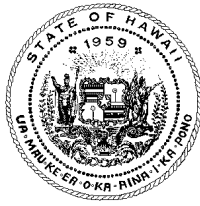


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF PUBLIC SAFETY
Ka 'Oihana Ho'opalekana Lehulehu
1177 Alakea Street
Honolulu, Hawaii 96813

TOMMY JOHNSON
DIRECTOR

Melanie Martin
Deputy Director
Administration

Michael J. Hoffman
Acting Deputy Director
Corrections

William F. Oku
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 823, HOUSE DRAFT 2
RELATING TO DEATHS WITHIN THE CORRECTIONAL SYSTEM.

By

Tommy Johnson, Director
Department of Public Safety

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

Wednesday, March 24, 2023; 9:40 a.m.
State Capitol, Conference Room 016 and via Video Conference

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Department of Public Safety (PSD) offers comments on House Bill (HB) 823, House Draft (HD) 2, which seeks to expand the scope of inmate deaths that are to be reported to the Governor and Legislature, require reports to be published on the PSD website, require reports on the cause of death, and mandate public access to information within the reports.

The occurrence of death is an unfortunate reality in our jails and prisons. Responsible reporting of deaths is essential to ensure accurate communication of information to: a) the public for purposes of transparency and trust and b) decision-makers who have a need to know in order to provide resources and support to reduce the occurrence of preventable deaths in the criminal justice system.

As a covered hybrid Health Insurance Portability and Accountability Act (HIPAA) entity, responsible reporting of deaths includes compliance with federal HIPAA requirements (45 CFR section 164.502(f)). While PSD has been and will continue to disclose the names of incarcerated individuals and correctional employees who die or are fatally injured on prison grounds as required by court order, PSD has reservations

about the requirements included in HB 823, HD 2, concerning the disclosure of certain other information besides the names being disclosed to the public. PSD notes that the recent [attached](#) court decision (*Honolulu Civil Beat Inc. v. Department of Public Safety, Civil No. 1CCV-21-1329*) did not require the department to disclose information regarding an individual's medical treatment while in PSD custody, which resulted in redaction of medical treatment information from medical examiner reports prior to distribution.

PSD also notes that employees and the individuals in our care and custody, who would be directly affected by HB 823, HD 2, have never been consulted about their wishes concerning the disclosure of their protected health information, including the extent of such disclosure. This is an omission that PSD urges the committee to consider, given the HIPAA Privacy Rule relevant to deceased individuals (see <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/health-information-of-deceased-individuals/index.html> as attached), when balancing decision-making on transparency and privacy.

Responsible death reporting also includes implementation of a process that would minimize the creation of unnecessary alarm and anxiety among the public, particularly if deaths are reported in a way that is sensationalized or taken out of context. This could inadvertently and mistakenly undermine public confidence in our criminal justice system.

While the intent of the proposed bill seeks to improve public transparency, HB 823, HD 2, may be inadvertently overlooking issues of individual privacy and responsible death reporting. The department is hopeful that HB 823, HD 2, will result in a process for the responsible reporting of deaths in our custody.

Thank you for the opportunity to provide testimony on HB 823, HD 2.

ROBERT BRIAN BLACK 7659
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813
brian@civilbeatlawcenter.org
Telephone: (808) 531-4000
Facsimile: (808) 380-3580

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Attorney for Plaintiff
Honolulu Civil Beat Inc.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

HONOLULU CIVIL BEAT INC.,

Plaintiff,

vs.

DEPARTMENT OF PUBLIC SAFETY,

Defendant.

CIVIL NO. 1CCV-21-1329
(Other Civil Action)

ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

HEARING MOTION

JUDGE: Honorable John M. Tonaki
TRIAL DATE: NONE
HEARING DATE: October 25, 2022
HEARING TIME: 9:30 a.m.

**ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff Honolulu Civil Beat Inc. (Civil Beat) filed its Motion for Summary Judgment on August 30, 2022, pursuant to Hawai'i Rules of Civil Procedure 56 and 57, and a reply memorandum in support of that motion on October 20, 2022. Defendant Department of Public Safety (Department) filed a memorandum in opposition to the motion on October 17, 2022. The parties were heard on Tuesday, October 25, 2022, at 9:30 a.m. in the Circuit Court of the First Circuit before the Honorable John M. Tonaki.

Plaintiff was represented by R. Brian Black. Defendant was represented by deputy attorney general Lisa M. Itomura. The Court has carefully reviewed the motion, the memoranda in support and opposition, and the exhibits and declarations, and has heard and considered oral arguments on the motion presented by counsel. Based on the record, Civil Beat's motion is hereby GRANTED IN PART AND DENIED IN PART.

The Court finds that there is no genuine issue of material fact in dispute.

In general, under the Uniform Information Practices Act (Modified), Hawai'i Revised Statutes (HRS) chapter 92F (UIPA), autopsy and toxicology reports prepared by coroners pursuant to HRS chapter 841 are public records that must be disclosed on request. The names of deceased individuals are a part of the process that results in the preparation of coroner reports and therefore are public as well. Similarly, autopsy and toxicology reports prepared by coroners in other jurisdictions pursuant to statutory authority are likewise public records. OIP Op. No. F15-01; OIP Op. No. 91-32. The U.S. Department of Health and Human Services' Privacy Rule under the federal Health Insurance Portability and Accountability Act of 1996 allows covered entities to disclose protected health information when "required by law", including when required by freedom of information laws such as the UIPA. 45 C.F.R. § 164.512(a); 65 Fed. Reg. at 82,482, 82,597.

IT IS ORDERED that, pursuant to the UIPA, the Motion is GRANTED in that the Department must disclose from the requested records concerning individuals who died in the Department's custody in 2020 and 2021: (1) the names of individuals who have died in the Department's custody; and (2) autopsy reports received from county

coroners. The Motion is DENIED in that the Department is not required to disclose information regarding an individual's medical treatment while in the Department's custody.

DATED: Honolulu, Hawai'i, November 14, 2022.

/s/ John M. Tonaki



JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

/s/ Lisa M. Itomura
CRAIG Y. IHA
LISA M. ITOMURA
*Deputy Attorneys General for Defendant
Department of Public Safety*

[HHS](#) > [HIPAA Home](#) > [For Professionals](#) > [Privacy](#) > [Guidance Materials](#) > Health Information of Deceased Individuals

Health Information of Deceased Individuals

45 CFR 160.103, paragraph (2)(iv) of the definition of “protected health information”

Background

The HIPAA Privacy Rule protects the individually identifiable health information about a decedent for 50 years following the date of death of the individual. This period of protection for decedent health information balances the privacy interests of surviving relatives and other individuals with a relationship to the decedent, with the need for archivists, biographers, historians, and others to access old or ancient records on deceased individuals for historical purposes. During the 50-year period of protection, the personal representative of the decedent (i.e., the person under applicable law with authority to act on behalf of the decedent or the decedent’s estate) has the ability to exercise the rights under the Privacy Rule with regard to the decedent’s health information, such as authorizing certain uses and disclosures of, and gaining access to, the information. With respect to family members or other persons involved in the individual’s health care or payment for care prior to the individual’s death, but who are not personal representatives, the Privacy Rule permits a covered entity to disclose the relevant protected health information of the decedent to such persons, unless doing so is inconsistent with any prior expressed preference of the deceased individual that is known to the covered entity.

How the Rule Works

The HIPAA Privacy Rule applies to the individually identifiable health information of a decedent for 50 years following the date of death of the individual. The Rule explicitly excludes from the definition of “protected health information” individually identifiable health information regarding a person who has been deceased for more than 50 years. See paragraph (2)(iv) of the definition of “protected health information” at § 160.103. Thus, for example, a HIPAA covered entity that maintains health or medical records, correspondence files, physician diaries and casebooks, or photograph collections that contain identifiable health information on individuals who have been deceased for more than 50 years may use or disclose the information without regard to the Privacy Rule because the information is not considered protected health information.

During the 50-year period of protection, the Privacy Rule generally protects a decedent’s health information to the same extent the Rule protects the health information of living individuals but does include a number of special disclosure provisions relevant to deceased individuals. These include

provisions that permit a covered entity to disclose a decedent's health information: (1) to alert law enforcement to the death of the individual, when there is a suspicion that death resulted from criminal conduct (§ 164.512(f)(4)); (2) to coroners or medical examiners and funeral directors (§ 164.512(g)); (3) for research that is solely on the protected health information of decedents (§ 164.512(i)(1)(iii)); and (4) to organ procurement organizations or other entities engaged in the procurement, banking, or transplantation of cadaveric organs, eyes, or tissue for the purpose of facilitating organ, eye, or tissue donation and transplantation (§ 164.512(h)). In addition, the Privacy Rule permits a covered entity to disclose protected health information about a decedent to a family member, or other person who was involved in the individual's health care or payment for care prior to the individual's death, unless doing so is inconsistent with any prior expressed preference of the deceased individual that is known to the covered entity. This may include disclosures to spouses, parents, children, domestic partners, other relatives, or friends of the decedent, provided the information disclosed is limited to that which is relevant to the person's involvement in the decedent's care or payment for care. See 45 CFR 164.510(b)(5). For uses or disclosures of a decedent's health information not otherwise permitted by the Privacy Rule, a covered entity must obtain a written HIPAA authorization from a personal representative of the decedent who can authorize the disclosure. A decedent's personal representative is an executor, administrator, or other person who has authority under applicable State or other law to act on behalf of the decedent or the decedent's estate. See 45 CFR 164.502(g)(4), as well as guidance on personal representatives available at: <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/personalreps.html>

(<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/personalreps.html>), for more information.

Frequently Asked Questions on Decedents ([/hipaa/for-professionals/faq/decedents](http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/personalreps.html))

[Back to Top](#) ([#top](#))

Office for Civil Rights Headquarters

U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201
Toll Free Call Center: 1-800-368-1019
TTD Number: 1-800-537-7697

JOSH GREEN, M.D.
GOVERNOR



MARK PATTERSON
CHAIR

CHRISTIN M. JOHNSON
OVERSIGHT COORDINATOR

COMMISSIONERS
HON. MICHAEL A. TOWN
(ret.)
HON. RONALD IBARRA
(ret.)
TED SAKAI
MARTHA TORNEY

STATE OF HAWAII
HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

235 S. Beretania Street, 16th Floor
HONOLULU, HAWAII 96813
(808) 587-4160

TO: 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: House Bill 823, House Draft 2, Relating to Deaths within the Correctional System
Hearing: Friday, March 24, 2023; 9:40 a.m.
State Capitol, Room 016

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Hawaii Correctional System Oversight Commission (the Commission) **strongly supports** House Bill 823, House Draft 2, Relating to Deaths within the Correctional System, which requires the Department of Public Safety to release certain information to the public concerning the death of an inmate or a staff member. This measure requires the Department to proactively disclose such information in a timely manner, rather than waiting for someone to make a request as has been the practice in the past.

This issue has been subject to litigation and brought before the Hawaii State Legislature in previous years. In October 2022, Judge John Tonaki ordered that names of inmates who die in custody must be released to the public. The prior Public Safety administration under Director Max Otani had agreed in principle to release some information concerning such deaths and we believe current Director Tommy Johnson takes a similar stand. This measure amends Section 353-40, HRS, to require information concerning deaths in the correctional system provided to the Governor and the Hawaii State Legislature also be available to the public.

California, Arizona and Nevada are states that require the public reporting of incarcerated persons deaths and such reports are found on their websites. Information included is similar to what Section 353-40 enumerates. There is no reason Hawaii cannot do the same.

Thank you for the opportunity to testify on this measure.

COMMUNITY ALLIANCE ON PRISONS

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

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



COMMITTEE ON JUDICIARY

Sen. Karl Rhoads, Chair

Sen. Mike Gabbard, Vice Chair

Friday, March 24, 2023

Room 016

9:40 AM

STRONG SUPPORT FOR HB 823 HD2 - DEATHS IN CORRECTIONS

Aloha Chair Rhoads, Vice Chair Gabbard 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 4,009 Hawai'i individuals living behind bars¹ and under the "care and custody" of the Department of Public Safety/Corrections and Rehabilitation on any given day. We are always mindful that 916 - 26.4% of the male imprisoned population² - 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 Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons appreciates this opportunity to testify in strong support of HB 823 HD1 that expands the scope of inmate deaths that are to reported to the Governor and Legislature and requires public access to certain information within the reports.

We work closely with families and we hear heartbreaking stories about messages left on answering machines about their imprisoned loved ones. We have spoken with Tommy Johnson about finding someone on staff who can be trained in grief counseling to handle these sensitive communications with families. He has contacted other jurisdictions to find out what their process was when someone dies in jail or prison. We have not met yet to discuss better and less harmful ways to deliver serious news to families about their imprisoned loved ones. The department testified that it is the Warden who makes the calls, however, that is not always true according to some grieving families who have called us.

¹ Department of Public Safety, Weekly Population Report, March 13, 2023.

https://dps.hawaii.gov/wp-content/uploads/2023/03/Pop-Reports-Weekly-2023-03-14_George-King.pdf

² Why are 26.4% of Hawai'i's male prison population sent thousands of miles from home when the following prisons in Hawai'i have room here: Halawa is at 77%; Halawa Special Needs Facility is at 59%; Kulani is at 44%; Waiawa is at 52% of operational capacity.

Although this research from 2008³ is about the importance of police death notifications for family members of victims and for police-community relations, it is applicable to correctional workers as well. This article outlines best practices in death notifications and suggests resources police might use to assist in death notifications.

Another article in Officer.com⁴ highlights the importance of compassion when delivering sad news:

Notifications should be done in person, in time, in pairs, in plain language and with compassion.

One of the biggest taboos committed in death notification is the use of the telephone, which is sometimes used to make notification if the victim's family resides outside the jurisdiction.

"Using the phone to make death notification is cold-hearted and a sign of intellectual laziness," says Joseph Morgan, an assistant professor of criminal justice and forensics at North Georgia College and State University. "For all you know, the survivor might have a heart condition, be suicidal or eight months pregnant."

The highlighted paragraph is an important one for Hawai`i as we send more than 900 of our male prisoners to Arizona. How do we notify families/loved ones when someone dies there, or if someone's family/loved one moved out of Hawai`i while they were incarcerated?

Below are best practices that Hawai`i should implement as they are embodied in our Aloha Spirit Law.⁵ **[\$5-7.5] "Aloha Spirit"**. (a) "Aloha Spirit" is the coordination of mind and heart within each person. It brings each person to the self. Each person must think and emote good feelings to others. In the contemplation and presence of the life force, "Aloha", the following unuhi laula loa may be used:

- "Akahai", meaning kindness to be expressed with tenderness;
- "Lokahi", meaning unity, to be expressed with harmony;
- "Oluolu", meaning agreeable, to be expressed with pleasantness;
- "Haahaa", meaning humility, to be expressed with modesty;
- "Ahonui", meaning patience, to be expressed with perseverance.

These are traits of character that express the charm, warmth and sincerity of Hawaii's people. It was the working philosophy of native Hawaiians and was presented as a gift to the people of Hawaii. "Aloha" is more than a word of greeting or farewell or a salutation. **"Aloha" means mutual regard and affection and extends warmth in**

³ Death Notification: Breaking the Bad News, *Law Enforcement Technology*, Volume: 35 Issue: 3, March 2008, Pages: 18,20,22,25, NCJ Number 222266.

<https://www.ojp.gov/ncjrs/virtual-library/abstracts/death-notification-breaking-bad-news>

⁴ Death notification: Breaking the bad news, Why does so little training exist for the most grim job in law enforcement? Feb. 29, 2008. <https://www.officer.com/home/article/10249064/death-notification-breaking-the-bad-news>

⁵ **[\$5-7.5] "Aloha Spirit"**.

https://www.capitol.hawaii.gov/hrscurrent/vol01_ch0001-0042f/hrs0005/hrs_0005-0007_0005.htm

caring with no obligation in return. "Aloha" is the essence of relationships in which each person is important to every other person for collective existence. "Aloha" means to hear what is not said, to see what cannot be seen and to know the unknowable.

(b) In exercising their power on behalf of the people and in fulfillment of their responsibilities, obligations and service to the people, the legislature, governor, lieutenant governor, executive officers of each department, the chief justice, associate justices, and judges of the appellate, circuit, and district courts may contemplate and reside with the life force and give consideration to the "Aloha Spirit". [L 1986, c 202, §1]

Best practices in death notifications⁶

Next of kin are due the respect of having the death notification done by an official, and to be given the news straight, with kindness.

Notification should be done:

- *In person. Use of the telephone to make death notification is callous and insensitive. Ask yourself how you would like your family notified.*
- *In pairs. Death notification is best done by two people, at least one of whom should be in uniform. Do not arrive in a large group. Two vehicles are best, in the event medical transport may be necessary.*
- *In private. Present credentials. Ask to come inside. Do not make notification on the porch or in a public place.*
- *In plain language. Don't use medical jargon. Use simple, straightforward language to describe how, when and where the person died. Don't be afraid to use the "D" words — dead, died or death. Terms such as "expired," "passed on" or "lost" are words of denial. "Expired" can be used on a drivers license but not on a person — it's not respectful.*
- *In time. Make notification before the family sees it on the news. Then get to the point. Don't drag it out. People know when police arrive at their door at 4 a.m. it is not because they won the lottery. Say something like, "I'm sorry, your husband was in an auto accident tonight. He died while paramedics were attempting to revive him." Then give details as indicated.*

When people are incarcerated, we can never forget that they come from families, from neighborhoods, and from larger communities. Treating people with kindness, empathy, and compassion - especially upon hearing the worst news possible about your loved one - goes a long way in helping people heal from trauma.

Mahalo for this opportunity to share our thoughts. We urge the committee to pass this measure.

⁶ Sue Rutherford, executive director of the Arizona Trauma Intervention Program and "In Person, In Time: Recommended Procedures for Death Notification".

https://irp-cdn.multiscreensite.com/ac5c0731/files/uploaded/in_person.pdf

THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

700 Bishop Street, Suite 1701
Honolulu, HI 96813

Office: (808) 531-4000
Fax: (808) 380-3580
info@civilbeatlawcenter.org

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

**RE: Testimony Supporting H.B. 823 H.D. 2, Relating to
Deaths Within the Correctional System**

Hearing: March 24, 2023 at 9:40 a.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote governmental transparency. Thank you for the opportunity to submit testimony **strongly supporting H.B. 823 H.D. 2.**

The public should know the identity of people who die while incarcerated. This bill would codify a process for public disclosure of these deaths and alleviate any confusion for the Department of Public Safety regarding the scope of other privacy and confidentiality laws.

This issue has been a problem since the Department changed its interpretation of HIPAA in 2020 and started withholding the identity of individuals who died while in its custody and care. Notwithstanding the fact that the Department had disclosed the identity of deceased individuals for years after the HIPAA Privacy Rule took effect in 2001 and the fact that many correctional facilities across the country disclose the same information, the Department refused to identify those who died in prison in Hawai'i.

In October 2021, the Law Center represented Honolulu Civil Beat in challenging the Department's change in position. In November 2022, the circuit court confirmed that basic information identifying individuals who died while in the Department's custody and care must be publicly disclosed and cannot be withheld under HIPAA. *This bill would require disclosure of less information than the circuit court ordered disclosed.* **H.B. 823 does not require public disclosure of the clinical mortality review that would discuss any medical treatment that the PSD provided the decedent.**

Contrary to the selective references that PSD has made to the HIPAA Privacy Rule in prior testimony, the circuit court thoroughly reviewed *all* of the federal guidance on HIPAA – including the HIPAA provision that a state statute that requires disclosure will override the HIPAA privacy obligations. After that comprehensive review, the circuit court held that disclosure of this death-related information is required.

H.B. 823 tracks a proposal that was discussed with and supported by the Department last year. The only material deviation from that prior proposal is that H.B. 823 continues a requirement that the Department publicly disclose cause of death and indications of sexual assault within seven days (and disclose again in the second report once the official cause of death is determined). The disclosure of this information is critical for the second report in subsection (c), but the Law Center defers to the Committee as to whether (b)(6) and (7) should be deleted.

The Law Center reviewed the Department of Public Safety's comments on this proposal as submitted to prior committees. The Department's suggestions would defeat the purpose of this legislation to streamline a process for timely disclosing what is clearly public information.

- Conditioning public disclosure on written authorization from the deceased individual is not required by any law. For example, the circuit court already ordered disclosure of information about the deaths of incarcerated individuals without regard for whether those individuals provided written authorization.
- Neither the federal Death in Custody Reporting Act nor HIPAA require confidentiality. Contrary to the implication in the Department's testimony, 34 U.S.C. § 10231 provides all of the U.S. Department of Justice's vast *research* programs (not its prisons) with a general prohibition on disclosing identifiable information. That provision does not say that the names of individuals who die in government custody must be kept confidential, and the Law Center is not aware of any federal practice to hide the identities of individuals who die in federal prisons. *E.g., Pinson v. U.S. Dep't of Justice*, 202 F. Supp. 3d 86, 108-09 (D.D.C. 2016) (discussing how the federal Bureau of Prisons provided the identity of all individuals who died in BOP custody in response to a FOIA request).

Thank you again for the opportunity to testify **strongly supporting** H.B. 823 H.D. 2.



Hawai'i

Committee: Senate Judiciary
Hearing Date/Time: Friday, March 24, 2023, 9:40 A.M.
Place: Conference Room 016 & Videoconference
Re: H.B. 823, H.D.2 Relating to Deaths Within the Correctional System - SUPPORT

Aloha Chair Rhoads, Vice Chair Gabbard and Committee Members:

The ACLU of Hawai'i is committed to protecting the civil liberties and civil rights enshrined in our federal and state Constitutions, and **strongly supports H.B. 823, H.D. 2 Relating to Deaths within the Correctional System**. This proposed measure would expand the scope of reports on correctional facility and community correctional center deaths that are submitted to the governor and legislature, and requires certain reports to be published on the Department of Corrections and Rehabilitation website.

In *Turner v. Safley* (1987), the U.S. Supreme Court made clear that “[p]rison walls do not form a barrier separating inmates from the protections of the Constitution.” The Constitution protects incarcerated people from cruel and unusual punishment; it is essential that their rights be protected and that inhumane treatment be prevented.

Despite political rhetoric comparing prisons to hotels and resorts, the reality is that most jails and prisons are overcrowded, often dangerous, provide sub-standard medical and mental health care and do little to prepare people exiting from our jails and prisons to successfully reintegrate into the community.

Data shows that individuals in prisons are at higher risk of dying by suicide and homicide. As noted by journalist Kevin Dayton in a 2022 *Civil Beat* article, **"The Hawaii correctional system had 23 deaths last year, the highest number of inmate deaths in at least the last decade.** The cause of death for more of those prisoners is either still undetermined or has not been publicly released."¹

Given that jails and prisons are closed institutions and that the State has a legal responsibility to provide for the health and safety of incarcerated people, the public must be informed about the operations of all correctional facilities and private out-of-state prisons. This is fundamental principle of oversight and promoting the twin goals of transparency and accountability.

¹ <https://www.civilbeat.org/2022/02/hawaii-inmate-deaths-are-the-highest-in-10-years-but-the-state-cant-say-why/>

Chair Rhoads and Members of Judiciary Committee

March 24, 2023, 9:40 A.M.

Page 2 of 2

In closing, this sensible measure requires the Department of Corrections and Rehabilitation (Department of Public Safety) to responsibly collect and report deaths in custody and report that data to the Governor, Legislature, and ultimately, the public. As tax payer funded institutions, the public has a right to understand the full truth and extent of deaths within jails and prisons and to hold the government accountable where those deaths could have been prevented.

Please pass H.B. 823 H.D.2.

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.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522.5900
F: 808.522.5909
E: office@acluhawaii.org
www.acluhawaii.org

Opportunity Youth Action Hawai'i

March 24, 2023

Senate Committee on Judiciary

Hearing Time: 09:40 p.m.

Location: State Capitol

Re: HB 823 HD2, Relating to Deaths Within the Correctional System

Aloha e Chair Rhoads, Vice Chair Gabbard, and members of the Committee:

We are writing in **strong support of** HB 823 HD2, Relating to Deaths Within the Correctional System.

This bill will expand the scope of reports on correctional facility and community correctional center deaths that are submitted to the governor and legislature; require certain reports to be published on the department of corrections and rehabilitation website; and mandate public access to other information reported.

The lives of those in correctional facilities matter just as much as those that are not. And their deaths should be investigated, treated, and reported on with the utmost respect and diligence. The public deserves complete transparency on the happenings within the correctional and justice systems of Hawai'i.

Our collective, Opportunity Youth Action Hawai'i (OYAH), works to support young people under the age of 25 who are disconnected from school and work, referred to as "opportunity youth." This developmental time period is extremely consequential to the individual growth and overall life chances of our children. **We strongly support this measure.**

Opportunity Youth Action Hawai'i is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth houselessness and housing market discrimination against young adults; and promote and fund more holistic and culturally-informed approaches among public/private agencies serving youth.

Please support HB 823, HD2.

HB-823-HD-2

Submitted on: 3/21/2023 3:02:31 PM

Testimony for JDC on 3/24/2023 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this resolution.

Mahalo nui,

Cards Pintor

Testimony in Support of Measure
HB823 HD2 Relating to Deaths Within the Correctional System

Aloha, and thank you, Chair Wakai, Vice Chair Elefante and Members of the Committee for the opportunity to submit testimony in **support** of **HB823 HD2**.

This measure will work to:

- Prevent and decrease deaths within Hawaii's correctional facilities
- Provide transparency surrounding deaths within the correctional system by providing a process for public disclosure of deaths for the Department of Public Safety.
- Alleviate confusion for the department regarding the scope of privacy and confidentiality laws.

My name is Hueina Hemaloto, and I am currently a student pursuing my Master's Degree in Social Work, specializing in Behavioral Mental Health. I have spent my academic focus in studying and advocating for the needs of the public, especially for populations at risk. While deaths within our correctional facilities remain prevalent, it is vital for us to make important measures to decrease and prevent these deaths from occurring.

I trust that passing this bill will promote and ensure a safer environment for inmates throughout our state facilities.

Mahalo for the opportunity to provide testimony in support of this bill,

Hueina Hemaloto

HB-823-HD-2

Submitted on: 3/23/2023 6:51:05 PM

Testimony for JDC on 3/24/2023 9:40:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support HB823 HD2.