

Comments:

Dear Senators,

My name is Colleen Rost-Banik. I am a resident of Honolulu, and Instructor of Sociology at University of Hawaii, Manoa, and a volunteer Instructor at the Women's Community Correctional Center.

I urge you to support SB104, which would create restrictions on solitary confinement within correctional facilities. I have heard numerous stories from people who have been placed in solitary confinement. The violence that solitary confinement imposes on people who are in prison in order to be "rehabilitated" is dehumanizing. And, because of its dehumanizing nature, it often leads to serious mental health issues.

Please support SB104 to restrict the use of solitary confinement.

Mahalo for your time.
Colleen Rost-Banik, Ph.D.