

The Judiciary, State of Hawai'i

Testimony to the House Committee on Finance

Representative Sylvia Luke, Chair
Representative Ty Cullen, Vice Chair

Thursday, February 23, 2017, 11:00 AM
State Capitol, Conference Room 308

by
Calvin C. Ching, Deputy Chief Court Administrator
District Court of the First Circuit

Bill No. and Title: House Bill No. 457, House Draft 1 Relating to the Community Court Outreach Project.

Purpose: Establishes a community court outreach project in the City and County of Honolulu, subject to the availability of funds and memoranda of agreements from the Judiciary, Prosecuting Attorney, and the Public Defender. Appropriates funds. (HB457 HD1)

Judiciary's Position:

The Judiciary supports House Bill No. 457, House Draft 1.

The district court criminal calendars include numerous cases involving nonviolent offenders, many of whom face multiple life challenges, such as substance abuse, mental health issues and the inability to provide themselves and/or their families with basic needs of food and housing. In an effort to address some of these cases, the community court outreach project ("community outreach court") would allow the Judiciary to collaborate with the Office of the Prosecuting Attorney, the Department of the Public Defender and various community organizations to provide meaningful solutions to the problems facing these nonviolent offenders and to prevent recidivism.

In his State of the Judiciary Address on January 25, 2017, the Chief Justice commended Honolulu Prosecutor Keith Kaneshiro and state Public Defender Jack Tonaki for putting these ideas into action through a program called Community Outreach Courts. The Chief Justice further stated, "The ultimate goal is to send the court and a treatment team out into the community and offer these nonviolent offenders an opportunity to resolve pending cases, obtain needed service and move forward with their lives."



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Subsequently, on January 26, 2017, the Judiciary, the Department of the Prosecuting Attorney, the Office of the Public Defender, successfully held the first session of this court in Honolulu District Court. The next step is to mobilize this court into the community.

To implement and ensure the continuous success of this court, the Judiciary can provide: 1) a judge - for the community outreach court; 2) the ability to hold court sessions at locations (other than traditional courthouses) where offenders can more easily access court proceedings without taking time off from work, traveling substantial distances to traditional courtrooms and/or securing necessary child care; and 3) data on the progress of the community outreach court using the Judiciary's Information Management System (JIMS).

The Judiciary will also need the following to manage and staff this mobile community outreach court:

1) one (1) new, full-time program coordinator to plan, develop, implement, and coordinate this court's operations and activities with the Department of the Prosecuting Attorney, the Office of the Public Defender and various community organizations;

2) one (1) new, full-time court clerk position to record and execute the court's orders and dispositions;

3) one (1) new, full-time court bailiff position to manage the court's calendar and court proceeding;

4) one (1) new, full-time social worker assigned to the Judiciary's community service sentencing program to screen and coordinate the multitude of community services for the defendants with various government and private sector agencies, and monitor and report on the defendants' compliance; and

5) associated computer and peripheral equipment, and office supplies dedicated for this court's disposition and remote connectivity to JIMS.

Additionally, safety and security is a concern when taking the court staff to other locations away from traditional courthouses (similar to when hearings are held at the Hawaii State Hospital); therefore, assistance from the Department of Public Safety will be required.

Thank you for the opportunity to provide testimony on this measure.

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**THE HONORABLE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawai'i**

February 23, 2017

RE: H.B. 457, H.D. 1; RELATING TO THE COMMUNITY COURT OUTREACH PROJECT.

Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in strong support of H.B. 457, H.D. 1.

The purpose of this bill is to recognize and address the impact that homelessness has had on our criminal justice system, to the extent that our courts are currently clogged with low-level, non-violent cases, in which the defendants are homeless. To do this, H.B. 457, H.D. 1, would implement a new and innovative means of bringing the courtroom into the community, for certain types of cases, in a collaborative effort between our Department, the Department of the Public Defender, and the Judiciary. Essentially, the Community Court Outreach Project would simultaneously:

- Decrease the backlog of pending, low-level, non-violent cases;
- Allow offenders to clear their pending cases;
- Provide court orders for counseling, treatment, and/or referral to homeless services, on a case-by-case basis;
- Provide consequences through community service instead of incarceration or fines.

The Project would begin with a four-year pilot program on the island of Oahu, with ongoing assessment and potential application for other islands thereafter.

Currently, our courts are seeing a large number of defendants, charged with low-level, non-violent crime, who are not appearing for arraignment or other hearings; this leads to a bench

warrant (for arrest) being issued by the court. If and when the defendant is subsequently arrested, they are either jailed overnight (unable to post bail) and sentenced to credit for time served, or fined, or released on recognizance. If released on recognizance, they may again fail to appear for their next hearing, and another bench warrant will have to be issued. Ultimately, these cases utilize a disproportionate amount of limited resources from all agencies involved, and clog our court calendars, without offering the defendant sufficient rehabilitation to prevent recurring offenses.

Under H.B. 457, H.D. 1, certain designated personnel from our Department, the Department of the Public Defender, and the Judiciary would officially set up a “mobile court” that could be convened in public schools, recreation centers, community health centers, or other community-based locations that are more convenient for selected defendants. Each case and defendant would be specifically reviewed and selected ahead of time, for participation in this program. The types of offenses that could likely be considered are:

- Parking violations (currently a total of 7,163 in our court system)
- Liquor in public place (2,173)
- Smoking violations (1,146)
- Simple trespass (1,312)
- Criminal littering (282)

All participating defendants would be represented by a Deputy Public Defender, and assisted by a social worker/advocate arranged by the Public Defender, both of whom would be present at the “mobile court” location. Appropriate sentences would be determined on a case-by-case basis, and would not include imprisonment, but may include a range of other options, such as court-imposed community service, mental health care and/or substance abuse treatment.

Because our Department, along with the Department of the Public Defender and the Judiciary have long recognized the issues that H.B. 457, H.D. 1 seeks to address, we have already begun exploring the potential for a Community Court Outreach Project on Oahu. After being awarded one of 10 federal grants in 2016—two year grant in the amount of \$200,000 annually—for planning, training and staffing this type of project, our three agencies initiated a test-run of the Community Court Outreach Project on January 26, 2017. Due to restrictions on the grant monies, the test-run was held at the Honolulu District Court at 1111 Alakea Street, Honolulu Hawaii.

For purposes of this “soft launch,” our Department and the Department of the Public Defenders selected four (4) defendants who voluntarily agreed to participate in the project. Between these four (4) defendants, fifty-three (53) different charges were consolidated and resolved through agreed-upon plea agreements that imposed community service work without incarceration. These charges ranged from low-level traffic offenses to minor nuisance cases. In the process, a total of nineteen (19) outstanding bench warrants were also addressed and resolved. Moreover, each defendant was able to speak with various service providers on-site, such as substance abuse or housing. Most importantly, each defendant was given the chance to clean their slate, give back to the community and finally have the chance to regain control of their life and start anew.

The Department is proud to be part of an innovative plan to address these various aspects of homelessness, while also maintaining respect for our criminal justice system and relieving some of the backlog that currently weighs on our court system. Homelessness should not equate to lawlessness.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports the passage of H.B. 457, H.D. 1. Thank you for the opportunity to submit testimony on this matter.



Dedicated to safe, responsible, humane and effective drug policies since 1993

TO: House Committee on Finance
FROM: Carl Bergquist, Executive Director
HEARING DATE: 23February 2017, 11 AM
RE: HB457 HD1, Relating to the Community Court Outreach Project, **IN SUPPORT**

Dear Chair Luke, Vice Chair San Cullen, Members of the Committee:

The Drug Policy Forum of Hawai'i (DPFHI) supports the establishment of a community outreach court as one tool to deal with non-violent offenders who enter the criminal justice system, do not receive proper rehabilitative services and instead wind up burdening law enforcement whose resources should be focused elsewhere. Many of these non-violent offenders are in need of treatment for drug use or mental health issues.

Ideally, the Court can serve as the backend solution for some of these individuals, complementing the front-end solutions of existing diversion programs and an innovative new one known as Law Enforcement Assisted Diversion (LEAD) as proposed in [SB716](#) and [HB535](#). LEAD would operate pre-arrest or pre-booking and divert certain individuals into treatment rather than into prison.

Above and beyond these initiatives, in order to further decrease the burden on the criminal justice system **we also believe in changing some of our outdated statutes, particularly as they relate to controlled substances.** Decriminalization of cannabis for adult personal use and of drug paraphernalia (as proposed by e.g. [HB107](#) and [HB1501](#)) would strike offenses from the books that should no longer be part of the criminal justice system. This would help not just the individuals being criminalized and stigmatized, but also allow both the diversion programs like LEAD and the proposed Community Court to better focus their limited resources.

Mahalo for the opportunity to testify.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair

Rep. Ty Cullen, Vice Chair

Thursday, February 23, 2017

11:00 am

Room 308

SUPPORT - HB 457 HD1 - COMMUNITY COURT OUTREACH

Aloha Chair Luke, Vice Chair Cullen 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 two decades. This testimony is respectfully offered on behalf of the almost 6,000 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety. We are always mindful that approximately 1,700 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

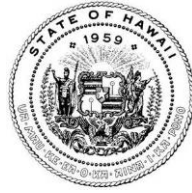
Community Alliance on Prisons supports helping houseless individuals clear up outstanding warrants for non-serious offenses and we believe this pilot program can beautifully dovetail with Law Enforcement Assisted Diversion (LEAD) program to reduce the jail population.

The purpose of this program is to (1) Travel to communities where defendants who: (A) Have been cited or arrested for certain nonviolent offenses; and (B) Do not pose a threat to the public, and (2) Disposes of the cases of defendants who enter plea agreements after negotiations between the prosecuting attorney and public defender. It will help those who have minor violations. As reported by the prosecutor, these violations include: parking violations (currently a total of 7,163 in our court system); liquor in public place (2,173); smoking violations (1,146); simple trespass (1,312); and criminal littering (282).

The program is designed to decrease the backlog of pending, low-level, non-violent cases; allow offenders to clear their pending cases; provide court orders for counseling, treatment, and/or referral to homeless services, on a case-by-case basis; and provide consequences through community service instead of incarceration or fines.

This is a more humane way of addressing the issues of many in our houseless population. It can give hope to those who feel overwhelmed by their circumstances and promotes the Aloha Spirit that must be the guiding force in all decisions that we make.

Mahalo for this opportunity to testify in support of more humane treatment of some of the most vulnerable members of our community.



LATE

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

February 23, 2017

TO: The Honorable Representative Sylvia Luke, Chair
House Committee on Finance

FROM: Scott Morishige, MSW, Governor's Coordinator on Homelessness

SUBJECT: HB 457 HD1 – RELATING TO THE COMMUNITY COURT OUTREACH PROJECT

Hearing: Thursday, February 23, 2017, 11:00 a.m.
Conference Room 308, State Capitol

POSITION: The Governor's Coordinator on Homelessness supports this bill, as it aims to divert homeless individuals from the criminal justice system and connect them to shelter and other social services. The State's strategy to address homelessness includes identifying and connecting with other systems that serve as "touch points" for the homeless, such as the criminal justice system, and aligning outreach and other services as particular entry/exit points (e.g. District Court) to divert individuals to housing. The Coordinator defers to the Judiciary, Department of Prosecuting Attorney, and the Office of the Public Defender regarding appropriations and operational issues.

PURPOSE: The purpose of the bill is to establish a community court outreach project in the City and County of Honolulu, subject to the availability of funds and memoranda of agreements from the Judiciary, Department of the Prosecuting Attorney, and the Office of the Public Defender. The bill also appropriates funds to support a community court outreach project.

The State has adopted a comprehensive framework to address homelessness, which includes a focus on three primary leverage points – affordable housing, health and human services, and public safety. All three of these leverage points must be addressed to continue forward momentum in addressing the complex issue of homelessness.

The community court outreach project addresses the public safety component of the homeless framework. Many homeless individuals with outstanding bench warrants for unpaid criminal citations can be a major barrier to obtaining housing. The community court outreach project will prevent individuals from encountering these barriers by targeting individuals cited or arrested for nonviolent offenses that often result in bench warrants, and connecting these individuals to shelter and other social services. By providing needed services as an alternative to arrest or citation, the community court outreach project will divert individuals from the criminal justice system and create pathways to permanent housing.

Thank you for the opportunity to testify on this bill.



From: mailinglist@capitol.hawaii.gov
 Sent: Thursday, February 23, 2017 7:23 AM
 To: FINTestimony
 Cc: hlusk@chowproject.org
 Subject: *Submitted testimony for HB457 on Feb 23, 2017 11:00AM*

HB457

Submitted on: 2/23/2017

Testimony for FIN on Feb 23, 2017 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Heather Lusk	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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