

HCR-51

Submitted on: 3/20/2023 4:27:31 PM

Testimony for JHA on 3/23/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
TY Cheng	Aloha Green Holdings Inc	Support	Written Testimony Only

Comments:

Aloha Green Apothecary, one of Oahu's medical cannabis dispensaries, supports this resolution and prays for a day when individuals are not persecuted for their use of cannabis.

LAST PRISONER PROJECT

Testimony from Gracie Johnson
State Policy Director
Last Prisoner Project

RE: House Concurrent Resolution 51/House Resolution 53, Urging the Governor to Initiate a Clemency Program for Individuals Who Have Been Prosecuted for Cannabis-Related Offenses

March 22, 2023

Dear Members of the Judiciary Committee,

Over the past year, the Last Prisoner Project (LPP) has worked with members of Hawai'i's Dual Use of Cannabis Task Force to design [evidence-based policy recommendations](#) focused on retroactive relief for individuals who have been criminalized by cannabis prohibition. Specifically, our recommendations around automatic record clearance and sentence modification for individuals still incarcerated for cannabis-related offenses were included in Senate Bill 669, which passed the Senate a few weeks ago with significant support.

In addition to our legislative recommendations, LPP submitted a letter to Governor Green to offer our expertise with the creation of a targeted cannabis relief initiative, which could serve as a model for other governors and heed President Biden's call to provide relief for individuals with cannabis convictions. We are thrilled to see that our offer of technical assistance is now enshrined in H.C.R. 51/H.R. 53 and would urge that the members of the Judiciary & Hawaiian Affairs Committee pass this resolution to show their support for the creation of an initiative that would provide clemency for individuals still incarcerated or under supervision for cannabis-related sentences.

LPP's mission is driven by the belief that no one should remain incarcerated for or continue to suffer the collateral consequences for a cannabis-related conviction. Our team of legal and policy leaders has the expertise to support Governor Green's Office in the creation of a targeted cannabis relief initiative, potentially in partnership with the University of Hawai'i's William S. Richardson School of Law and the Hawai'i Innocence Project, which could serve as a model for other governors and heed the President's call.

LPP can also offer support through our Cannabis Justice Initiative, which works alongside the National Association of Criminal Defense Lawyers (NACDL) to provide pro bono legal support to executive clemency applicants. Alongside NACDL, we can advise Governor Green's Office on initiating a more streamlined cannabis clemency process.

We look forward to supporting Governor Green in ensuring Hawai'i is a model for the nation on moving past prohibition through the creation of a targeted cannabis relief initiative until the last prisoner is set free.

We thank you for your consideration of this urgent matter.

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. Through policy campaigns, direct intervention, and advocacy, LPP's team of policy experts works to redress the past and continuing harms of unjust cannabis laws. We are committed to offering our technical expertise to ensure a successful and justice-informed pathway to cannabis legalization in Hawai'i.



Hawai'i

Committee: House Committee on Judiciary and Hawaiian Affairs
Hearing Date/Time: Thursday, March 23, 2023, 2:00 P.M.
Place: Via videoconference
Conference Room 325
State Capitol
415 South Beretania Street
Honolulu, HI 96813
Re: *Testimony of the ACLU of Hawai'i in Support of HCR 51 Urging the Governor to Initiate Clemency Program for Individuals Who Have Been Prosecuted for Cannabis-Related Offenses*

Dear Chair Tarnas, Vice Chair Takayama and Member of the Committee:

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

The ACLU of Hawai'i calls upon Governor Green to embrace clemency and the power of redemption. This is a historic opportunity for the Governor to use their executive powers in transformative ways. By statute, "Aloha" is acknowledged as the "essence of relationships in which each person is important to every other person for collective existence."¹ Our next Governor "on behalf of the people and in fulfillment of their responsibilities, obligations and service to the people" has the power to "give consideration to the Aloha Spirit."²

Hawai'i's correctional system disproportionately incarcerates residents of Native Hawaiian ancestry. Native Hawaiians make up approximately 21% of the general population, but 37% of the prison population. Native Hawaiians are overrepresented at every stage of the criminal justice system. 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.³ This overrepresentation has existed for decades and has led to intergenerational incarceration for some Native Hawaiian families.⁴ 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.

¹ Id.

² H.R.S. §5-7.5

³ 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

⁴ 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

In addition to the human impact, granting categorical clemency is fiscally prudent. As Hawai'i's prison population grows, so does the cost burden. Hawai'i currently spends approximately \$238 per person per day to incarcerate.⁵ Corrections general fund spending increased by 263% between 1985 and 2017.⁶ In 2017, the state spent \$255 million on corrections, accounting for 3 percent of the total general fund spending that year.⁷ In 2021, correction expenditures increased to \$294 million.⁸ Reducing prison populations through categorical clemency can help reveal or create opportunities to reduce this enormous sum. This fiscally prudent decision is made only more necessary by the state's looming budget crisis brought on by the COVID-19 pandemic – which also further reaffirms the need to safely reduce prison populations so that people are not forced to stay in severely overcrowded settings that make self-care fundamentally impossible.

Drug related cases are the largest contributor to Hawai'i'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.⁹

In summary, we urge this legislative body to pass **HCR 51**, initiating the clemency program for cannabis-related offenses statewide.

Sincerely,

Carrie Ann Shiota

Carrie Ann Shiota
Policy Director
ACLU of Hawai'i
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.

⁵ 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>.

⁶ Annual Report FY' 21.

⁷ National Association of State Budget Officers, State Expenditure Report series, <https://www.nasbo.org/reports-data/state-expenditure-report/state-expenditure-archives>.

⁸ Annual Report FY' 21.

⁹ ACLU Smart Justice, Blueprint for Smart Justice: Hawai'i, p. 5 (2019).

HCR-51

Submitted on: 3/23/2023 9:37:38 AM

Testimony for JHA on 3/23/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Randy Gonce	Hawaii Cannabis Industry Association	Support	Written Testimony Only

Comments:

In STRONG support



March 23, 2023

Rep. David Tarnas
Vice Chair, Rep. Gregg Takayama
House Judiciary & Hawaiian Affairs 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 Tarnas, Vice Chair Takayama, and Members of the Judiciary & Hawaiian Affairs 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 pardoned¹. 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

¹ U.S. Sentencing Commission, 1992 - 2021 Datafiles, USSCFY92 - USSCFY21.

residents support expungement for cannabis convictions.² 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

² *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

HCR-51

Submitted on: 3/22/2023 1:03:49 PM

Testimony for JHA on 3/23/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Emily Sarasa	Individual	Support	Written Testimony Only

Comments:

I support this resolution urging the governor to initiate a clemency program for individuals convicted of cannabis-related offenses.

HCR-51

Submitted on: 3/23/2023 9:54:42 AM

Testimony for JHA on 3/23/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Afsoon Shirazi	Individual	Support	Written Testimony Only

Comments:

I am in favor of this resolution. The legislature and Governor Green should follow President Biden's recommendation to the States to offer clemency to community members convicted of cannabis-related offenses.

HCR-51

Submitted on: 3/23/2023 12:47:42 PM

Testimony for JHA on 3/23/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Casey Hearl	Individual	Support	Written Testimony Only

Comments:

I am support of urging the Govenor to initiate a clemency program for individuals prosecuted for cannabis offenses. Cannabis criminalization and prohibition should be categorized as failed policies from its inception. Clemency is one of the tools to correct these harsh and oppressive sentences that disproportionately harm people of color. Governor Green must take the same steps as Oregon, Illinois, Pennslyvania and more to correct and recitfy historical injustice in our criminal legal system. The path to justice is through our values of equity, care, and humanity-- not vengeance or criminalization. Please use your power and authority to ensure clemency is used to address our state's outdated and racially-biased practices--and to pardon people with marijuana convictions now.