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TESTIMONY ON HOUSE BILL 2276
RELATING TO PUBLIC SAFETY

by
Clayton A. Frank, Director
Department of Public Safety

House Committee on Legislative Management
Representative James Kunane Takioka, Chair
Representative Blake K. Oshiro, Vice Chair

Friday, February 5, 2010; 2:10PM
State Capitol, Conference Room 423

Representative Takioka and Members of the Committee:

The Department of Public Safety (PSD) **strongly opposes** House Bill 2276. This measure does not specify who will develop or write the many comprehensive correctional impact statements that may be required, but only that the Corrections Population Management Commission (CPMC) will assist. The statute governing the CPMC (HRS §353F) does not provide any funding and/or positions to carry out its functions.

Over the last several legislative sessions, there have been no less than 30 proposed bills that would require a correctional impact statement under this measure. Additionally, there is no similar requirement on any other type of proposed legislation. Thus, this measure could be seen as prejudicial or discriminatory.

Given the nature and complexities of correctional impact statements, even if there existed staff and other resources necessary to conduct the research,

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compile and analyze the data, and put together a report for the legislature, given the length of the regular annual legislative session and the compressed time between hearings, it would be extremely difficult, if not impossible to meet the requirements set forth in this measure. **Do not** believe testimony that you may hear stating that the sentencing simulation module (SSM) previously used by PSD, is simply sitting on a shelf at the Department of the Attorney General waiting to be used.

The SSM is a complex computer program that requires an inordinate amount of expertise to operate, which the Department does not have. PSD's research and statistics section is down from three full-time staff members to a single staff member, who has never operated the SSM program. Further, when the SSM program was being used, it required two full-time staff member to conduct the sentencing simulations. The SSM program requires expertise, staff time, and the gathering of huge amounts of data that must be analyzed using several different methods, which requires a great amount of time to do. Sentencing simulations cannot be done in a few days, as some would have you believe, but rather over an extended period of time that is required to ensure the simulations completed on proposed legislation is accurate, quantifiable, and have some degree of certainty.

On Monday, February 1, 2010, Deputy Director for Corrections, Mr. Tommy Johnson personally spoke with Dr. Paul Perrone, Administrator of the Justice Assistance Section of the Crime Prevention and Justice Assistance Division of the Department of the Attorney General regarding this matter. Dr. Perrone verified the concerns provided in our testimony and we encourage this committee to contact Dr. Perrone as well. The Crime Prevention and Justice Assistance Division developed the SSM and is best qualified to provide information to the legislature regarding how this system works, resources required, and time frames needed to complete correctional impact statements.

Finally, given the current unprecedented economic challenges facing the state, at this time, it would not be prudent to enact this type of costly legislation, which would negatively impact the priorities set forth in the Executive Supplemental Budget for Fiscal Year 2010-2011.

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



Committee: Committee on Legislative Management
Hearing Date/Time: Friday, February 5, 2010, 2:10 p.m.
Place: Room 423
Re: Testimony of the ACLU of Hawaii in Support of H.B. 2276, Relating to Public Safety

Dear Chair Tokioka and Members of the Committee on Legislative Management:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in strong support of H.B. 2276, which seeks to require bills to amend or create new offenses, or to change parole or probation procedures, to be accompanied by a correctional impact statement.

In these difficult economic times, it is important that proposed legislation is carefully scrutinized (through methods like impact statements) to determine whether passing the legislation is in the State's best interests. Correctional impact statements are particularly important because of the immense costs that come with sending additional individuals to prison (or sending individuals to prison for longer periods of time). The minimal – or nonexistent – deterrent effect from extended sentences and mandatory minimum terms, for example, simply may not be worth the extraordinary financial cost to Hawaii's taxpayers. A correctional impact statement will inform the process to ensure that we spend our limited resources in the most efficient and effective way possible, saving the State from long-term expenses that have little to no return benefit.

Furthermore, correctional impact statements may help to address some of the racial and ethnic disparities that exist in our criminal justice system. For example, as evidenced in last year's info briefing regarding the over-representation of native Hawaiians in the criminal justice system, native Hawaiians are disproportionately represented in prison. Again, the minor up-front cost of preparing an impact statement will go a long way to ensuring that we have an effective and equitable criminal justice system.

The ACLU of Hawaii's mission is to protect the fundamental freedoms enshrined in the U.S. and Hawaii 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.

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Hon. Rep. Tokioka, Chair, LMG Committee
and Members Thereof
February 5, 2010
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Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
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COMMITTEE ON PUBLIC SAFETY

Rep. James Kunane Tokioka, Chair

Rep. Blake Oshiro, Vice Chair

Friday, February 5, 2010

2:10 p.m.

Room 423

SUPPORT with amendments HB 2276 - Correctional Impact Statements

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 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 2276 - Correctional Impact Statements require bills to amend or create new offenses, or to change parole or probation procedures, to be accompanied by a correctional impact statement. The bill requires assistance of the corrections population management commission to prepare an analysis of the corrections population impact through use of the Sentencing Simulation Model.

This bill also tracks the ethnicity of individuals and gives more information to policymakers to make an informed decision by using the Sentencing Simulation Model developed by PSD several years ago to determine the impact of legislation on the criminal justice system, the economy, on Hawaiians, at-risk communities, prisons etc.

Community Alliance on Prisons **SUPPORTS** this important bill. This is a tool to give policymakers valuable information to help inform decisionmaking.

Suggested Amendments:

- 1) Since the Sentencing Simulation Model developed by PSD is now being housed at the Attorney General's research office, we suggest including language allowing either existing funding be re-purposed to re-start the model (estimated at approximately \$60,000 as presented to the Corrections Population Management Commission) or mandating that grants for this purpose be sought.

- 2) Include language allowing the Corrections Population Management Commission oversight of the Sentencing Simulation Model but transfer responsibility of the modeling to the AG's research office.

The Sentencing Simulation Model helped policymakers determine the impact of sentencing legislation before its passage. The tool is neutral and policymakers are only presented with the facts/data.

How did Hawai'i come to have such a rising prison population? The short answer is that the war on drugs and the passage of 'tough on crime' legislation that calls for the incarceration of low-level drug lawbreakers has led us down this dark path.

With overcrowded prisons and a rising corrections budget – PSD's budget rose 75.5% in the last decade with the budget for contract prison beds rising 192% at that same time. The information provided by these correctional impact statements would be invaluable to policymakers, researchers, families, concerned citizens, etc.

Hawai'i is in dire financial straits – this bill would give policymakers information on the impacts of their impending decisions so they could assess the costs v. benefits of any proposed legislation.

Hawai'i has been following the 'tough on crime' model which has resulted in a burgeoning prison population and almost two thousand of our people being banished thousands of miles from home to the hands of prison profiteers.

The Sentencing Simulation model is now housed at the AG's office and should be restarted to assist policymakers with the analysis needed on sentencing bills to assess their impact before they are passed.

There are more cost effective and efficient ways for Hawai'i to address the root cause of much of the crime in our communities.

Correctional or Racial Impact Statements provide much needed information to policymakers, which is why Iowa and Connecticut have passed such laws and other jurisdictions are considering them. We simply can no longer afford to incarcerate individuals we are mad at.

Incarceration is the most expensive sanction and should be reserved for those who we are afraid of. The result of mass incarceration is that it has lost its deterrent effect...it has actually become a 'rite of passage' for many young men in our community. This is not the message we should be sending to our youth.

Community Alliance on Prisons urges passage of HB 2276.

Mahalo for this opportunity to share our thoughts.



the
**Drug Policy
Forum**
of hawaii

February 5, 2010

To: Rep. James Kunane Tokioka, Chair
Rep. Blake Oshiro, Vice Chair and
Members of the Committee on Legislative Management

From: Jeanne Ohta, Executive Director

Re: HB 2276 Correctional Impact Statements
Hearing: Friday, February 5, 2010, 2:10 p.m., Room 423

Position: Strong Support

The Drug Policy Forum of Hawai'i writes in support of HB 2276 which requires bills to amend or create new offenses, or to change parole or probation procedures, to be accompanied by a correctional impact statement; requires assistance of the corrections population management commission to prepare corrections population impact.

We support the proposed amendments suggested by the Community Alliance on Prisons.

During the past decade, prison costs have increased dramatically due to longer prison terms; mandatory minimum sentencing policies; and more punitive drug policies. Incarceration is an extremely costly public policy, diverting funds away from other public programs like health, education, and human services.

When proposals are made that would impact the corrections populations and thus prison costs, policymaker should have that information to decide whether the benefits justify the additional costs.

On behalf of taxpayers, legislators need to know whether the proposal will make us poorer not safer. We urge you to pass this measure so that all of the facts may be considered while deliberating costly changes in public policy.

Thank you for this opportunity to provide testimony.

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