



Testimony from Frank Stiefel  
Senior Policy Associate  
Last Prisoner Project

**RE: Last Prisoner Project Calls on the Hawai'i Legislature to Pass HCR 51 Urging the Governor to Initiate a Clemency Program to Provide Relief for Individuals Under Supervision for a Cannabis Conviction**

April 20, 2023

Dear Members of the Judiciary Committee,

As the nation moves away from the criminalization of cannabis, there remains the fundamental injustice inflicted upon those who continue to suffer criminal convictions and sentences as a result of prohibition. At the Last Prisoner Project (LPP), we believe no one should remain incarcerated for or continue to suffer the collateral consequences of cannabis criminalization. We implore the Hawai'i State Legislature to pass House Concurrent Resolution No. 51, which urges Governor Green to initiate a clemency program that can provide relief for individuals still under supervision for a cannabis conviction.

Over the course of last year and throughout this legislative session, LPP worked with members of the Dual Use of Cannabis Task Force to outline [evidence-based policy recommendations](#) for inclusion in any legalization proposal to ensure retroactive relief for those criminalized by prohibition. The Task Force's Social Equity Working Group fully embraced LPP's recommendations, [endorsing them in their official report](#). We were disappointed that the legalization legislation (Senate Bill 669) that was being considered this year, and which included retroactive relief mechanisms, did not even receive a hearing in the House. It is unfortunate that many individuals in Hawai'i will continue to bear the lifelong burden of having a cannabis criminal record and continue to serve sentences for cannabis-related convictions.

The War on Drugs and the criminalization of cannabis-related activities have created a racially inequitable criminal legal system where people of color are nearly four times more likely than their white counterparts to be arrested for cannabis, despite similar consumption rates. Establishing a dedicated cannabis clemency program can create a pathway to relief for individuals whose continued incarceration is no longer in the interests of justice and represents a first step in addressing the harm caused by decades of failed drug policies.

We look forward to supporting Governor Green's Office as they roll out a cannabis clemency program, and encourage the Hawai'i State Legislature to prioritize legislation next year that would create state-initiated processes to provide broad retroactive relief for every individual who has been thrust into the criminal justice system due to cannabis prohibition.

### **About Last Prisoner Project**

The Last Prisoner Project, 501(c)(3), is a national nonpartisan, nonprofit organization focused on the intersection of cannabis and criminal justice reform. As the United States moves away from the criminalization of cannabis, giving rise to a major new industry, there remains the fundamental injustice inflicted upon those who have suffered criminal records for cannabis. Our team of system-impacted individuals, policy experts, racial and social justice advocates, celebrities, lawyers, and cannabis industry leaders works to end this fundamental injustice. Through policy campaigns, direct intervention, and advocacy, LPP works to redress the past and continuing harms of unjust cannabis laws.

**HCR-51-HD-1**

Submitted on: 4/18/2023 6:24:42 PM

Testimony for JDC on 4/20/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nikos Leverenz	Testifying for Drug Policy Forum of Hawaii	Support	Written Testimony Only

Comments:

Aloha Chair Rhoads, Vice Chair Gabbard, & Committee Members:

On behalf of Drug Policy Forum of Hawaii, I am writing in strong support of HCR 51, HD 1.

This measure would allow groups like The Last Prisoner Project and the Hawaii Innocence project to work with the Gov. Green's administration to develop a clemency program for people who have been prosecuted for cannabis related offenses.

Last fall President Biden announced a pardon of all those convicted of cannabis possession under federal law. [In his statement](#), he encouraged governors to do the same with respect to state offenses.

There are a range of cannabis-related reforms that have yet to be enacted, including those that have been recommended by working groups and task forces. Employment protections for medical cannabis patients is one conspicuous example. The state should also increase the threshold of non-medical cannabis not subject to criminalization to at least one ounce.

A cannabis clemency program is an important part of moving away from eight-plus decades of cannabis prohibition, which has disproportionately impacted Native Hawaiians and helped maintain a criminal legal system in this state that features [the longest average term of probation in the nation](#).

Mahalo for the opportunity to provide testimony.



Committee: Senate Committee on Judiciary  
Hearing Date/Time: Thursday, April 20, 2023, 10:00 A.M.  
Place: Conference Room 325 & via Videoconference  
Re: *Testimony of the ACLU of Hawai'i in Support of H.C.R. 51, H.D. 1 Urging the Governor to Initiate A Clemency Program for Individuals Who Have Been Prosecuted for Cannabis-Related Offenses*

Dear Chair Rhoads, Vice Chair Gabbard and Member of the Committee:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in strong support of **H.C.R. 51, H.D.1** which urges the Governor to kickstart the clemency program for individuals serving sentences related to cannabis related offenses.

ACLU's Redemption Campaign recently issued a nationwide report highlighting significant strides in the use of **clemency** as a tool to correct failed policies and offer second chances to currently and formerly incarcerated people throughout 2022.<sup>1</sup>

We support H.C.R. 51, H.D.1 as it calls upon Governor Green to embrace clemency and the power of redemption for cannabis related offenses. **This is a historic opportunity for the Governor to use his executive powers in transformative ways, starting with cannabis related offenses and expanding to other categories.** It also aligns with our unique statute acknowledging "Aloha" as the "essence of relationships in which each person is important to every other person for collective existence"<sup>2</sup> and empowering our Governor to give consideration to the Aloha Spirit<sup>3</sup> in fulfilling his responsibilities, obligations and service to the people of Hawai'i.

**Clemency is an important tool to address racial disparities that are the direct result of the failed War on Drugs. In Hawai'i, Native Hawaiians are overrepresented at every stage of the criminal legal system. Native Hawaiians make up approximately 21% of the general population, but 37% of the prison population.** Despite numerous studies and recommendations going back at least to the 1980s, the State has not taken effective steps to address the overrepresentation of Native Hawaiians in the criminal justice system.<sup>4</sup> This overrepresentation has existed for decades and has led to intergenerational incarceration for

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<sup>1</sup> <https://www.aclu.org/report/annual-report-trends-clemency-2022>

<sup>2</sup> H.R.S. §5-7.5

<sup>3</sup> Id.

<sup>4</sup> Office of Hawaiian Affairs, Fact Sheet: The Disparate Treatment of Native Hawaiians in the Criminal Justice System (2010) [https://www.oha.org/wp-content/uploads/2014/11/factsheets\\_final\\_web\\_0.pdf](https://www.oha.org/wp-content/uploads/2014/11/factsheets_final_web_0.pdf)

some Native Hawaiian families.<sup>5</sup> Clemency can correct these injustices and offset the well documented racial disparities of policing, prosecution, and sentencing that lead to the disproportionate incarceration of Native Hawaiians.

In addition to the human impact, **granting categorical clemency is fiscally prudent.** As Hawaii's prison population grows, so does the cost burden. **Hawai'i currently spends approximately \$238 per person per day to incarcerate.**<sup>6</sup> **Corrections general fund spending increased by 263% between 1985 and 2017.**<sup>7</sup> In 2017, the state spent \$255 million on corrections, accounting for 3 percent of the total general fund spending that year.<sup>8</sup> In 2021, correction expenditures increased to \$294 million.<sup>9</sup> Reducing prison populations through categorical clemency can help reveal or create opportunities to reduce this enormous sum.

Drug related cases are the largest contributor to Hawaii's incarceration population. Unfortunately, the criminalization of personal possession or use of drugs is an ineffective attempt at regulating a public health problem. In 2018, more than one in 10 (12 percent) were incarcerated for a charge or sentence for a drug offense.<sup>10</sup>

We look forward to your support of this measure and capitalizing on ways in which Governor Green can use the full powers of **clemency** to correct injustice, offer second chances, and reduce our incarcerated population in Hawai'i.

Thank you for the opportunity to submit testimony in support of **H.C.R. 51, H.D. 1.**

Sincerely,  
**Carrie Ann Shiota**  
Carrie Ann Shiota  
Policy Director  
ACLU of Hawai'i  
[cshiota@acluhawaii.org](mailto:cshiota@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.*

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<sup>5</sup> Report of the House Concurrent Resolution 85 Task Force on Prison Reform to the Hawai'i Legislature (Dec. 2018) available at [https://www.courts.state.hi.us/wp-content/uploads/2018/12/HCR-85\\_task\\_force\\_final\\_report.pdf](https://www.courts.state.hi.us/wp-content/uploads/2018/12/HCR-85_task_force_final_report.pdf)

<sup>6</sup> State of Hawaii Department of Public Safety Annual Report FY 2021 ("Annual Report FY '21"), p. 18, available at: <http://dps.hawaii.gov/wp-content/uploads/2021/12/PSD-ANNUAL-REPORT-2021x.pdf>.

<sup>7</sup> Annual Report FY' 21.

<sup>8</sup> National Association of State Budget Officers, State Expenditure Report series, <https://www.nasbo.org/reports-data/state-expenditure-report/state-expenditure-archives>.

<sup>9</sup> Annual Report FY' 21.

<sup>10</sup> ACLU Smart Justice, Blueprint for Smart Justice: Hawai'i, p. 5 (2019).

**HCR-51-HD-1**

Submitted on: 4/17/2023 1:30:26 PM

Testimony for JDC on 4/20/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dylan P. Armstrong	Individual	Support	Written Testimony Only

Comments:

I write in support of HCR 51, HD1

It is the height of irony that so many walk freely who have killed others with cigarette smoke or automobile exhaust while marijuana convictions have altered or halted people's lives.

This is to say nothing of the most ubiquitous drug, alcohol, which has been forcefully destructive in the islands for two and a half centuries and contributed to thousands of deaths, and for which nobody even seriously demands greater criminalization.

Sensible cannabis policy will never be too soon.

Thank you,  
DP Armstrong

**HCR-51-HD-1**

Submitted on: 4/18/2023 1:03:54 PM

Testimony for JDC on 4/20/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nanea Lo	Individual	Support	Written Testimony Only

Comments:

Dear Chair Rhoads and Vice Chair Gabbard,

My name is Nanea Lo and I am testifying in strong support of HCR51 HD1 urging the governor to initiate a statewide clemency program for individuals who have been prosecuted for cannabis-related offenses.

Drug related cases are the largest contributor to Hawai'i's incarceration population. Criminalizing the personal possession or use of drugs does not fix the problem of mass incarceration. In fact, it contributes to the overcrowding of current jails and prisons. Beyond that, Native Hawaiians disproportionately make up the current incarceration population which our current government is not taking effective steps to fix. Clemency can correct these injustices and offset the well documented racial disparities of policing, prosecution, and sentencing caused by the War on Drugs. Lastly, it is fiscally more responsible to grant clemency. Hawai'i currently spends \$238 a day to incarcerate someone.

Please pass HCR51 HD1. It's far past time to decriminalize those targeted by the racist and unjust War on Drugs.

Thank you for the opportunity to testify,  
Nanea Lo, Mō'ili'ili

**HCR-51-HD-1**

Submitted on: 4/18/2023 4:36:57 PM

Testimony for JDC on 4/20/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
tlaloc tokuda	Individual	Support	Written Testimony Only

Comments:

Aloha Chair, Vice Chair & Committee,

**HCR51 HD1**

**Aloha e Chair Rhoads and Vice Chair Gabbard,**

**My name is tlaloc and I am testifying in strong support of HCR51 HD1 urging the governor to initiate a statewide clemency program for individuals who have been prosecuted for cannabis-related offenses. My son 'got busted a couple of times' and its more difficult to get employment**

**Drug related cases are the largest contributor to Hawai‘i’s incarceration population. Criminalizing the personal possession or use of drugs does not fix the problem of mass incarceration. In fact, it contributes to the overcrowding of current jails and prisons. Beyond that, Native Hawaiians disproportionately make up the current incarceration population which our current government is not taking effective steps to fix. Clemency can correct these injustices and offset the well documented racial disparities of policing, prosecution, and sentencing caused by the War on Drugs. Lastly, it is fiscally more responsible to grant clemency. Hawai‘i currently spends \$238 a day to incarcerate someone.**

**Please pass HCR51 HD1. It’s far past time to decriminalize those targeted by the racist and unjust War on Drugs.**

**Mahalo for your consideration,**

**tlaloc tokuda**

**Kailua Kona, HI 96740**



**HCR-51-HD-1**

Submitted on: 4/18/2023 8:28:10 PM

Testimony for JDC on 4/20/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Barbara Best	Individual	Support	Written Testimony Only

Comments:

Drug related cases are the largest contributor to Hawai'i's incarceration population. Criminalizing the personal possession or use of drugs does not fix the problem of mass incarceration. In fact, it contributes to the overcrowding of current jails and prisons. Beyond that, Native Hawaiians disproportionately make up the current incarceration population which our current government is not taking effective steps to fix. Clemency can correct these injustices and offset the well documented racial disparities of policing, prosecution, and sentencing caused by the War on Drugs. Lastly, it is fiscally more responsible to grant clemency. Hawai'i currently spends \$238 a day to incarcerate someone.

**HCR-51-HD-1**

Submitted on: 4/18/2023 8:30:55 PM

Testimony for JDC on 4/20/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

I am testifying in strong support of HCR51 HD1 urging the governor to initiate a statewide clemency program for individuals who have been prosecuted for cannabis-related offenses.

Drug related cases are the largest contributor to Hawai'i's incarceration population. Criminalizing the personal possession or use of drugs does not fix the problem of mass incarceration. In fact, it contributes to the overcrowding of current jails and prisons. Beyond that, Native Hawaiians disproportionately make up the current incarceration population which our current government is not taking effective steps to fix. Clemency can correct these injustices and offset the well documented racial disparities of policing, prosecution, and sentencing caused by the War on Drugs. Lastly, it is fiscally more responsible to grant clemency. Hawai'i currently spends \$238 a day to incarcerate someone.

Please pass HCR51 HDI. It's far past time to decriminalize those targeted by the racist and unjust War on Drugs.

Mahalo.

**HCR-51-HD-1**

Submitted on: 4/19/2023 8:05:06 AM

Testimony for JDC on 4/20/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kristen Young	Individual	Support	Written Testimony Only

Comments:

Aloha e Chair Rhoads and Vice Chair Gabbard,

My name is Kristen and I am testifying in strong support of HCR51 HD1 urging the governor to initiate a statewide clemency program for individuals who have been prosecuted for cannabis-related offenses.

Drug related cases are the largest contributor to Hawai'i's incarceration population. Criminalizing the personal possession or use of drugs does not fix the problem of mass incarceration. In fact, it contributes to the overcrowding of current jails and prisons. Beyond that, Native Hawaiians disproportionately make up the current incarceration population which our current government is not taking effective steps to fix. Clemency can correct these injustices and offset the well documented racial disparities of policing, prosecution, and sentencing caused by the War on Drugs. Lastly, it is fiscally more responsible to grant clemency. Hawai'i currently spends \$238 a day to incarcerate someone.

Please pass HCR51 HDI. It's far past time to decriminalize those targeted by the racist and unjust War on Drugs.

Mahalo for the opportunity to testify,  
Kristen

**HCR-51-HD-1**

Submitted on: 4/18/2023 8:16:29 PM

Testimony for JDC on 4/20/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dave Kisor	Individual	Support	Written Testimony Only

Comments:

I'd rather have people smoking cannabis than doing meth and other street drugs, as they'd be less likely to force their way into someone's house to steal whatever they could sell. I had about \$2,000 worth stolen and was probably sold for drug money at the Maku'u Market, including my trusty Master Mite heat gun, the second best birthday present I got from my ex-wife, the first being the divorce. But I digress. Cannabis is not a gateway drug, as some claim, as it's not addictive. If you want addictive, go to any grocery store where you can buy legal drugs like sugar, alcohol and tobacco. Things that can kill you are legal because they make someone a lot of money. C'esspool la vie!

**HCR-51-HD-1**

Submitted on: 4/19/2023 9:41:26 AM

Testimony for JDC on 4/20/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Emily Sarasa	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Rhoads and Vice Chair Gabbard,

My name is Emily Sarasa and I am testifying in strong support of HCR51 HD1 urging the governor to initiate a statewide clemency program for individuals who have been prosecuted for cannabis-related offenses.

Our carceral system is overwhelmed and drug-related cases are the largest contributor to Hawai‘i’s incarceration problem. Criminalizing the personal possession or use of drugs contributes to the overcrowding of current jails and prisons. Native Hawaiians disproportionately make up the current incarcerated population, which this legislature must take steps to address. Granting clemency can correct these injustices and offset the well-documented racial disparities of policing, prosecution, and sentencing caused by the War on Drugs.

Punishing people for cannabis use harms individuals and this community as a whole. Please pass HCR51 HD1.

Mahalo for the opportunity to testify,

Emily Sarasa

**HCR-51-HD-1**

Submitted on: 4/19/2023 3:08:54 PM

Testimony for JDC on 4/20/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael EKM Olderr	Individual	Comments	Written Testimony Only

Comments:

The war on drugs, was and still is a pointless, wasteful, harmful and racist agenda against minorities, the working class and the mentally ill. Our prisons as is are overcrowded with people who do not belong there. Decades of research have shown that Cannabis has always been harmless but it has fallen on deaf ears. These people deserved to not only be pardoned but have those who have served time get their records expunged. Please amend and address these concerns and approve this report.

**HCR-51-HD-1**

Submitted on: 4/20/2023 7:15:35 AM

Testimony for JDC on 4/20/2023 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dylan Ramos	Individual	Support	Written Testimony Only

Comments:

Aloha,

My name is Dylan Ramos and as a voter and taxpayer born and raised in Hawai'i, I strongly support HCR51.

Mahalo,

Dylan Ramos

96816



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March 23, 2023

Sen. Karl Rhoads  
Vice Chair, Sen. Mike Gabbard  
Senate Judiciary Committee

**TESTIMONY IN SUPPORT OF HCR51/HR53– URGING THE GOVERNOR TO  
INITIATE A CLEMENCY PROGRAM FOR INDIVIDUALS WHO HAVE BEEN  
PROSECUTED FOR CANNABIS-RELATED OFFENSES**

Dear Chair Rhoads, Vice Chair Gabbard and Members of the Senate Judiciary Committee:

Aloha, my name is DeVaughn Ward and I am the senior legislative counsel at the Marijuana Policy Project ("MPP") - the largest marijuana policy reform organization in the United States. As you may know, MPP has been working to improve marijuana policy for more than 25 years.

I am here today to testify in **SUPPORT** of **HCR51/HR53**

HCR51/HR53 would allow the Governor to initiate a cannabis clemency program.

In October of 2022, President Biden took historic action by signing a proclamation to pardon all federal convictions of simple cannabis possession and initiate a review of cannabis' Schedule I status. As a result of the proclamation, approximately 6,500 individuals were granted federal pardons. An analysis of President Biden's executive action by the U.S. Sentencing Commission, shows only 19 Hawaii residents were pardoned<sup>1</sup>. While President Biden's proclamation was an important first step, more action is needed, particularly on the state level where most cannabis arrests and convictions occur. HCR51/HR53 would urge the Governor to begin that process.

We know that residents of Native Hawaiian ancestry are disproportionately represented in Hawaii's cannabis convictions statistics. Native Hawaiians make up approximately 21% of the general population, but 37% of the prison population. Although broader cannabis reform may be stalled this session, HCR51/HR53 is an opportunity to begin removing the scarlet letter of cannabis convictions that for decades have denied many Hawaii residents chances for upward mobility. An October 2022, *Honolulu Star Advertiser* poll shows that a majority of Hawaii

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<sup>1</sup> U.S. Sentencing Commission, 1992 - 2021 Datafiles, USSCFY92 - USSCFY21.



residents support expungement for cannabis convictions.<sup>2</sup> We urge the committee to adopt this resolution.

Mahalo for the opportunity to comment. I can be reached at the contact below and I'm happy to answer any questions you may.

Sincerely,  
DeVaughn Ward, Esq.  
Senior Legislative Counsel  
Marijuana Policy Project  
Honolulu, HI  
[dward@mpp.org](mailto:dward@mpp.org)

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<sup>2</sup> *Honolulu Star Advertiser*, Should Hawaii Pardon People Convicted of Simple Possession of Marijuana as Done on the Federal Level, <https://www.staradvertiser.com/staradvertiser-poll/should-hawaii-pardon-people-convicted-of-simple-possession-of-marijuana-as-was-just-done-on-the-federal-level/>, October 9, 2022