

# COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phone/E-Mail: (808) 533-3454/[kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON PUBLIC SAFETY

Rep. Faye Hanohano, Chair

Rep. Henry Aquino, Vice Chair

Thursday, February 12, 2009

Room 309

9:15 A.M.

### **STRONG SUPPORT – HB 421 – Repeal of Act 81 – Hawai`i's Three Strikes Law**

[PBSTestimony@capitol.hawaii.gov](mailto:PBSTestimony@capitol.hawaii.gov)

Aloha Chair Hanohano, Vice Chair Aquino and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working to improve conditions of confinement for our incarcerated individuals, enhance our quality of justice, and promote public safety. We come today to speak for the 6,000+ individuals whose voices have been silenced by incarceration, always mindful that more than 2,000 of those individuals are serving their sentences abroad, thousands of miles from their homes and loved ones.

HB 421 repeals the law requiring habitual violent offenders to be sentenced to prison for 30 years to life.

Community Alliance on Prisons strongly supports HB 421. The research on the effectiveness of Three Strikes laws is voluminous. The outcome of California's passage of Three Strikes has been devastating – the federal government has taken over their prison health care system and the correctional system is in disarray.

Three strikes laws take the discretion away from the courts, which have access to information concerning the circumstances of an offense. The U.S. Judicial system is unique in that our judges can review an offender's entire record as well as all the facts and circumstances surrounding the current crime in order to determine the appropriate sentence. Mandatory sentencing removes the judge from the sentencing process, which is determined by laws enacted by the Legislature.

Hawai`i ranks among the lowest in the nation for violent crime, yet when the Three Strikes bill (SB 2260) was going through the committee process, the proponents were talking about the urgency for this law – if it wasn't passed, violent felons would be running through our neighborhoods.

Our course, now we know that Hawai`i has one of the lowest violent crime rates and that the majority of individuals – 84% women, 63% men – are incarcerated by Hawai`i are non-violent lawbreakers. (Source: Classification – Systematic Approach for Correctional Management)

The proponents of Three Strikes say that incarceration/incapacitation is the only way to deal with crime, yet the data show that incarceration is only effective incapacitating 25% of crimes.

In Sense and Nonsense about Crime and Drugs: A Policy Guide, Samuel Walker says: "Three strikes" represents all the worst aspects of the "get tough" approach to crime.

- First, Three Strikes laws are a classic example of overreaction to celebrated cases.
- Second, Three Strikes laws represent a crude, meat-ax policy that sweeps up many non-dangerous criminals.
- Third, Three Strikes laws are not consistently implemented and thus increase the arbitrariness of the administration of justice.
- Fourth, Three Strikes laws upset the normal going rate and impose new costs on local criminal justice systems, including more trials, delays, and greater dollar costs.
- Finally, no clear evidence indicates that Three Strikes laws will reduce serious crime.

(Source: Sense and Nonsense about Crime and Drugs: A Policy Guide by Samuel Walker page 142)

A team, led by law professor Dr. Franklin Zimring from the University of California at Berkeley, divided the criminal community into two groups - those who faced the likelihood of a three-strikes sentence if they committed another crime and those who did not. **It found no evidence that the threat of a long three-strikes sentence had a deterrent effect.** Noting that there had been a fall in crime in California, Professor Zimring went on to say "*it does not appear that the [three-strikes] law played a role*". He also noted that blacks accounted for half of all three-strikes sentences, even though they represented about 12 per cent of the population. The statistic appeared to support claims by civil rights groups that the law is applied with greater severity against blacks. Zimring conceded that a host of social and economic factors led a much larger proportion of blacks than whites in America to commit property crimes such as robbery, which are subject to three-strikes sentencing. "*However, it's not that prosecutors are picking on this group, but that the statute picks on this group,*" he said. (Source: Tough Approach Strikes Out in US - <http://www.commondreams.org/headlines/021800-02.htm>).

The Corrections Population Management Commission did Sentencing Simulation Models of the impacts of a Three Strikes law in Hawai'i. Sadly politics got in the way of common sense and despite the modeling done, and the law school's report from the Three Strikes Task Force that concluded that a Three Strikes Law was inappropriate for Hawai'i, the politics of fear won out.

The models can be accessed at: <http://www.hawaii.gov/psd/cpmc/>.)

Every call received by CAP about Hawai'i's Three Strikes law, has been from a woman, since burglary was included as a crime of violence. It is common knowledge that burglary is a crime fueled by drugs, so this law could potentially hurt families, since most incarcerated woman are mothers.

Families Against Mandatory Minimums released a bipartisan poll in September 2008 which found that:

- Fully 78% of Americans (nearly 8 in 10) agree that courts - not Congress - should determine an individual's prison sentence
- 6 in 10 (59%) OPPOSE mandatory minimum sentences for nonviolent offenders
- A majority of Americans (57%) polled said they would likely vote for a candidate for Congress who would eliminate all mandatory minimums for nonviolent crimes (Source: <http://www.famm.org/Repository/Files/FAMM%20poll%20no%20embargo.pdf>)

In closing, we call up the prophetic words of FDR, "*The only thing we have to fear, is fear itself.*"

Community Alliance on Prisons urges passage of HB 421. Mahalo for this opportunity to testify.