



STATE OF HAWAII | KA MOKU'ĀINA O HAWAI'I
**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**
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No. _____

TESTIMONY ON HOUSE BILL 1002, HOUSE DRAFT 1
RELATING TO THE HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION.

by
Tommy Johnson, Director
Department of Corrections and Rehabilitation

House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Mahina Poepoe, Vice Chair

Wednesday, February 12, 2025; 2:00 p.m.
State Capitol, Room 325 or Via Video Conference

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

The Department of Corrections and Rehabilitation (DCR) provides comments on House Bill (HB) 1002, House Draft (HD) 1, which proposes to increase the term of appointment for the Hawai'i Correctional System Oversight Commission (HCSOC) Coordinator's position from two years (2) to three (3) years and also amends the language of Section 353L-7 of the Hawai'i Revised Statutes (HRS) to allow the coordinator to make inquiries and obtain information where no investigation has been initiated or exists.

The DCR has no concerns with the proposed change from a 2-year term for the coordinator to four (4) years as listed in HB 1002 or the 3-year term proposed in House Draft 1. In fact, while we allow the HCSOC and its Coordinator open access to all correctional facilities 24/7, 365 days a year, future directors may not. We firmly believe that if we are to collectively address and resolve the many, many long-standing challenges facing the DCR, we must be able to make it clear in the statute that the HCSOC is our partner.

Thank you for the opportunity to submit comments on HB 1002, HD 1.

JOSH GREEN, M.D.
GOVERNOR



STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION
E HUIKALA A MA'EMA'E NŌ
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MARK PATTERSON
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COMMISSIONERS
HON. R. MARK BROWNING (ret.)

HON. RONALD IBARRA (ret.)

MARTHA TORNEY

HON. MICHAEL A. TOWN (ret.)

TO: The Honorable David A. Tarnas, Chair
The Honorable Mahina Poepoe, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Mark Patterson, Chair
Hawaii Correctional System Oversight Commission

SUBJECT: House Bill 1002, HD1, Relating to the Hawaii Correctional System Oversight
Commission
Hearing: Wednesday, February 12, 2025; 2:00 p.m.
State Capitol, Room 325

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

The Hawaii Correctional System Oversight Commission (HCSOC) **supports and offers comments** on House Bill 1002, House Draft 1, Relating to the Hawaii Correctional System Oversight Commission, which would extend the term of the Oversight Coordinator for the Hawaii Correctional System Oversight Commission, and clarifies that the Oversight Coordinator has the general authority to inspect agencies and correctional facilities without notice.

Currently, the Oversight Coordinator shall serve two-year terms, however, the Commission found that a two-year term does not provide sufficient time to fully understand the role, build relationships, develop and implement meaningful policies or projects. Short terms can hinder the ability to make significant progress or see initiatives through to completion. Additionally, frequent turnover can disrupt continuity, leading to inconsistent strategies and priorities that may undermine the effectiveness of the position and the Commission as a whole.

Although the Commission appreciates the page 1, line 11 extension from two years to three years, the Commission worries that even a three-year term offers the same issues as noted above. A three year term may reduce long-term accountability, as appointees might focus on short-term achievements or avoid controversy to secure reappointment or future roles, rather than tackling difficult, long-term challenges. Finally, attracting top talent to a position with a short term can be challenging, as it offers limited job security and little opportunity to establish a legacy. Therefore, the Commission would appreciate either a 4- or 6-year term which is aligned with other governor-appointed positions throughout the state.

The Commission greatly appreciates the added verbiage on page 1, lines 11-15 adding the Commission's ability to make a recommendation to the Governor to retain the Oversight Coordinator for another term. The Commission is thrilled that the current Oversight Coordinator was chosen to serve a second term, however, the amount of time, effort, and resources that were put into the interview process after two short years were significant. This process, repeated too often, creates inefficiencies.

Regarding the proposed amendment on page 2, line 1 subsection (c), the bill's language ensures unfettered access to information and correctional facilities, allowing the Oversight Coordinator to fulfill their mandated duties of not only completing investigations, but also overseeing, monitoring, and reviewing correctional and reentry practices. Unfettered access for oversight entities is essential for ensuring transparency, accountability, and the protection of people and custody and staff. It allows for thorough inspections, assessments, review of practices, deters misconduct, and promotes adherence to regulations. This access helps uncover and address issues like poor conditions or abuse, ensuring humane treatment and fostering public trust in 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.

COMMUNITY ALLIANCE ON PRISONS

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Today's Inmate; Tomorrow's Neighbor



COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Representative David Tarnas, Chair

Representative Mahina Poepoe, Vice Chair

Wednesday, February 12, 2025

Room 325 & VIDEOCONFERENCE

2:00 PM

HB 1002 HD1 - SUPPORT W AMENDMENT: HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION - COORDINATOR'S TERM

Aloha Chair Tarnas, Vice Chair Poepoe and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the 3,726 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Corrections and Rehabilitation on As of February 3, 2025 . We are always mindful that 937 - 28% - 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 appreciates this opportunity to share our support for the Hawai'i Correctional System Oversight Commission. We are disappointed with the constant attacks leveled at the Commission for bringing truth, transparency, and accountability to an entrenched system with way too

¹ DCR Weekly Population Report, February 3, 2025

<https://dcr.hawaii.gov/wp-content/uploads/2025/02/Pop-Reports-Weekly-2025-02-03.pdf>

many preventable deaths occurring. There were four suicides in 2024 for a total of 12 suicides since 2020². This is unacceptable!

There was another death, a murder, at OCCC³ just last week reported by Civil Beat today.

Isn't this a clarion call for reform of our broken correctional system? Hawai'i thankfully abolished the death penalty in 1959, but there are too many people dying in our jails and prisons. This cannot be overlooked any longer. **HAWAII NEEDS TRANSPARENCY AND ACCOUNTABILITY IN OUR JAILS AND PRISONS NOW!** These deaths cannot be explained away by building new cages and contracting with public relations firms. There is something deeply wrong and it is time for Hawai'i to take responsibility for these deaths and work to address the factors that lead to these tragedies.

This is why the Hawai'i Correctional System Oversight Commission is so vital to Hawai'i nei. Their oversight is crucial to the operation of our correctional system and it has been shameful that certain elements of the government have been working to undermine the Commission and attack the position of Coordinator. Transparency and accountability are basic tenets of democracy.

Certainly, a two-year term is not enough to fix the many problems in our correctional system, hence the bill to extend the term to 4 years. Sadly, the HD1 reduced the Coordinator's term to three years without providing an explanation, leaving the community to conclude that this is just another attack on transparency and accountability and again illustrates the government's reluctance toward transparency and accountability. This is dangerous and heartbreaking in these perilous times.

² **The Mental Health Crisis in Hawai'i's Prisons: 'The Suicides Keep Coming', The latest deaths would make the number of suicides the highest in a single year since 2020**, Civil Beat, By Kevin Dayton, November 29, 2024. <https://www.civilbeat.org/2024/11/the-mental-health-crisis-in-hawaiis-prisons-the-suicides-keep-coming/>

³ **ACLU Cites 'Pattern Of Violence' After Killing At O'ahu Jail**, The death of OCCC inmate Eric Scotton is apparently the third homicide in the Hawai'i correctional system in less than a year, Civil Beat, By Kevin Dayton, Monday, 2.10.25. <https://www.civilbeat.org/2025/02/aclu-cites-pattern-of-violence-after-murder-at-oahu-jail/>

Oversight is happening all across the U.S. and the HCSOC website <hcsoc.hawaii.gov> has a report from the National Resource Center for Correctional Oversight⁴ that defines correctional oversight as:

Correctional oversight is a means of achieving the twin objectives of transparency of public institutions and accountability for the operation of safe and humane prisons and jails. Together, these goals ensure that the rights of incarcerated persons are addressed and that correctional practices can improve so as to prevent future harm.

It is troubling when the many problems with our correctional system are reduced to public relations for building new cages while some in the government are working hard to keep these problems hidden. This is so wrong on so many levels. The community's trust in government is currently so low that shutting the public off from information is just another way to disenfranchise the community. It clearly shows a lack of respect and a willingness to spin information.

Oversight is unlike other departments in our government. Oversight must be independent of political whims and focused solely on their mission - lawful and humane operation of our jails and prisons and assisting the DCR with reentry of those individuals exiting incarceration and returning to their communities.

Community Alliance on Prisons supports a six-year term to keep the Commission independent of politics and focused on their mission.

Transitioning from a punitive system to a rehabilitative and restorative model will take time and the Commission has the expertise to assist the Department of Corrections and Rehabilitation in making this a successful transition. Everyone has to leave their egos at the door and focus instead on the people in the 'care and custody' of the state to address the many needs that have led too many people to be incarcerated by the state where too many have died.

⁴ **National Resource Center for Correctional Oversight, Making Prisons and Jails transparent and accountable**, *A one-stop shop to learn what correctional oversight looks like and how to establish an effective oversight body in your state or locality*,

Community Alliance on Prisons humbly and respectfully asks the committee to amend the bill to increase the Coordinator's term to six years and pass this bill onto FIN.

Mahalo nui!

"The degree of civilization in a society can be judged by entering its prisons."

Fyodor Dostoyevsky



Committee: Public Safety and Military Affairs
Hearing Date/Time: Friday, January 31, 2025 at 10:00am
Place: Conference Room 411 & Via Videoconference
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of
H.B. 1002 Relating to the Hawaii Correctional System
Oversight Commission**

Dear Chair Belatti, Vice Chair Iwamoto and Members of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") **supports H.B. 1002** which proposes to extend the term of the Oversight Coordinator for the Hawaii Correctional System Oversight Commission beginning July 1, 2025. Additionally, the bill clarifies that the Oversight Coordinator has the general authority to inspect agencies and correctional facilities without notice.

Essential Elements of an Effective Prison Monitoring System

Michele Deitch, an attorney, distinguished senior lecturer at the LBJ School and Texas Law, and Director of the Prison and Jail Innovation Lab, is a recognized national and international expert on prison oversight. Deitch co-chairs the ABA's Subcommittee on Correctional Oversight and has published extensively on the essential elements of an effective prison monitoring system.

- They must be **independent** of the correctional agency and able to do their work without interference or pressure from the agency or any other body;
- Monitors must have unfettered and confidential access to facilities, incarcerated persons, staff, documents, and materials, and they should have the ability to visit at any time of the day without prior notice;
- They must be adequately resourced, with sufficient staffing, office space and funding to carry out their monitoring responsibilities, and the budget must be controlled by the monitoring entity;
- They must have the power and the duty to report their findings and recommendations, in order to fulfill the objective of transparency, and control the release of their reports and

- **They must take a holistic approach to evaluating the treatment of incarcerated persons, relying on observations, interviews, surveys, and other methods of gathering information from prisoners as well as on statistics and performance based outcome measures.**¹

The extension of the Oversight Coordinator's position from two to four years and codifying in statute that the Oversight Coordinator has unfettered access to our jails and prisons - the most closed institutions - is essential to building the oversight infrastructure for meaningful oversight. It is also essential to investigate and bring attention to unconstitutional conditions of confinement, lack of medical and mental health services, suicides, drug smuggling, cruel and unusual punishment, prison rape, violence, and even murders, with the purpose of prevention and remedial action.

For the above reasons, we urge the Committee to support this measure. Thank you for the opportunity to testify.

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 since 1965.

¹ Michele Deitch, *Independent Correctional Oversight Mechanisms Across the United States: A 50-State Inventory*, 30 Pace L. Rev. 1754 (2010); DOI: <https://doi.org/10.58948/2331-3528.1764> See also, See Effective Prison Oversight, Michele Deitch, Prepared for the Commission on Safety and Abuse in America's Prisons, 4th Hearing, Los Angeles, February 8, 2006.

HB-1002-HD-1

Submitted on: 2/8/2025 11:21:16 PM

Testimony for JHA on 2/12/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Isis Usborne	Individual	Support	Written Testimony Only

Comments:

Aloha,

I strongly support this bill.

Mahalo,

Isis Usborne (96815)

February 12, 2025

To: Representative David Tarnas, Chair
Representative Mahina Poepoe, Vice Chair and
Members of the Committee on Judiciary and Hawaiian Affairs

From: Jeanne Y. Ohta

RE: HB 1002 HD1 Relating to the Hawaii Correctional System Oversight Commission

POSITION: STRONG SUPPORT

Thank you for the opportunity to testify in strong support of HB 1002 HD1 Relating to the Hawaii Correctional System Oversight Commission (HCSOC) which would extend the term of the oversight coordinator for the Commission by 3 years and clarifies that the oversight coordinator has the general authority to inspect agencies and correctional facilities without notice, beginning July 1, 2025. The measure also authorizes the Commission to review the Coordinator's performance and make a recommendation to the Governor as to whether the Coordinator should be retained.

I believe the oversight coordinator's position is essential to maintain an effective oversight infrastructure and the position deserves a term extension from the current 2 years. The position will bring attention to conditions in our correctional institutions that need attention and improvement and provide the transparency necessary for institutions that are charged with caring for incarcerated individuals.

Independent oversight provides taxpayers the assurance that individuals under the control of the corrections system are being held appropriately and are receiving needed medical and mental health services; and have access to rehabilitative programming.

HCSOC's report: "Correctional Staff Survey, Findings, and Recommendations" which was presented to the legislature this year shows the need for reform and provides recommendations to provide a safer and supportive environment for both staff and incarcerated individuals. As a taxpayer, I am thankful for the diligence and dedication of the staff to undertake such a time intensive project: to conduct the survey, compile key findings and make informed recommendations.

I respectfully ask the committee to pass this measure.

ROBERT K. MERCE
2467 Aha Aina Place
Honolulu, Hawai‘i 96821
(808) 398-9594

March 5, 2024

TO: Committee on Judiciary and Hawaiian Affairs
RE: HB 1002
HEARING: Wednesday, February 12, 2025
TIME: 200 p.m.
ROOM: Via Videoconference; Conference Rm. 325
POSITION: Comments

Chair Tarnas, Vice Chair Poepoe, and members of the committee:

My name is Robert Merce. I am a retired attorney. I served on the HCR 85 Task Force on Prison Reform that recommended the creation of an oversight commission for Hawaii, and I was the principal author of the Task Force’s Final Report to the 2019 Legislature.

As the HRC 85 Task Force points out, one of the landmark documents in prison oversight is the American Bar Association’s (ABA’s) 2006 resolution calling on federal, state, and local governments to establish “public entities, independent of any correctional agency, to regularly monitor and publicly report on conditions in prisons, jails, and other correctional and detention facilities . . . in their jurisdictions.”¹

The ABA’s “Key Requirements” for correctional oversight call for the head of the monitoring agency to be appointed for a fixed term, and be subject to removal only for cause.

The fixed term for the Hawaii Correctional System Oversight Coordinator should be **six years**, the same as the term of the Ombudsman. I know of no rational basis for making the term of the Oversight Coordinator less than the term for the Ombudsman, but if it is to be less, it should be **four years** instead of three years.

I strongly support the Committee on Public Safety’s amendment “[a]uthorizing the Hawaii Correctional System Commission to review the coordinator’s performance and make a recommendation to the Governor as to whether the coordinator should be retained for an additional term;”

¹ American Bar Association, “Report to the House of Delegates, American Bar Association, Criminal Justice Section, Recommendation” (August 2008).

Thank you for allowing me to testify on this bill.

A handwritten signature in black ink, appearing to read "Robert K. Merce". The signature is fluid and cursive, with the first name "Robert" and last name "Merce" being more legible than the middle initial "K".

Robert K. Merce

HB-1002-HD-1

Submitted on: 2/11/2025 12:59:27 PM

Testimony for JHA on 2/12/2025 2:00:00 PM

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

Comments:

Aloha, Chair Tarnas, Vice Chair Poepoe, And Members of the Committee,

My name is Carolyn Eaton. I am a Makiki resident and I strongly support this measure to lengthen the term of the Hawai'i Correctional System Oversight Commission's Coordinator to four years, from a 2-year term.

This relatively new actor in our corrections environment should be seen as a partner with the Department's men and women in leadership. The role, the person working as Coordinator, if allowed to reach potential, will benefit the State of Hawai'i because the expertise the Coordinator brings only adds to the positive things the Department of Corrections and Rehabilitation can achieve.

Mahalo for your hard work, especially on the "Corrections" front. The well-being of all our communities, across the State, will benefit by having a Coordinator with at least a 4-year term.