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**TESTIMONY FOR SENATE BILL 1014, SENATE DRAFT 1, RELATING TO THE
HOUSELESS PERSON'S BILL OF RIGHTS**

Senate Committee on Judiciary and Labor
Hon. Gilbert S.C. Keith-Agaran, Chair
Hon. Maile S.L. Shimabukuro, Vice Chair

Senate Committee on Ways and Means
Hon. Jill N. Tokuda, Chair
Hon. Ronald D. Kouchi, Vice Chair

Friday, February 27, 2015, 10:05 AM
State Capitol, Conference Room 211

Honorable Chair Keith-Agaran, Chair Tokuda, and committee members:

I am Kris Coffield, representing the IMU Alliance, a nonpartisan political advocacy organization that currently boasts over 300 local members. On behalf of our members, we offer this testimony in support of, with proposed amendments for SB 1014, SD1, relating to the houseless bill of rights.

Over the past three years, Honolulu Mayor Kirk Caldwell and the Honolulu City Council have enacted several ordinances aimed at “compassionately disrupting” homelessness on O’ahu. The most prominent of these ordinances are recently enacted sit-lie bans, which were originally implemented in high commerce areas like Waikiki, but have been expanded to commercial properties located in all regions of O’ahu, including windward and leeward towns and, most recently, malls bordered by businesses. Additionally “obstruction” ordinances target property stored on sidewalks and houseless persons remaining in parks after operating hours.

City officials erroneously argue that these measures are intended to preserve the legitimate, largely pedestrian, use of public space necessary for commercial and recreational conduct. If people can't walk down the sidewalk, city leaders contend, local entrepreneurs will not be able to receive customers and pedestrians will not be able to safely enjoy the unique cultural experience of our island home.

We believe these arguments are false for three reasons. First, the city ordinances amount to an unconstitutional criminalization of the homeless. Councilmembers have stated that the new laws do not specifically target the homeless, but rather anyone engaging in obstructive activity.

Many judges and legal experts around the country have repeatedly argued that these laws are selectively enforced against the homeless in the form of unannounced property raids, which constitute an unconstitutional violation of the Fourth Amendment's search and seizure protections. For clarity, the Fourteenth Amendment provides that:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

Again for clarity, the terms “search” and “seizure” were concisely summarized in the majority opinion to *United States v. Jacobsen*, 466 U.S. 109 (1984), which declared that Fourth Amendment, “protects two types of expectations, one involving 'searches', the other 'seizures'”. A *search* occurs when an expectation of privacy that society is prepared to consider reasonable is infringed. A *seizure* of property occurs where there is some meaningful interference with an individual's possessory interests in that property.” According to these understandings, When law enforcement, without notice, raid a homeless encampment and usurp—and often destroy—homeless people's belongings, including basic government documents and identification, the city is infringing homeless people's civil rights.

Second, these ordinances, and sit-lie bans in particular, are ineffective, serving neither to increase local economic activity or improve services to the homeless. Instead, these ordinances place a significant cost upon local taxpayers. Every raid on a homeless encampment costs the City and County of Honolulu approximately \$15,000, according to Mayor Caldwell, and similarly burdensome expenses are borne by the storage and destruction of confiscated property and potential arrest, prosecution, and incarceration of violators. A 2012 report from the University of Berkeley School of Law's Policy Advocacy Clinic found that empirical claims about the economic benefits of nuisance ordinances that disproportionately target the homeless are “neither proven nor promising” and suggested, instead, that supportive housing strategies, such as Housing First initiatives, would better accomplish municipal goals of reducing homelessness, cutting crime rates, and boosting fiscal growth.

Third, the aforementioned city laws do not and cannot incentivize housing, unless an adequate supply of shelter space and affordable housing is available. Currently, Hawai'i has an adequate supply of neither. According to a 2011 planning study, up to 50,000 new housing units will need to be built by 2016 to satisfy demographic and economic demand. Failure to produce sufficient units for low- and moderate-income households at a time when the overall economy continues to stutter and consumer prices escalate could place more people on the streets. Shelter space, too, exceeds the total number of homeless people in the islands. In Honolulu alone, the Institute for Human Services emergency shelter houses 390 people, with Next Step Shelter housing another 220 individuals. Yet, in the 2014 State of Homelessness in America report, Hawai'i ranked highest among in the nation for homeless people per capita. A 2014 state-sponsored point-in-time tally found there were more than 4,700 homeless in Honolulu and

another 2,200 on the neighboring islands, totals that likely underreport reality given the reluctance of large numbers of homeless to participate in government studies.

Criminalization will not cure homelessness, as this bill acknowledges by granting rights to houseless people that contravene city crackdowns. Only housing will help. Our efforts to end poverty for our state's most vulnerable citizens should be spent toward increasing the supply of shelter space and truly affordable housing, including micro-housing and Housing First operations, available to those in need. Because the aforementioned nuisance laws disproportionately target the homeless, we submit that lawmakers have a responsibility to pass this bill establishing an enumerated bill of rights for people being turned into a suspect class through the repeated violation of their civil liberties. Criminal convictions often morph into discrimination, creating a legal trail that impairs a person's ability to obtain housing, employment, higher education, and more. As the National Coalition for the Homeless wrote in 2014, as many as 70 percent of homeless people are already subject to "economic profiling," a form of discrimination in which law enforcement, private business, medical, and even social programs deny services because of real or perceived houselessness.

We additionally note that this bill could correct shelter abuses experienced by homeless people, including denial of personal banking information and inability to sleep in legally parked vehicles (currently criminalized under section §291C-112). That said, we request consideration of three amendments to confront shelter abuses not covered by the bill. First, we suggest adding an additional subsection to address exorbitant shelter fees, which range from \$90 to \$300 per month at IHS. We proposed the following language to enact this amendment: **"The right to participate in an emergency homeless shelter or program without financial harm and to the return of any fees paid for participation in an emergency homeless shelter or program."** Second, we also encourage you to address the lack of a substantive appeals process for evicted shelter residents by adding an additional subsection to the bill to read: **"The right to access information about the rules for participating in a homeless shelter or program, a notice of cause upon eviction from a homeless shelter or program, and a process for appealing an eviction from a homeless shelter or program."** Third and lastly, we urge you **delete subsection (10)(b) from the bill regarding shelter savings programs**, since participants in these programs have been routinely denied access to basic information about their accounts and, thus, the ability to make sound fiscal decisions based on complete and accurate knowledge of their financial circumstances.

Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

Honolulu, February 26, 2014

To: Hawaii State Senate Committee on Judiciary and Labor
Hawaii State Senate Committee on Ways and Means

Aloha Members of the Hawaii Senate Judiciary and Labor and Ways and Means Committees:

Today, I write to you as Honolulu resident and as former homeless individual to testify in favor of SB1014 bill. I am also writing to you to request your support by approving and enacting SB1014 bill (Hawai'i Houseless Bill of Rights) in the state of Hawai'i.

The United Nations' Universal Declaration of Human rights first article states that all human beings are born free and equal in dignity and rights. Its second article states that everyone is entitled to all of the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, PROPERTY, birth of other status. Yet, since Honolulu city's sit-lie ordinances 42, 43, 46 and 48 became law and started being enforced in 15 different districts last year, more than 8,000 homeless individuals and families have their most human and civil rights; as well as U.S. Constitutional Amendment rights violated on a daily basis.

Criminalization of homelessness laws has been proven to be an ineffective measure to address or treat the roots of the problems that causes and perpetuates homelessness in any given city or state. It increases marginalization of an already vulnerable group of individuals by creating unnecessary and unjust arrests, unnecessary criminal records, expensive tickets that homeless individuals cannot afford to pay, and jail time for being homeless and no longer having the same equal, universal human rights that someone who has the privilege of having access to a home is afforded to. Also, criminalization of homelessness measures negatively impacts a homeless person's ability to obtain employment. It hurts a homeless person's chance to qualify for affordable, long term housing because a criminal record is a disqualifying criteria for public housing assistance subsidy. It is also not a cost effective measure, since the money used to enforce criminalization of homelessness ordinances must be used to pay for the cost of police, jail, medical and court time. The financial resources that are now being used to enforce these new ordinances should be allocated to fund adequate transitional and long term adequate services and affordable housing for homeless individuals instead.

Rhode Island, Connecticut, Illinois, and Puerto Rico have already passed Homeless Bills of Rights, in response to United Nations 2012 and 2014 reports, which condemned criminalization of homelessness policies in the U.S. The same report urged for the end of its criminalization of homelessness practices in our country. In 2014, the United States pledged in the Federal Plan to End Homelessness for ALL by 2020. Honolulu City has joined the federal mayor's challenge to end Veteran's homelessness by 2016.

Passing SB1014 bill will give the state of Hawaii an opportunity to implement constructive and alternative policies to end criminalization of homelessness policies and ensure that the human

and the civil rights of ALL residents equally valued and protected. My understanding is that SB1014 bill is not asking for special privileges to be granted to homeless individuals. Rather, it is reminding us all that homeless individuals have the same value and rights to be treated with equal rights and dignity granted to individuals who do have access to housing.

Imagine having to undergo cancer treatments and then deal with the undesirable side effects such as diarrhea, nausea, exhaustion, fatigue and vomiting while being homeless? I don't have to imagine that. At the age of 36, I was diagnosed with stage IV, inoperable melanoma cancer. I have received a two year life prognosis. My best chance of survival was to participate in a clinical trial treatment offered in only one hospital in Los Angeles, California. In order to take this chance, I had to quit my salaried job with benefits, leave the comfort of my apartment, spend all of my savings and move 2,500 miles away from home for 6 months to go through this treatment. I did not qualify for partial social security or emergency medical assistance because clinical trial treatments are not considered standard cancer treatment and because I had savings. I ran out of money on my second month of treatment. I was homeless for two weeks while undergoing cancer treatments three times per week.

As someone who did not have access to a bathroom, or the privilege to benefit from the safety and the sanctity that a home provides one with during this short period, I can assure you that the challenges that I have faced were very different than the ones that I did not even have to think about it when I had my own home. Wearing Depends was not always effective and I did not make it to public bathrooms in time. Carrying plastic bags to contain my vomit did not work every time either. Not being able to cook my own meals while my immune system was weaker made me more susceptible to infections, which would have been easily prevented if I had access to a kitchen. Sometimes, lying under a palm tree on the beach, watching the waves, the seagulls flying and feeling the breeze of the ocean gave me the strength necessary to continue with my treatments and much needed respite for my heart and soul.

I have chosen to disclose in public one of the most painful experiences of my life to invite you to rethink the walls that we build between ourselves and homeless individuals. Homelessness can happen to anyone, at any given time. We must remember that we are all brothers and sisters, and that each life does have a value and that each one of us matter.

Respectfully Submitted,

Beatriz Cantelmo

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc:
Subject: *Submitted testimony for SB1014 on Feb 27, 2015 10:05AM*
Date: Friday, February 27, 2015 9:21:08 PM

SB1014

Submitted on: 2/27/2015

Testimony for JDL/WAM on Feb 27, 2015 10:05AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Timothy Sean Payne Hills	Individual	Support	No

Comments:

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SB1014

Submitted on: 2/26/2015

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Submitted By	Organization	Testifier Position	Present at Hearing
Ileana Ruelas	Individual	Support	No

Comments:

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