## HB 1818 HD2

### **Measure Title:**RELATING TO COGNITIVE RESTRUCTURING.

#### **Report Title:**

Requires the Department of Public Safety to ensure that reentry/reintegration programs in Hawaii's correctional facilities offer cognitive behavioral theory with native Hawaiian holistic interventions to address domestic violence, addictions, self-mastery through identity, and community connections for successful transitions back into the community. Effective July 1, 2020.

LINDA LINGLE GOVERNOR



#### STATE OF HAWAII DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor Honolulu, Hawaii 96814 CLAYTON A. FRANK DIRECTOR

DAVID F. FESTERLING

Deputy Director Administration

TOMMY JOHNSON

Deputy Director Corrections

JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No.	

# TESTIMONY ON HOUSE BILL 1818, HD 2 RELATING TO COGNITIVE RESTRUCTURING by Clayton A Frank, Director Department of Public Safety

Senate Committee on Public Safety and Military Affairs Senator Will Espero, Chair Senator Robert Buda, Vice Chair

#### AND

Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs Senator Clayton Hee, Chair Senator Jill N. Tokuda, Vice Chair

> Tuesday, March 16, 2010; 1:15PM State Capitol, Conference Room 229

Senator Espero, Senator Hee, and members of both Committees:

The Department of Public Safety does not support the passage of HB 1818, HD 2, given the extreme fiscal difficulties facing the State. Presently, the Department has been required to reduce the funding of corrections programs to help meet budget shortages. The only reentry/reintegration programs based on the premise with cognitive behavioral therapy that the Department is still able to provide addresses therapeutic treatment needs of offenders, such as Substance Abuse and Sex Offender Treatment. The passage of HB 1818, HD 2 would in essence be a selective disservice to offenders of other ethnic backgrounds and expose the State to liability with respect to disparity in therapeutic treatment by

House Bill 1818, HD2 March 15, 2010 Page 2

restricting "all new contracts for reentry/reintegration programs," to those with native Hawaiian holistic interventions, as implied in Section 2(b), line 1 through 3, of this measure. Any provision <u>requiring all inmates</u> to participate in reentry/reintegration programs with native Hawaiian holistic interventions regardless of their ethnic, religious and/or cultural beliefs and backgrounds violates their First and Fourteenth Amendment rights with respect to freedom of religion, equal protection, or disparity in the treatment. Therefore, participation in any program with native Hawaiian holistic interventions curriculum should be strictly voluntary on the part of the offender.

Further, the Department acknowledges the merit of this measure for therapeutic treatment programs; however, given the current, extreme, fiscal difficulties facing the State and the imminent exposure to future liabilities inherent with enactment of this measure, as written, the Department does not support the passage of HB 1818, HD 2.

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



#### TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-FIFTH LEGISLATURE, 2010

#### ON THE FOLLOWING MEASURE:

H.B. NO. 1818, H.D. 2, RELATING TO COGNITIVE RESTRUCTURING.

#### BEFORE THE:

SENATE COMMITTEES ON PUBLIC SAFETY AND MILITARY AFFAIRS AND ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

DATE:

Tuesday, March 16, 2010

TIME: 1:15 p.m.

LOCATION:

State Capitol, Room 229

TESTIFIER(S): Mark J. Bennett, Attorney General, or

Lisa M. Itomura, Deputy Attorney General

Chairs Espero and Hee and Members of the Committees:

The Department of the Attorney General opposes this bill.

This bill requires the Department of Public Safety (PSD) to include "cognitive behavioral therapy with native Hawaiian holistic interventions" in all of its reentry/reintegration programs.

The bill does not define "native Hawaiian holistic interventions." Given the lack of a definition, the term is problematic because it is too vague to interpret, implement, and, if necessary, defend. For example, it is unclear whether the term refers to native Hawaiian religious practices, cultural practices, or something else entirely. If the term is interpreted in any way as religious in nature, the bill could infringe on an inmate's constitutional right to equal protection or freedom of religion. See Inouye v. Kenma, 504 F.3d 705, 713 (9th Cir. 2007) (holding that the Hawaii Paroling Authority's requirement that a parolee participate in a treatment program with a religious component was unconstitutional because the "government may not coerce anyone to support or participate in religion or its exercise"). The bill may also raise concerns over the separation of church and state by appearing to favor one Testimony of the Department of the Attorney General Twenty-Fifth Legislature, 2010 Page 2 of 2

religion over another. See McCreary County, Ky. v. American
Civil Liberties Union of Ky., 545 U.S. 844, 875-76 (2005)

(holding that "the government may not favor one religion over another, or religion over irreligion, religious choice being the prerogative of individuals under the Free Exercise Clause").

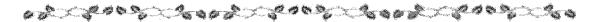
If the term is interpreted as cultural in nature, rather than religious, it may nevertheless present equal protection problems by appearing to favor one ethnicity over another. See Regents of University of California v. Bakke, 438 U.S. 265, 291 (1978) (noting that "ethnic distinctions of any sort are inherently suspect and thus call for the most exacting judicial examination").

These constitutional concerns are exacerbated by the bill's mandate that <u>all</u> of PSD's reentry/reintegration programs contain a native Hawaiian component and that PSD may not enter into any new contracts for reentry/reintegration programs unless they are designed to achieve this goal.

Consequently, we request that this bill be held.

#### COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817 Phone/E-Mail: (808) 533-3454/kat.caphi@gmail.com



#### COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Senator Will Espero, Chair
Sen. Robert Bunda, Vice Chair
Tuesday, March 16, 2010
1:15 p.m.
Room 229
STRONG SUPPORT HB 1818 HD2 - Cognitive Restructuring & Cultural Interventions
PSMTestimony@capitol.hawaii.gov

Aloha Chair Espero, Vice Chair Bunda and Members of the Committee!

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

HB 1818 HD2 requires the Department of Public Safety to establish a reintegration pilot program that combines cognitive behavioral theory with native Hawaiian holistic interventions that address domestic violence, addictions, self mastery through identity, and community connections for successful transitions back into the community.

Community Alliance on Prisons is in STRONG SUPPORT of HB 1818 HD2. The disproportionate number of incarcerated individuals of Hawaiian ancestry should make all people of good will ask, why *are* we criminalizing the aboriginal population?

#### **Cognitive Restructuring:**

Using cognitive restructuring in concert with cultural interventions can be an important strategy for the rehabilitation of Hawai'i's incarcerated individuals.

Cognitive theory is a proven technique that has been shown to have positive results for many. The Evaluation of the Efficacy of a Cognitive Behavioral Program for Offenders on Probation: Thinking for a Change (Lori Golden, Ph.D. Un iversity of Texas Southwestern Medical Center at Dallas, 2002.) found that Thinking for a Change group completers differed from untreated probationers, with about a 33% reduction in new offense charges.

An article that appeared on February 14, 2010 in a Tampa Bay, FL newspaper entitled, "Christ backs rehab for inmates" reported that, "If state prison officials trim recidivism by just 1 percent, they will save \$8 million a year.

An article by the head of Federal Probation in Nevada that appeared in <u>Federal Probation</u> in September 2008 talked about cognitive restructuring:

"CBT (Cognitive Behavioral Therapy) has been found to be one of the more promising methods of rehabilitative treatments for offenders. Offenders have been found to distort cognition, which impairs their ability to correctly read social clues, accept blame, and morally reason. This creates a greater sense of entitlement on the part of the offender (Lipsey, Landenberger, & Wilson, 2007). This distorted thought process can lead them to demand instant gratification, misperceive harmless situations as threats, and confuse wants with needs (Ross & Fabiano, 1985). CBT programs use behavioral learning techniques to alter the general adaptive behavior of offenders. This allows them to return to their natural environment with a bank of new skills that they can reinforce in socially acceptable ways instead of in their prior illegal ways (Pearson, Lipton, Cleland, & Yee, 2002).

#### Conclusion

Cognitive-behavioral programs have been shown to reduce recidivism as long as the programs are implemented well. As with any program, intensive planning about the program to use, logistics of providing the service, quality assurance, and evaluation of effectiveness should occur prior to actual implementation. Such planning will increase the likelihood of successful implementation, while evaluation of the program allows districts to address problems that may occur, particularly around program fidelity. With good cognitive-behavioral programming, districts can increase their effectiveness in addressing offender issues."

#### **Cultural Interventions:**

Cultural interventions have proven to be successful in program such as MEO's BEST Reintegration Program where recidivism is 10-20% lower than the state has been able to achieve.

Source: http://www.uscourts.gov/fedprob/September\_2008/07\_cognitive\_behavior.html

There are more and more studies and articles emerging about the power of restorative practices to heal victims, communities, and wrongdoers themselves from the impacts of crime. These practices are based on those of aboriginal peoples who understood that much wrongdoing develops when connections are broken or lost. Restorative practices like ho`oponopono help reconnect people. They help heal those broken connections. These kinds of strategies are successful, especially in Hawai`i, as the majority of our incarcerated population is comprised of individuals of Hawaiian ancestry. The process of helping someone connect to who they really are is nothing short of transformative. I have seen many miracles, for which I am grateful and optimistic.

The research and experiences of those who have been involved in these processes is a strong call for Hawai`i - especially Hawai`i - to implement culturally competent interventions to help individuals understand the thinking that created their pathway to incarceration.

The Restorative Circles process, codified in Act 8 is an example of a restorative practice that assists people in understanding their own behavior. An article entitled, "Rights, religion, and community: Approaches to violence against women in the context of globalization" in the Law and Society Review by Sally Merry Engle (2001) discusses Restorative justice practices, such as ho' oponopono. (http://findarticles.com/p/articles/mi\_qa3757/is\_200101/ai\_n8940957/pg\_25/)

"During the 1980s and 1990s, there were also efforts to develop ho'oponopono as an alternative to the criminal justice system. In the 1980s, the Neighborhood Justice Center in Honolulu suggested ho'oponopono as an alternative to mediation (Shook 1985). However, it is different from mediation, which focuses more on compartmentalizing problems and less on a holistic approach (Meyer & Davis 1994).

In 1994, the Native Hawaiian Bar Association (NHBA), concerned with the rising population of incarcerated Native Hawaiians, set up a program to divert some family court cases out of the judicial system (Meyer & Davis 1994: 5). Encouraged by an enthusiastic group of family court judges, the NHBA sponsored the training of a cadre of ho`oponopono practitioners for court and Neighborhood Justice Center referrals by experts taught originally by Pukui. This included attorneys, people from the Neighborhood Justice Center, and from the community. One radical group protesting prison construction in 2000 suggested ho'oponopono as an alternative to incarceration for Native Hawaiians.

Ho'oponopono is now being incorporated into a burgeoning global movement to promote forms of restorative justice, many of which are based on indigenous peoples' judicial mechanisms. For example, New Zealand developed the family group conference in response to complaints by Maori people that the legal system was alienating and did not respond to their values or kinship system and that children were being removed from homes too often (Hassall 1996: 22). It emphasizes the central role of community elders and was mandated for all juvenile offenders in New Zealand in 1989 (Hudson et al. 1996: { 13).

The family group conference was adopted in parts of Australia in 1993 because of concern about the high rates of youth arrest and detention among Aboriginal peoples (Wundersitz & Hetzel 1996: 134-37) and has been tried in some parts of Canada, primarily for aboriginal communities (Longclaws et al. 1996: 195; see also McGillivray and Comaskey 1999).22 Although the family group conference was developed for juvenile cases, some in New Zealand have argued that its emphasis on restorative justice and the importance of the wider community could provide a more culturally appropriate mechanism in gender violence cases as well, eliciting the support of the wider community in shaming the offender and facilitating his reintegration into the community. This approach may provide better protection than the adversarial system (Carbonatto 1995: 13).

The emphasis on healing and reconciliation within ho'oponopono conforms to the core features of restorative justice, as does its location within an indigenous community. (see Roberts & LaPrairie 1996; Crnkovich 1996).

The Restorative Circles program has been hailed nationally and internationally as another successful strategy for reentry and it was born in Hawai'i.

A July 2008 press release from the University of Cambridge in England cited several studies that found that restorative practices have reduced recidivism and crime by 27%.

The report includes seven experiments designed and directed by the Wolfson Professor of Criminology at Cambridge, Lawrence Sherman, and his co-director Dr Heather Strang, who directs the Centre for Restorative Justice at the Australian National University. The experiments began in 2001 and were conducted in collaboration with the Justice Research Consortium, under the chairmanship of Sir Charles Pollard, former Chief Constable of Thames Valley Police and former Chairman of the Youth Justice Board for England and Wales.

The experiments compared almost 400 cases where offenders had attended restorative justice conferences to some 400 cases where they had not. During the conferences offenders listened to victims describe the harm the crimes had caused. Each conference lasted from one to three hours, often in prison settings. Victims found the process helpful and positive, while some offenders have described the meetings as "traumatic", as well as life-changing.

The Sheffield report estimates that £9 of costs to victims and the criminal justice system was saved for every £1 spent on delivering these conferences. The study examined whether offenders within the restorative justice group were reconvicted within a two-year period. It also shows the percentage by which the rate of reconviction within that period fell among different types of criminal in different parts of the country following the restorative justice programme.

The rate of reconviction for violent offenders sentenced to supervision by the Probation Service under a community sentence in Thames Valley, for example, fell by 55%. The rate of reconviction among career burglars in London fell by 15.5%.

The report notes that while the results of each experiment were uncertain if taken in isolation, the likelihood of the pattern of reductions in the frequency of crime for the seven Cambridge-led tests having occurred by chance was one in 100. These results show consistent benefits across many different stages of the criminal justice process.

(Source: University of Cambridge, July 1, 2008, <a href="http://www.admin.cam.ac.uk/news/dp/2008070103">http://www.admin.cam.ac.uk/news/dp/2008070103</a>)

Hawai'i needs to go back to what works. Our host culture offers many strategies for reducing crime, closing the revolving door of our correctional facilities, and developing interventions that directly address individuals' pathways to crime and incarceration.

Community Alliance on Prisons urges passage of HB 1818 HD2.

Mahalo for this opportunity to share our thoughts with the committee.



Committee:

Committees on Public Safety and Military Affairs and Water, Land,

Agriculture and Hawaiian Affairs

Hearing Date/Time:

Tuesday, March 16, 2010, 1:15 p.m.

Place:

Room 229

Re:

Testimony of the ACLU of Hawaii in Support of H.B. 1818, H.D. 2,

Relating to Cognitive Restructuring

Dear Chairs Espero and Hee and Members of the Committees:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in strong support of H.B. 1818, H.D. 2.

The ACLU of Hawaii supports every effort to develop a comprehensive reentry system. In general, these types of programs are far more cost-effective – and far more effective at reducing recidivism – than incarceration, and we support efforts to make these reentry programs more culturally sensitive and individualized.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii 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 Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple Staff Attorney ACLU of Hawaii

T: 808.522-5900 F: 808.522-5909

E: office@acluhawali.org www.acluhawaii.org



March 16, 2010

To: COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS

Senator Will Espero, Chair

Senator Robert Bunda, Vice Chair

To: COMMITTEE ON WATER, LAND, AGRICULTURE, AND

**HAWAIIAN AFFAIRS** 

Senator Clayton Hee, Chair Senator Jill Tokuda, Vice Chair

From: Jeanne Y. Ohta, Executive Director

RE: HB1818 HD2 Relating to Cognitive Restructuring

Hearing: Tuesday, March 16, 2010, 1:15 p.m., Room 229

Position: Strong Support

The Drug Policy Forum of Hawai'i writes in strong support of HB 1818 HD2 Relating to Cognitive Restructuring which requires the Department of Public Safety to ensure that reentry and reintegration programs in Hawaii's correctional facilities combine cognitive behavioral theory with native Hawaiian holistic interventions that address domestic violence, addictions, self mastery through identity, and community connections for successful transitions back into the community.

Since such a large portion of our inmate population is native Hawaiian, it makes sense to include the restorative practices of that culture with cognitive restructuring and offer such programs in our prisons.

We must require that our prisons focus on reentry and successful reintegration in order to reduce recidivism rates which would then help bring our skyrocketing prison budget under control.

Our prisons should be program intensive and offer a variety of programs, since not everyone will respond to the same program. Culturally-based programs can be effective and should be among the programs offered in Hawaii's prisons.

We urge the committee to pass this measure so that more focus is placed on successful reentry back into the community. Thank you for this opportunity to provide testimony.

**Board of Directors** Pamela Lichty, M.P.H. *President* 

Kat Brady Vice President

Heather Lusk Treasurer

Katherine Irwin, Ph.D. Secretary

Michael Kelley, D.Phil.

Richard S. Miller, Prof. of Law Emer.

Robert Perkinson, Ph.D.

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#### Dante K. Carpenter 3054 Ala Poha Place, #401 Honolulu, HI 96818

## HAWAII STATE SENATE – REGULAR SESSION 2010 COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS AND COMMITTEE ON WATER, LAND, AGRICULTURE AND HAWAIIAN AFFAIRS

March 16, 2010 1:15 PM; Conference Rm. 229

#### HB 1818, HD1 – RELATING TO COGNITIVE RESTRUCTURING

Co-Chairs Sen. Wil Espero, and Sen. Clayton Hee and Joint Committee Members:

Aloha kakou. My name is Dante Keala Carpenter, Member-Advisor to 'Ohana Ho'opakele. I speak in support of HB 1818, HD2 Relating to Cognitive Restructuring. Its purpose "is to insure that reentry/reintegration programs within Hawaii's correctional facilities offer cognitive behavioral therapy with native Hawaiian holistic interventions to address domestic violence, addictions, self-mastery though identity, and community connections to promote the successful transition from incarceration to the community."

President Sam Kaleleiki (Kupuna Sam) and the 'Ohana Ho'opakele members, have a continuing and unwavering commitment and dedication to its mission and purpose: to advocate for alternatives to prisons in the form of pu'uhonua for pa'ahao. Literally pu'uhonua is defined in Pukui & Elbert's Hawaiian Dictionary (1986) as a "sanctuary, refuge, asylum or place of peace & safety" for pa'ahao – prisoners, convicts and/or inmates. In modern vernacular it can best be defined or classified as a cultural wellness center with all that title entails.

To that end, the organization anticipates working with the Department of Public Safety and other restorative justice groups to utilize appropriate facilities as a *pu'uhonua* or wellness center for substance abuse treatment and intervention programs that take a holistic and cultural approach to help redirect the lives of those affected.

We strongly recommend passage of HB1818, HD2.

E laulima pu kakou! (Let's all work together.) Mahalo a nui loa.

- For: HB 18181 Relating to Cognitive Restructuring Requires the Department of Public Safety to ensure that reentry/reintegration programs in Hawaii's correctional facilities offer cognitive behavioral theory with native Hawaiian holistic interventions to address domestic violence, addictions, self-mastery through identity, and community connections for successful transitions back into the community. Effective July 1, 2020. (HB1818 HD2)
- To: COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS: Sen. Will Espero, Chair, Sen. Robert Bunda, Vice Chair COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS: Sen. Clayton Hee, Chair; Sen. Jill Tokuda, Vice Chair

Time: Tuesday, Mar. 16, 2010, 1:15: PM, Conference Room 229

#### HAWAII SUBSTANCE ABUSE COALITION

Good morning Chair Espero, Chair Hee, Vice Chair Bunda, Vice Chair Tokuda and distinguished committee members: My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide hui of more than 20 non-profit treatment and prevention agencies.

#### Support the intent with Recommendations:

Across the nation, the vast majority of prisoners who are drug abusing offenders are not getting the treatment they need in the Criminal Justice System despite two decades of research that demonstrate its effectiveness, according to researchers at the National Institute on Drug Abuse (NIDA), part of the National Institutes of Health.<sup>1</sup>

There are two parts of reentry: Treatment and Recovery Oriented Community Services (ROCS). Following are specifics for effective reentry processes:

- 1. Cognitive restructuring primarily pertains to treatment. As part of offender treatment, evidence supports that coping strategies for individuals are improved through the use of intervention strategies such as anger management, cognitive restructuring, and/or motivational interviewing, as well as encouraging participation in alternative activities.<sup>2</sup> Also, treatment should target factors that are associated with criminal behavior.
- 2. Cultural competence is the ability to function effectively within the context of cultural differences. Building cultural awareness of group value systems is key to developing trust, understanding the dynamics of interactions, and adapting interventions to fit culture as a means to better connect with individuals.<sup>3</sup>
- 3. ROCS is essential for drug abusers re-entering the community. After effective treatment, recovery requires management of the problem over time to include relapse prevention, continuing care, vocational rehabilitation, housing and social skills development. Reentry services must have last long enough to ensure stable behavioral change.
- 4. Moreover, scientific literature on drug abuse treatment and criminal behavior recommends that tailoring services to fit the needs of the individual is an important part of effective drug abuse treatment for criminal justice populations including developing an integrated treatment approach for offenders with co-occurring drug abuse and mental health problems. Also, it is important to work

- with criminal supervisory systems to develop a balance of rewards and sanctions that encourages pro-social behavior and treatment participation. Finally, medications are an important part of treatment for many drug abusing offenders.<sup>4</sup>
- 5. Studies indicate that outcomes for those who are legally pressured to enter treatment are as good as or better than outcomes for those who enter treatment without legal pressure. "Treating drug-abusing offenders improves public health and safety," said NIDA Director Dr. Nora D. Volkow. NIDA suggests that the criminal justice system is in a unique position to encourage drug abusers to enter and remain in treatment.

#### **Recommendations:**

- 1. All cognitive restructuring language should be associated with treatment and include other effective coping strategies that are evidenced-based practices to include but not limited to motivational enhancement techniques, anger management, and methods that target criminogenic factors that are associated with criminal behaviors.
- 2. Expand the language to include all cultural references for all groups as well as gender. Since a clear majority of prisoners are of Native Hawaiian ancestry, it is preferable to keep language in the bill for Native Hawaiian practices; however, it must be voluntary or universal to avoid discrimination issues.
- 3. Recovery Oriented Community Services (ROCS) must be integrated with treatment and provide continuity of care that meets individualized needs for relapse prevention, continuing care, vocational rehabilitation, housing and prosocial skills development.

#### TREATMENT SAVES MONEY AND REDUCES CRIME

Studies show that treatment can cut drug abuse in half, reduce criminal activity up to 80 percent, and reduce arrests up to 64 percent. Some communities cite costs as the reason for not treating drug-involved offenders; however, NIDA discusses the economic benefits of treating such offenders. "A dollar spent on drug courts saves about \$4 in avoided costs of incarceration and health care; and prison-based treatment saves between \$2 and \$6."

#### **SUMMARY**

Untreated substance abusing offenders are more likely than treated offenders to relapse to drug abuse and return to criminal behavior. This can bring about re-arrest and reincarceration, jeopardizing public health and public safety and taxing criminal justice system resources. Treatment offers the best alternative for interrupting the drug abuse/criminal justice cycle for offenders with drug abuse problems.

Drug abuse treatment can be incorporated into criminal justice settings in a variety of ways. These include treatment as a condition of probation, drug courts that blend judicial monitoring and sanctions with treatment, treatment in prison followed by community-based treatment after discharge, and treatment under parole or probation supervision.

Outcomes for substance abusing individuals can be improved by cross-agency coordination and collaboration of criminal justice professionals, substance abuse

treatment providers, and other social service agencies. By working together, the criminal justice and treatment systems can optimize resources to benefit the health, safety, and well-being of individuals and the communities they serve.

We appreciate the opportunity to testify today and are available for questions, if needed.

#### References:

- 1) Dr. Redonna K. Chandler and Dr. Nora D. Volkow from the National Institute on Drug Abuse (NIDA), a component of the National Institutes of Health (NIH), an agency of the Department of Health and Human Services (HHS): Drug Abusing Offenders Not Getting Treatment They Need in Criminal Justice System: Treating Inmates Has Proven Public Health, Safety, and Economic Benefits: Journal of the American Medical Association January 13, 2009 <a href="https://www.drugabuse.gov/newsroom/09/NR1-13.html">https://www.drugabuse.gov/newsroom/09/NR1-13.html</a>
- 2) Kohn, C.S., Mertens, J.R., and Weisner, C.M. Alcoholism-Clinical and Experimental Research, 26(8), pp. 1228-1233, 2002.
- 3) The federal agency: Substance Abuse Mental Health Services Administration (SAMHSA): CultureCARD: A Guide to Build Culture Awareness; DHHS Publication No. (SMA) 08-4354; January 2009; <a href="http://download.ncadi.samhsa.gov/ken/pdf/SMA08-4354/CultureCard">http://download.ncadi.samhsa.gov/ken/pdf/SMA08-4354/CultureCard</a> AI-AN.pdf
- 4) National Institute on Drug Abuse (NIDA), a component of the National Institutes of Health (NIH), an agency of the Department of Health and Human Services (HHS): *Principles of Drug Abuse Treatment for Criminal Justice Populations*: 2006 at <a href="https://www.drugabuse.gov/PODAT\_CJ/principles/">www.drugabuse.gov/PODAT\_CJ/principles/</a>

For more information, see *Principles of Drug Abuse Treatment for Criminal Justice Populations: A Research-Based Guide* at www.drugabuse.gov/DrugPages/cj.html.

FROM: MAILINGLIST@CAPITOL.HAWAII.GOV [MAILTO:MAILINGLIST@CAPITOL.HAWAII.GOV]

SENT: FRIDAY, MARCH 12, 2010 5:57 PM

To: PSM Testimony

Cc: erinann815@aol.com

SUBJECT: TESTIMONY FOR HB1818 ON 3/16/2010 1:15:00 PM

#### TESTIMONY FOR PSM/WTL 3/16/2010 1:15:00 PM HB1818

CONFERENCE ROOM: 229
TESTIFIER POSITION: SUPPORT
TESTIFIER WILL BE PRESENT: NO
SUBMITTED BY: ERIN RUTHERFORD

ORGANIZATION: INDIVIDUAL

ADDRESS: PHONE:

E-MAIL: ERINANN815@AOL.COM SUBMITTED ON: 3/12/2010

#### COMMENTS:

THIS IS AN EXCELLENT BILL THAT COULD ACTUALLY HELP OFFENDERS REENTER INTO OUR COMMUNITIES. UNLESS YOU'RE LIVING UNDER A ROCK, ITS OBVIOUS THAT INMATES IN PRISON LIVE IN A VIRTUL " CRIME SCHOOL". THERE IS GAMBLING, RAPE, VIOLENCE, AND MANY MORE EVIL THINGS THAT GO ON INSIDE PRISONS. NOT ALLOWING PRISONERS THE CHANCE TO PREPARE THEMSELVES FOR RE-ENTRY IS LIKE SENDING A WOLF TO THE SHEEP. THE INMATE IS GOING TO BE STUCK IN THEIR " CRIME" STATE OF MIND AND WILL BE MORE LIKELY TO COMMIT CRIMES ONCE THEY ARE RELEASED INTO AN ENVIRONMENT THEY HAVE BEEN APART FROM FOR SOME TIME. AND FOR THE RECORD, MR. CLAYTON FRANK, NOWHERE IN THIS BILL DOES IT STATE THAT THIS NEW FORM OF THERAPY IS TO BE " MANDATED. " GET OFF YOUR HIGH HORSE AND ACTUALLY DO SOMETHING THAT MAKES A POSITIVE DIFFERENCE.

From: Joel Fischer Sent: Tuesday, March 09, 2010 1:41 PM

**To:** PSM Testimony **Cc:** WTLTestimony

Subject: HB1818; PSM; Tuesday, 3/16; 1:15PM; Rm 229

Importance: High

HB1818, HD2, Relating to Cognitive Restructuring

PSM; Chair, Sen Espero

#### PLEASE KILL THIS BILL, MAKE DIE DEAD!

I realize that the folks who want this bill passed have good intentions; they want the best treatments for their clients. But they are going about it in completely the wrong way. This bill is the worst infringement on professional responsibility and accountability I ever have seen in the legislative arena! Here's why:

The professionals who will be charged with implementing this bills provisions, such as clinical psychologists, social workers and psychiatrists, will be forced to implement certain interventions even when that **intervention** may not be indicated by a client's assessment. This can result in way more harm that good from mis-application of the intervention. **It is an accountability nightmare!** 

Passage of this bill would be like passing a bill to require all MDs to prescribe a specific medication to all clients even when that medication is counter-indicated. How horrible would that be. yet, there is no difference between that hypothetical scenario, and the one this bill proposes.

Now I am NOT campaigning against use of these interventions. I have taught cognitive restructuring at UH for decades and applied it myself with clients when the assessment revealed it was the intervention of choice. Similarly, I am an advocate of Native Hawaiian holistic practices, but to prescribe them for all clients, especially those who are not Hawaiian but even when the clients are kanaka maoli is absolutely wrong...just plain wrong. Indeed, the evidence on the effectiveness of these holistic practices is mainly anecdotal, and is not at all close to being based on research-supported decision-making.

In other words, it is completely unethical for any level of government to mandate a given treatment for **all** clients even when that treatment may be effective with **some** clients. Like so many social and psychological interventions, it becomes faddish among some practitioners to push for others to adopt a fad; but what happens when new and better interventions -supported by research- become available? Are mandated practitioners going to be way out of date and less effective because the legislature mandated that they use inferior interventions?

There are other ways to consider moving practitioners to use the best interventions. For example, it is far better to mandate all practitioners be educated in the use of interventions that have been shown to be evidence-based than it is to mandate the implementation of an intervention when it is unwarranted and potentially dangerous.

Thank you for considering these ideas.

Aloha, joel

Dr. Joel Fischer, ACSW Professor (Ret.) University of Hawai'i, School of Social Work Henke Hall Honolulu, HI 96822

"It is reasonable that everyone who asks justice should DO justice." Thomas Jefferson

"There comes a time when one must take a position that is neither safe, nor politic, nor popular, but one must take it because one's conscience tells one that it is right."

Dr. Martin Luther King, Jr.

"Never, never, never quit." Winston Churchill

#### SUPPORT: HB 1818 Relating to Cognitive Restructuring

Hello, my name is Juliet Miyagishima and I am a Master of Social Work Student at University of Hawaii at Manoa in the Myron B. Thompson School of Social Welfare. I am in support of House Bill 1818 relating to Cognitive Restructuring.

As we all know - Native Hawaiians are over represented in the prison system, and something needs to be done to identity and remedy this consistently growing issue. Additionally if we look at the statistics nationwide – all the underrepresented populations are over represented in the prison population.

Cognitive BT has been a method identified to prevent recidivism overall – and this method is thought to work well in most any settings. Coming from the mainland I am more familiar with Native Americans. There have been studies that show that this is an effective method for Native Americans. Dr. Winona Simms (who also works with Native Hawaiians) has a DVD titled working with Native Americans. In *Working With Native Americans*, Dr. Simms illustrates her approach to working with clients who are of Native American descent. Because of a history of oppression by the dominant culture, Native American clients many times come to therapy with distrust in the therapist, so it is thought to be important to first build trust and to allow the client to speak and be heard.

She feels the main goal at first is to instill trust. To do this, Dr. Simms recommends that the therapist be client-centered. The therapist should be aware of the impact of the dominant culture on Native American and/or Native Hawaiian culture. Native Americans have a history of being displaced by the dominant European American culture, and the dominant culture continues to have an effect on Native culture. Being sensitive to these issues, even if they only lie in the background of the client's story, is important, especially if the therapist is of European American background. With that being said, the fact that there are many prisoners that are still housed on the Mainland, how can we ensure this type of cultural competency training is implemented – is this possible, and if not will this therapeutic method be effective for these specific incarcerated individuals?

In conclusion I believe that something needs to be done – what is currently happening is simply and by the numbers obviously not enough. We can sit around a table and talk about it and look at studies proving it or disproving it. Though, if we do not practice it, then we will not know. Lastly, looking at the bigger picture, instead of being reactive we need to be proactive and get into the community and reach out to individuals that have not yet entered the system, individuals with family members incarcerated (focusing on children and adolescents) – there has been a great damage done, though it is time to stop the cycle now.

March 15, 2010

TO: Senator Will Espero, Chairman

Senator Clayton Hee, Chairman

Members of the Senate Public Safety and Military Affairs Committee Members of the Water, Land, Agriculture and Hawaiian Affairs Committee

FROM: Jennifer Ah Sing

RE: HB 1818 HD2 Relating to Cognitive Restructuring

Chairman Espero, Chairman Hee and members of the Senate Public Safety and Military Affairs Committee and as well as members of the Water, Land, Agriculture and Hawaiian Affairs Committee, my name is Jennifer Ah Sing. I am a first year MSW student at the Myron B. Thompson, School of Social Work at the University of Hawaii. I am testifying in STRONG SUPPORT of HB 1818 HD2 Relating to Cognitive Restructuring.

Being a Hawaiian, I only recently have had the opportunity to learn about my culture and heritage. Prior to returning to school, I had little knowledge of Hawaiian history and cultural practices. It has been through my education that I learned who I am as a Kanaka and how Hawaii's history has affected every Hawaiian consciously or subconsciously. Historical trauma resulting from the arrival of Captian Cook, the overthrow of the monarchy, the coming of the missionaries, and the stripping of the Hawaiian language has all contributed to the *kaumaha* we as a people face daily.

HB1818 HD2 creates the opportunity for incarcerated native Hawaiians to have access and education of culturally appropriate support, coping and decision making processes necessary to addressing these issues and ultimately combating recidivism. Integrating cognitive behavioral therapy with native Hawaiian holistic interventions will give the Kanaka Maoli the chance to reconnect with their cultural values and traditions, nurture a sense of self and will help to break the vicious cycle of crime and punishment. Cognitive restructuring will guide offenders to consciously examine their own thoughts making them responsible for their actions and will allow them to refocus their views of themselves, their families and their communities.

HB1818 HD2 is a needed initiative to support native Hawaiians inmates through their transitions home and arm them with culturally relevant tools to be successful.

I urge you to support HB 1818 HD2. Thank you for the opportunity to testify on this measure.