

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON WAYS AND MEANS

Sen. Donna Mercado Kim, Chair

Sen. Shan Tsutsui, Vice Chair

Monday, February 22, 2010

10:05 a.m.

Room 211

STRONG SUPPORT - SB 2533 - Financial and Management Audit of Public Safety

WAMTestimony@capitol.hawaii.gov

Aloha Chair Kim, Vice Chair Tsutsui and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety by supporting smart justice policies. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that almost 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

SB 2533 directs the auditor to conduct a financial and management audit of the Department of Public Safety's contract with the Corrections Corporation of America and the Federal Detention Center.

Mahalo for hearing this important bill. Community Alliance on Prisons stands in full support of this measure. In these dire economic times, we must use our precious resources wisely.

WHY WE NEED AN AUDIT:

Community Alliance on Prisons has been raising questions about decisionmaking, resource allocation and the expenditure of public funds at the Department of Public Safety for more than a decade. We have supported measures calling for transparency and accountability at PSD.

This bill is very important because it promotes good government. As the Governor wrote in A New Beginning for Hawai'i:

Making Government Work Better

"Restoring integrity to government requires us to share information openly with the public so the people of Hawai'i will know the true condition of state government, the programs it operates and the results of its efforts. Both elected leaders and the public must know the information essential to good decision-

making. Government resources are limited, so all spending and policy choices must be based on reliable information and clearly articulated values and objectives, rather than short-term political considerations. ...Financial accountability and openness are essential if government leaders are able to make sound decision and then be held accountable for the actual results. They are absolutely necessary to break the vicious cycle of corruption and favoritism in state contracting, and to restore trust and integrity in government service."

We agree with the Governor that good government demands transparency and accountability.

THE 192% INCREASE IN THE BUDGET FOR CONTRACT PRISON BEDS BEGS THE QUESTION:

- ***Why has there never been an audit of Private and Federal Contracts?***
It is long overdue that the taxpayers find out the benefit the expenditure of millions of their hard-earned dollars has brought the community. Could we have spent the money more wisely and caused less community and family destruction? The research shouts, YES! Let's get the facts about where our money has been going and how effectively it has been spent.
- ***CCA and FDC Contracts for Medium Prison Beds Increased 192% in the Last Decade!***
The budget for contract prison beds (CCA and the Federal Detention Center) has increased by 192%. Do you want our hard-earned tax dollars to go to a corporation who is accountable first and foremost to its shareholders?
- ***Why are we sending minimum and community custody individuals to medium security prisons?***
The 2008 Preliminary Classification Study - a PSD study sample that included 2400 individuals' files of the then 6,010 inmate population. The researchers sampled from every category - prisons and jails in Hawai'i, private contract prisons in the U.S. and U.S. Interstate Compact Prisons.

They projected that 35.9% of the women should be classified at the minimum custody level and 22.2% should be classified at the community custody level (a total of 68.1% of the women were projected to be classified at the minimum or community custody level). The study found that 56.3% of the men should be classified at the minimum custody level and 5.7% should be classified at the community custody level (a total of 62% of the men were projected to be classified at the minimum or community custody level). Why are these individuals in a medium security prison?
- ***PSD Is Not Following Best Practices***
Housing minimum security individuals in a medium security prison (Halawa, FDC, and CCA) is against correctional best practices. Research shows that housing an individual at an increased classification (custody level) only serves to increase criminality. Why are we doing this?

- *Shouldn't we be including the cost of lawsuits for the sexual assaults and other civil right violations at private prisons into the audit considerations?*
When our women were in Brush. CO and two women were sexually assaulted, the state settled the lawsuit, which cost the taxpayers money. **These settlements and legal costs must be included in the contract investigation.**

WE NEED ACCOUNTABILITY & TRANSPARENCY:

- *Public Safety's skyrocketing budget - + 75.5% in the last decade!*
The fact that PSD's budget has increased 75.5% in the last decade should prompt an investigation.
- *Public Safety is 5% of the state budget (The Judiciary is 2.6%)*
Public Safety is approximately 5% of the budget, yet the majority of Hawai'i's incarcerated population is composed of non-violent who are projected to be classified as minimum and community custody individuals.
- *PSD has opposed all bills calling for accountability and transparency*
Every bill calling for transparency and accountability over the last several years has been vehemently opposed by the department.
- *Hawai'i data is often not included in BJS Studies*
CAP routinely reviews studies from the Bureau of Justice Statistics that report what each state is doing in a certain sector of criminal justice, Hawai'i statistics are often missing.
- *There are more effective ways of addressing crime*
Incarceration is the most expensive sanction and there are better, more efficient and cost-effective ways of addressing the root cause of much of Hawai'i's crime.

THE HASTY CLOSURE OF KULANI CORRECTIONAL FACILITY RAISES QUESTIONS:

- *Decisions are being made without consulting with legislatively appointed bodies*
Why wasn't the closure of Kulani Correctional Facility brought before or discussed with the Corrections Population Management Commission, a legislatively appointed-body?
- *Where is the purported \$2.8 million in savings?*
The purported savings of \$2.8 million a year that the closure of Kulani would save has never been fully explained. How can that be when more than 90% of the staff has been reassigned to other facilities?
- *Most Effective Sex Offender Treatment Program in the Nation Closed*
Why was the most effective sex offender treatment program in the nation shut down? PSD testified that no programming for individuals in Kulani's sex offender and substance abuse treatment programs would be interrupted - this is NOT TRUE.

- ***Programs Interrupted!***

Men who were in the sex offender treatment program at Kulani are at the Federal Detention Center (FDC) still awaiting a program – some since August! Why?

Two things can happen from this broken promise: Hawai`i will be either facing lawsuits for over-detention or individuals convicted of sex offenses will be released into the community UNTREATED.

- ***Sex Offenders in Substance Abuse Treatment Program at Kulani***

Men who have been convicted of sex offenses and who were in Kulani's substance abuse treatment program were also promised that their programming would not be interrupted – NOT TRUE. They're at medium security Halawa because Waiawa doesn't take sex offenders. Another broken promise! PSD officials didn't know that Waiawa doesn't take sex offenders?

- ***Kulani's Closing – Mis-truths or Deliberate Obfuscation?***

The closure of Kulani has been cloaked in mis-truths. Why was there such a rush to close Kulani? The National Guard didn't have the funding and they apparently didn't realize that they would need to train individuals to work with the Youth Challenge Program. Why were the keys turned over to DOD on November 20th when there was no MOA signed, no funding from the feds, and a delay of one year to train individuals to work for the program?

A financial and management audit of PSD is long overdue. We need to look at who is incarcerated and determine who actually needs to be there. We can then repurpose that money into programs that help individuals transition back to the community.

The data provided by this audit give you, as policymakers, the necessary tools as well as a snapshot of our correctional system so that you can best determine where to allocate funding to accomplish the vision most of us have – safe and healthy communities. We are Hawai`i – we care for each other and about each other.

We urge passage of SB 2533 – even in these financially strapped times – because you need to know the most effective ways to spend our hard-earned tax dollars for the public good.

Mahalo for this opportunity to share our thoughts with the committee.



February 2, 2010

To: Senator Will Espero, Chair
Senator Robert Bunda, Vice Chair and
Members of the Committee on Public Safety and Military Affairs

From: Jeanne Ohta, Executive Director

RE: SB 2533 Relating to an Audit of Contracts with CCA
Hearing: February 2, 2010, 1:25 p.m., Room 229

Position: Strong Support

The Drug Policy Forum of Hawai`i writes in support of SB 2533 Relating to an Audit of Contracts of the Department of Public Safety with the Corrections Corporation of America (CCA) and the Federal Detention Center.

Hawai`i now has over 2,000 people in mainland prisons. This audit is long overdue. In 14 years there has never been an independent audit of the contracts with CCA. It is extremely important that this approximately \$50 million contract is audited.

The taxpayers of Hawai`i deserve to know if the medical, mental health, substance abuse treatment, education, vocational training, and food services contracted for are being fulfilled.

Private prisons are for-profit corporations, accountable as most of those businesses are to their shareholders and investors; with profits as their primary motive. They have a self-serving interest in keeping their census up to capacity, and their costs low, much like hotels and other lodging businesses. It is because of this self-interest on the part of private prisons that an audit should be conducted.

An audit seems even more appropriate as the Department of Public Safety has recently reported that the rate per day is once again going up. Before committing the state to increasingly higher rates, there should be an independent examination of existing agreements.

I ask the committee to pass SB 2533 so that we may have an independent report on \$50 million of taxpayer money. Thank you for this opportunity to testify.

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THE HEPATITIS NETWORK OF HAWAII
PRISONER REINTEGRATION PROGRAM

Andy Botts, Director
1286 Queen Emma Street
Honolulu, Hawaii, 96813
Monday, February 22, 2010

COMMITTEE ON WAYS AND MEANS

Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Monday, February 22, 2010

10:05 A.M.

Conference Room 211

State Capitol, Hawaii

SUPPORT- SB 2533

RELATING TO AN AUDIT OF CONTRACTS OF THE DEPARTMENT OF PUBLIC
SAFETY WITH THE CORRECTIONS CORPORATION OF AMERICA AND THE FEDERAL
DETENTION CENTER.

Considering the latest events in CCA facilities I strongly support this bill.

Mahalo,

Andy Botts

From: [James](#)
To: [WAM Testimony](#)
Subject: Comment in Support of SB 2533, Audit of DPS Contracts with CCA
Date: Monday, February 22, 2010 9:16:12 AM

My name is James Tabe, and I am a supervisor at the State Office of the Public Defender Appeals Division. The attorneys in my division assist thousands of Hawai'i inmates each year, in hearings before the Hawai'i Paroling Authority (HPA). I am writing today to submit brief comments below, in strong support of SB 2533.

An audit of DPS, and DPS contracts with Corrections Corporation of America (CCA), Federal Detention Center (FDC) and the closure of Kulani Correctional Facility (KCF) on the Big Island, is necessary, to help determine whether scarce state monies are being effectively used.

The hasty closure of KCF has had serious impacts to our clients, and huge subsidiary financial impact to the State. KCF had the largest sex offender treatment program (SOTP) in the State, a program that was highly regarded nationwide. Any inmate classified as a sex offender is required to complete the rigorous 18-month SOTP prior to parole. The vast majority of such inmates completed their SOTP at KCF. After SOTP is completed, the inmate must then complete any other rehabilitative programming, such as work furlough and substance abuse programming -- which can take another 1-3 years to complete. The sudden shutdown of KCF displaced the entire population of SOTP inmates, many of whom are now in the FDC, which has no such program. These SOTP inmates, who were in various stages of completion of the 18-month program, now face the prospect of having to complete the entire program again, delaying their entry into their post-SOTP programming for substance abuse or work furlough, thus delaying their parole eligibility for another two years. These former KCF SOTP inmates, are now warehoused at FDC, doing nothing, with no word on when, or if, the SOTP will be recreated at another facility. Not only are these programming terminations and re-dos, and delayed parole eligibility, emotionally painful for our clients, but they are extremely expensive for taxpayers, with skyrocketing incarceration costs at over \$50,000 per inmate, per year.

The audit will also shed much-needed light on the wisdom of continuing to house Hawai'i inmates in faraway facilities, away from the scrutiny of Hawai'i agencies. Last year one of my attorneys uncovered a disturbing pattern of retaliation and harassment by Saguaro Correctional Facility (SCF) staff, after the client had received parole despite a recent write-up. The client was written up again, and his parole was put on hold. SCF records were obtained and used to substantiate the attorney's claim to HPA -- that the client's parole had been unfairly sabotaged again. HPA was sufficiently convinced and reinstated the client's parole. This was a case where the prison was not following its own regulations, and selectively or arbitrarily applying these regulations. When our local, in-state prisons violate their own rules, there is swift review and accountability, and on occasion, the Office of the Ombudsman needs to intervene. But for out-of-state prisons, there appears to be insufficient review and accountability, and the Ombudsman cannot intervene; SCF inmates have no agency to provide oversight over their situation.

Not only is the situation troubling on a moral level, but turning a blind eye to what is going on there, would be fiscally imprudent given the potential future financial risk involved, in terms of potential lawsuits. With the skyrocketing cost of incarceration, at \$50,000 + per year, per inmate, excluding the additional airfare and security costs for air transportation of such inmates between Hawai`i and the Mainland, -- a performance review of SCF and other Mainland facilities housing Hawai'i inmates, is a prudent business decision.

Both of these moral and economic grounds provide compelling justification for the Legislature to take good, hard look at the Saguaro situation, through an audit as this Bill authorizes.

Thank you for your time and consideration of my comments.

Sincerely,

James Tabe

From: [Mary Elizabeth](#)
To: [WAM Testimony](#)
Subject: SB2533
Date: Saturday, February 20, 2010 9:25:32 AM

COMMITTEE ON WAYS AND MEANS

Sen. Donna Mercado Kim, Chair

Sen. Shan Tsutsui, Vice Chair

Monday, February 22, 2010

10:05 a.m.

Room 211

STRONG SUPPORT of SB 2533 - Audit of PSD Contracts & Closing of Kulani

Dear Chair Kim, Vice Chair Tsutsui, and Committee Members

Thank you for this opportunity to submit my testimony.

An audit is sorely needed and I strongly support the passage of this bill and your committee funding it.

The audit would answer so many questions about the operation of CCA involving our inmates at SCC. The death of an inmate which happened just this past week is indicative of problems at SCC which this audit would unveil.

There is also the issue of Kulani. There was no detailed accounting of the closure of Kulani. It was never discussed with the legislators or the Corrections Population Manageme Commission. Is the savings of 2.8 million a year in closing Kulani really a saving considering they were doing public works for the state/city and producing income? And, the state administration's proposed upgrading of Kulani's facilities with \$1.8 million in loans for the Hawaii National Guard usage doesn't seem to justify closing Kulani.

The inmates at Saguaro in AZ programmed to return now cannot because there is no program. Without a program, they can't get released early so have to "max" out. More cost to the State for keeping them incarcerated longer.

Sex offenders need therapy as Tiger Woods realized. Also, in this week's

Newsweek Steve Phillips, Former ESPN analyst, in his first interview since leaving rehab for sex addiction said, "I couldn't stop doing the things I was doing even knowing the consequences."

Without an audit, we will continue to fund an everincreasing prison system blindfolded.

Mahalo and Aloha,

E. Funakoshi

455-9136

Senate WAYS AND MEANS COMMITTEE

Senator Donna Mercado Kim, Chair

Senator Shan Tsutsui, Vice Chair

February 22, 2010

10:05AM

conference room 211

STRONG SUPPORT for SB2533 – Audit of PSD Contracts & Kulani Closure

Aloha Senator Mercado Kim, Senator Tsutsui and members of the committee,

I enthusiastically support SB 2533. While I generally oppose more spending on prisons, Kulani sex offender treatment program was well respected by my colleagues in the criminal justice and psychology fields. It was the last prison program that should have been closed. I have been told by reliable inside sources that Kulani Prison was not in "horrible shape" -- that it only actually needed \$400K in infrastructure improvements.

The closure of Kulani was never discussed with the Corrections Population Management Commission, the legislatively enacted body to monitor the prison population. PSD testified that no programming for individuals in Kulani's sex offender and substance abuse treatment programs would be interrupted – yet these individual's programming has in fact been interrupted.

Especially now, we need to make sure that we aren't throwing money away. Private prisons, such as those run by Corrections Corporation of America are like hotels in that they strive for a high occupancy rate. As an example: The California Prison Guards Union spent \$80M lobbying for the "three strikes" law, which filled prison beds and increased prison guard job security. A higher prison population doesn't make a safer community -- just more broken families and a more broke general fund. Hawai'i's inmates have been raped and assaulted. Hawaii taxpayers have therefore been paying for people (who were traumatized before they were incarcerated) to become even more traumatized - requiring even more costly treatment.

We need to end the cycle of crime and incarceration - not exacerbate it.

Please pass SB2533

Mahalo for hearing my concerns,

Netra Halperin, MA (Psychology)
Kihei, Maui