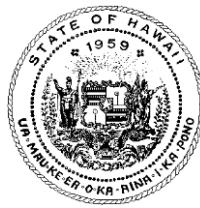


DAVID Y. IGE  
GOVERNOR



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TESTIMONY ON HOUSE CONCURRENT RESOLUTION 85, HOUSE DRAFT 1  
AND HOUSE RESOLUTION 47, HOUSE DRAFT 1  
REQUESTING THE ESTABLISHMENT OF A TASK FORCE TO STUDY EFFECTIVE  
INCARCERATION POLICIES TO IMPROVE HAWAII'S CORRECTIONAL SYSTEM.

By  
Nolan P. Espinda, Director

House Committee on Judiciary  
Representative Karl Rhoads, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Thursday, March 31, 2016; 2:01 p.m.  
State Capitol, Conference Room 325

Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

The Department of Public Safety (PSD) **supports the overall intent** of House Concurrent Resolution (HCR) 85, House Draft (HD) 1 and House Resolution (HR) 47, House Draft (HD) 1 and offers additional clarifying suggestions.

Hawaii is in a distinct minority of jurisdictions wherein both the Jail and Prison systems fall under the single jurisdiction of the State. Overwhelmingly, across the country, jail systems fall under the jurisdiction of the individual counties. This minority arrangement, therefore, makes for the similarly minority circumstance of corrections overcrowding, being inclusive of both incarcerated jail detainees and incarcerated prison inmates. Any task force contemplated should, therefore, address and reevaluate the current jail detainee system, as well as, the prison inmate incarceration, rehabilitation, reentry, and recidivism system.

There are distinctly different strategies associated with the structure and restructuring of the jail detainee system as compared to the structure and restructuring of the prison incarceration, rehabilitation, reentry, and recidivism system. We therefore recommend, that at every juncture, these resolutions specify the dual roles intended to be addressed by the proposed task force.

Thank you for the opportunity to present this testimony.



**HCR85 HD1/HR47 HD1**  
**REQUESTING THE ESTABLISHMENT OF A TASK FORCE TO STUDY EFFECTIVE**  
**INCARCERATION POLICIES TO IMPROVE HAWAII'S CORRECTIONAL SYSTEM.**  
House Committee on Judiciary

March 31, 2016

2:01 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HCR85 HD1/HR47 HD1. This resolution would establish a task force to study effective incarceration policies and make recommendations that may ultimately reduce the growing social and economic burdens of our criminal justice system.

Decades of following a traditional criminal justice approach have now led to the highest prison population in Hawai'i's history. The number of people incarcerated in Hawai'i increased by more than 900 percent between 1977 and 2008,<sup>1</sup> and by 1,400 percent between 1977 and the present. The Native Hawaiian community has been particularly impacted by this increase, making up 40 percent of our prison population today.<sup>2</sup> The rapid growth of our incarcerated population, much higher than the national rate, strongly counsels the reexamination of our criminal justice approach, including our policies with respect to criminal liability, prisoner rehabilitation, and reintegration. In addition, the overrepresentation of Native Hawaiians in the criminal justice system indicates the existence of larger systemic issues, such as implicit bias and disparate treatment in interactions from arrest, to adjudication, to final release.<sup>3</sup>

The Native Hawaiian Justice Task Force brought to light the systemic issues that have contributed to the disproportionate impact of the current criminal justice system on the Native Hawaiian community, and recommended the exploration of new and progressive criminal justice approaches.<sup>4</sup> It is our hope that this dedicated study by our

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<sup>1</sup> OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 17 (2010), [http://www.justicepolicy.org/uploads/justicepolicy/documents/10-09\\_exs\\_disparatetreatmentofnativehawaiians\\_rd-ac.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/10-09_exs_disparatetreatmentofnativehawaiians_rd-ac.pdf).

<sup>2</sup> In contrast, Native Hawaiians represent only 24% of the general public in Hawai'i. *Id.* at 36.

<sup>3</sup> OHA's 2010 study found that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at every stage, noting that Native Hawaiians made up "24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population." Moreover, controlling for many common factors including type of charge, the study revealed that Native Hawaiians were more likely to be found guilty, receive a prison sentence, and receive a longer prison sentence or probation term than most other ethnic groups. *Id.* at 28-38.

<sup>4</sup> THE OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT (2012), [http://lrhawaii.info/reports/legrpts/oha/2013/act170\\_slh11.pdf](http://lrhawaii.info/reports/legrpts/oha/2013/act170_slh11.pdf).

State's preeminent experts on criminal justice will effectuate some of the recommendations made by the NHJTF, and lead to a much-needed and long-awaited strategy to reduce the State's incarcerated population, reduce corrections costs, and proactively invest in public safety and recidivism reduction initiatives.

In light of the above, OHA urges the Committee to **PASS** HCR85 HD1/HR47 HD1. Mahalo nui loa for the opportunity to testify on this important measure.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 30, 2016 12:33 PM  
**To:** JUDtestimony  
**Cc:** louis@hawaiidisabilityrights.org  
**Subject:** Submitted testimony for SB2888 on Apr 1, 2016 14:00PM

**SB2888**

Submitted on: 3/30/2016

Testimony for JUD on Apr 1, 2016 14:00PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Louis Erteschik	Hawaii Disability Rights Center	Comments Only	Yes

Comments: Separating the fitness evaluations from the penal responsibility evaluations seems like a good proposal. We are keeping an open mind on the issue of reducing the panels to one examiner as proposed in this bill. In general, we feel that one panel will not provide the same level of justice to the defendant or the same quality of information to the Court as would three panels. However, in the case of re-evaluations of fitness to proceed, the concept may be worth further discussion.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 30, 2016 12:43 PM  
**To:** JUDtestimony  
**Cc:** breaking-the-silence@hotmail.com  
**Subject:** \*Submitted testimony for HR47 on Mar 31, 2016 14:01PM\*

**HR47**

Submitted on: 3/30/2016

Testimony for JUD on Mar 31, 2016 14:01PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dara Carlin, M.A.	Individual	Support	No

Comments:

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