

SB 1268

RELATING TO PUBLIC SAFETY

Requires the department of public safety to construct a multi-story correctional facility at the Halawa correctional facility to replace the existing Oahu community correctional center. Authorizes the issuance of general obligation bonds and appropriates funds for the planning, design, and construction of the multi-story correctional facility.

PSM, WAM

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Chair: Sen. Will Espero

Vice Chair: Sen. Rosalyn Baker

Wednesday, February 12, 2015

1:15 p.m.

Room 229

COMMENTS on SB 1268 – NEW OCCC on HALAWA FOOTPRINT

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

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 1268 requires the department of public safety to construct a multi-story correctional facility at the Halawa correctional facility to replace the existing Oahu community correctional center. Authorizes the issuance of general obligation bonds and appropriates funds for the planning, design, and construction of the multi-story correctional facility.

Community Alliance on Prisons acknowledges the sub-standard and shameful conditions in which Hawai'i's incarcerated people are forced to live. Frankly, it is difficult for us to understand why the state doesn't maintain these facilities.

THE LAWS REGARDING COMMUNITY INVOLVEMENT

Before the Legislature proceeds with this plan, we respectfully remind you of two laws passed by prior Legislatures. In 1998 the Hawai'i State Legislature passed two laws that are now in statute:

§353-16.35 Development or expansion of in-state correctional facilities. (a) Notwithstanding any other law to the contrary, the governor, with the assistance of the director, may negotiate with any person for the development or expansion of private in-state correctional facilities or public in-state turnkey correctional facilities to reduce prison overcrowding; provided that if an environmental

assessment or environmental impact statement is required for a proposed site or for the expansion of an existing correctional facility under section 343-5, then notwithstanding the time periods specified for public review and comments under section 343-5, the governor shall accept public comments for a period of sixty days following public notification of either an environmental assessment or an environmental impact statement.

(b) Any development or expansion proposal shall address the construction of the facility separate from the operation of the facility and shall consider and include:

- (1) The percentage of low, medium, and high security inmates and the number of prison beds needed to incarcerate each of the foregoing classes of inmates;*
- (2) The facility's impact on existing infrastructure, and an assessment of improvements and additions that will be necessary;*
- (3) The facility's impact on available modes of transportation, including airports, roads, and highways; and*
- (4) A useful life costs analysis.*

(c) For the purposes of this section, "useful life costs" means an economic evaluation that compares alternate building and operating methods and provides information on the design, construction methods, and materials to be used with respect to efficiency in building maintenance and facilities operation. [L 1998, c 227, pt of §5; am L 2003, c 221, §1]

The purpose of public outreach is to help ensure that a comprehensive environmental impact document would be prepared that provides a firm basis for the decision-making process. The intent of the public outreach process is to:

□ Inform agency representatives, elected officials, and interested members of the public about the proposed action, the roles and responsibilities of PSD and the U.S. Department of Justice in implementing the proposed action, as well as activities to ensure compliance with HRS 343 and NEPA.

To address this issue, the legislature enacted the following statute:

§353-16.37 Community partnering. *Regardless of the method for funding new prison facilities, the department of public safety shall develop and implement a community partnering process to be incorporated into the request for proposal; this partnering process shall include a community hearing for the purpose of soliciting community input. Further, a community benefit and enhancement package shall be developed by the department and the affected community to mitigate the negative aspects of building a correctional facility in the community. The benefit and enhancement package may include but is not limited to:*

- (1) Infrastructure improvements;*
- (2) Job training programs or improvements to schools and health care facilities;*
- (3) Social programs; and*
- (4) Other government functions. [L 1998, c 227, pt of §5; am L 1999, c 134, §4]*

The legislative intent is clear. The legislature has directed the Department of Public Safety to involve the community at the earliest stage of planning. To date the only community contact has been the public announcement of DPS's \$1 billion plan for which the community will be footing the bill. This does not constitute community involvement.

CAVEAT EMPTOR (LET THE BUYER BEWARE)
THE PROBLEMS WITH PUBLIC PRIVATE PARTNERSHIPS

The following excerpt is from a report¹ released in October 2014. This report – Pay to Prey: Governors Facilitate the Predatory Outsourcing of America's Public Services – highlights examples from Florida, Kansas, Michigan, Ohio, Pennsylvania, Maine, and Wisconsin where governors have sold the public interest to private firms.

While large corporations are the winners in this scenario, all too often taxpayers are the losers when transparency, accountability and the public interest are sold out to for-profit firms.

Outsourcing of public services is a big business. Some experts estimate that \$1 trillion out of the \$6 trillion the federal government, together with state and local governments, spend annually are handed over to private contractors.

*In 2010, an electoral landslide ushered in a new breed of governors. Aided and abetted by corporate-funded legislative and lobbying groups, such as the American Legislative Exchange Counsel (ALEC), these governors pushed the envelope of outsourcing and privatization, selling public services to for-profit firms with their **powerful political lobbies** and related campaign contributions.*

In this process, transparency and accountability are lost and the public loses its ability to influence decision makers through normal democratic channels. Shared prosperity also suffers when good middle class jobs are lost to low-road, low-wage employers.

In states across the country, schools, health care, prisons, prison food, water services, road services, state liquor sales, state economic development authorities, legal services, and even child support services were outsourced to private, for-profit companies. While the governors spoke of tight budgets and cost savings, a pattern emerged of influential corporate lobbyists and deep-pocketed campaign contributors.

In this effort to shrink government and sell off the prosperous parts to private interests, the winners are large corporations with a phalanx of lobbyists and campaign coffers big enough to buy political influence. All too often, taxpayers find themselves on the losing side.

While there are countless examples of privatizations gone awry costing taxpayers more money, few independent studies have been conducted on the true costs of outsourcing. Do reduced labor costs save taxpayers money or do any savings line the pockets of CEOs and shareholders? One survey by the International City/County Management Association showed that 52 percent of governments that brought services back in-house reported that the primary reason was insufficient cost savings.

In September 2014, the Project on Government Oversight released a report² found that *"the federal government has failed to determine how much money it saves or wastes by outsourcing, insourcing, or retaining services, and has no system for doing so."*

¹ **Pay to Prey: Governors Facilitate the Predatory Outsourcing of America's Public Services**, The Center for Media and Democracy's PR Watch, October 15, 2014.
<http://www.prwatch.org/news/2014/10/12620/pay-to-prey-governors-facilitate-the-predatory-outsourcing-of-americas-public-services>

² **Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors**
<http://www.pogo.org/our-work/reports/2011/co-gp-20110913.html#sthash.N3u0np0P.dpuf>
<http://www.pogo.org/our-work/reports/2011/co-gp-20110913.html>

A 2012 report produced by People for the American Way³ included a section entitled, "Privatization as a Phony Panacea":

Privatization is almost always promoted as a way to save money, improve services, and shake up unaccountable bureaucracies. But in reality, privatization often fails on all counts. Privatization plans can cost government and taxpayers more money, limit accountability and transparency, and leave people who depend on public services worse off.

A study released last fall by the nonprofit Project on Government Oversight **found**, for example, that in 33 of 35 occupations, the government paid billions more to hire contractors than it would have cost to have the same functions performed by government employees.

***"Desperate government is our best customer.
There will be a lot of desperate governments out there"***

Chairman of a major finance company specializing in infrastructure privatization,
addressing the annual meeting of the National Council for Public-Private Partnerships
in the midst of the financial crisis in 2008.

A report released by In the Public Interest⁴ in June 2014 concludes:

For decades, governments rushed to hand over control of public services to for profit and other private entities under the promise that services would be performed better, faster and cheaper. Unfortunately, all too often this promise failed to materialize – and communities across the country must deal with the disastrous results because they locked themselves into long-term contracts.

But the past few years produced a shift in the outsourcing debate, largely as a result of greater public awareness of the dangers of reckless outsourcing, emerging research and arguments for responsible contracting, and a robust effort by taxpayers to reclaim control of their services. ***To date, 19 states introduced responsible contracting reforms and four were signed into law. In the Public Interest anticipates this trend will continue as the public, lawmakers and the media continue to read the fine print of outsourcing deals and discover that taxpayers handed over too much control of their public services to private entities.***

HOW CAN WE REDUCE THE IMPRISONED POPULATION?

It is well documented that community-based treatment is more effective than prison-based treatment because it is addressed in a public health modality; prison is all about security. Research shows that for every \$1 spent on drug treatment in the community, approximately \$18 is saved.

³ ***Predatory Privatization: Exploiting Financial Hardship, Enriching the 1%, Undermining Democracy***, 2012.
<http://site.pfaw.org/pdf/Predatory-Privatization.pdf>

⁴ ***SHIFT How Taxpayers Began Reclaiming Control of Their Public Services***, In the Public Interest, June 2014.
<http://www.inthepublicinterest.org/article/shift-how-taxpayers-began-reclaiming-control-their-public-services>

Substance abuse treatment provided in the community is more cost-effective than imprisonment. Individuals with substance abuse histories compose a large portion of the prison population. Substance use/abuse plays a role in the commission of certain crimes. Treatment delivered in the community is one of the most cost-effective ways to prevent such crimes.⁵

Increasing investment in community-based mental health treatment, improving diversion from prison and jail, and ensuring that those leaving prison have adequate care, all will reduce the financial burden of imprisoning community members suffering with a mental illness. Mental health litigation has established the legal right to treatment in custodial facilities -- for pretrial detainees as well as sentenced inmates. Among its benefits, good mental health treatment can reduce security risks by minimizing the symptoms of mental illness, thereby decreasing potential disruptions to jail routines and injuries to staff and detainees. The problems jails experience in connection with mentally ill detainees are associated with the absence of criminal justice policies, procedures, and standards specifically addressed to this group of offenders. Deficiencies in training, communication, and resources result from viewing the jail in isolation, rather than as an integral part of a criminal justice system (that includes the police, the courts, defense attorneys, and prosecutors) with linkages to mental health and other human services based in the greater community.⁶

A 2010 report from the Center for Economic and Policy Research⁷ concluded:

The United States has the highest incarceration rate in the world and also the highest rate in its history, with about 753 people per 100,000 in prison or jail in 2008. The number of incarcerated people in the United States has increased by more than 350 percent since 1980, while the overall population has grown by only 33 percent.

A reduction by one-half in the incarceration rate for non-violent offenders (who now make up over 60 percent of the prison and jail population) would lower the overall incarceration rate to the level reached in 1993 (which was already high by historical standards). This would also lower correctional expenditures by \$16.9 billion per year, with the large majority of these savings accruing to state and local governments. These projected savings would amount to almost one-fourth of total corrections budgets. The extensive research on incarceration and crime suggests that these budgetary savings could be achieved without any appreciable deterioration in public safety.

We are now holding people who are Community and Minimum Custody at Halawa, which is against all correctional best practices. There are a multitude of things we can do right now to

⁵ The comparative costs and benefits of programs to reduce crime, Olympia: Washington State Institute for Public Policy, Aos, Steve, Polly Phipps, Robert Barnoski, and Roxanne Lieb. 2001.

² Providing Services for Jail Inmates with Mental Disorders, NIJ Research in Brief, Travis, Jeremy, and January, 1997. <http://www.ncjrs.gov/txtfiles/162207.txt>

⁷ The High Budgetary Cost of Incarceration, Center for Economic and Policy Research John Schmitt, Kris Warner, and Sarika Gupta, June 2010. <http://www.cepr.net/documents/publications/incarceration-2010-06.pdf>

reduce the incarcerated population, while saving lives and resources. Growing a criminal underclass by overclassifying individual's custody levels only serves to promote criminality.

Hawai'i already knows what works. There are many programs in place already that could be expanded to handle clients who are exiting incarceration. If we implement the principles of Justice Reinvestment that are working in other places, we will realize a reduction in the incarcerated population and an increase in community services. This is good for our local economy because it translates into local jobs for local people, less crime, and safer and healthier communities.

Some of the programs that we know are effective – if implemented correctly:

- Work Furlough IF the person is prepared to work out in the community
- Jail Diversion – IF there is support to assist people in living legally and independently
- Desistence⁸
- Good Time/Earned Time Program
- Work Training & Educational Programs
- Pre-Release And Reentry Programs
- Restorative Reentry Planning Circles

Sentencing reform is an effective way to stem the inflow of individuals into the justice system. Criminalizing every behavior that some find offensive will certainly put our economy underwater. Sentencing needs to be proportionate to the crime.

In short, there are many proven strategies that we could earnestly employ to reduce the incarcerated population, but also to stop the inflow to incarceration. It takes courage to do things that you may think are unpopular; however, an October 2014 Reason-Rupe Public Opinion Survey found that 77 percent of Americans support eliminating mandatory minimum sentences for non-violent drug offenses. That number is up from 71 percent in December 2013, the last time Reason-Rupe polled on the question. You can find the full survey results here (http://famm.org/wp-content/uploads/2014/10/Topline_ReleaseFULL_oct_10_2014-1.pdf); mandatory minimums are question 17.

17. Would you favor or oppose eliminating mandatory minimum prison sentences for nonviolent offenders so that judges have the ability to make sentencing decisions on a case-by-case basis?

Favor	77%
Oppose	17%
Total	100%

Implementing shorter sentences and more programs to help individuals successfully rehabilitate their lives and then transition back to the community would be enormously helpful in reducing the population of incarcerated human beings. We MUST address who actually should be in prison and who would be better served in community programs.

⁸ A desistance paradigm for offender management, *Criminology & Criminal Justice*, McNeill, Sage Publications, 2006.. http://www.sccjr.ac.uk/wp-content/uploads/2009/01/A_Desistance_Paradigm_for_Offender_Management.pdf

THE ASSOCIATION OF HAWAIIAN CIVIC CLUBS AND THE HAWAII DEMOCRATIC PARTY HAVE WEIGHED IN WITH RESOLUTIONS PASSED IN 2014 :

- **THE ASSOCIATION OF HAWAIIAN CIVIC CLUBS URGES THE STATE TO IMPLEMENT JUSTICE REINVESTMENT BEFORE EXPANDING BEDSPACE**

We respectfully call the committee's attention to the **Association of Hawaiian Civic Clubs Resolution No, 14-18** that passed the 2014 AHCC Convention on November 1, 2014 titled, **"STRONGLY URGES THE STATE TO FULLY IMPLEMENT AND FUND THE JUSTICE REINVESTMENT INITIATIVE BEFORE IT BEGINS PLANNING FOR EXPANDING BED SPACE FOR HAWAII'S INCARCERATED PERSONS."**

The resolution *"calls upon the Department of Public Safety to do a complete and comprehensive analysis of the needs of Hawai'i's incarcerated population serving their sentences in Hawai'i and other jurisdictions"*, and further that *"this analysis shall include, but not be limited to, the classification status of each incarcerated person, his/her minimum sentence, his/her tentative parole date (if applicable), and the current location of each person under custody"*. The resolution goes on to say that *"this analysis shall include a breakdown by race with specific counts for incarcerated Native Hawaiians, both men and women"*.

- **THE HAWAII DEMOCRATIC PARTY PASSES HHS 2014-03 JUSTICE REINVESTMENT INITIATIVE FOR PRISONERS IN HAWAII**

The Democratic Party passed HHS 2014-03 Justice Reinvestment Initiative For Prisoners in Hawaii, which can be found in a pdf file on the Democratic Party's website: <http://hawaiidemocrats.org/index.php/about/resolutions/201-2014-health-and-human-services-resolutions>.

Using these proven strategies that have had success in Hawai'i, we can reduce the prison population, return incarcerated persons from Arizona, and reinvest the savings in an array of community programs that are run by our people, for our people, providing desperately needed services in our communities, jobs for our people, and our money circulating in our economy.

Let's figure out who we would be building the facilities for before committing resources. And let's think long and hard before we outsource public government functions to private contractors.

Hawai'i needs real programs that have been proven to work. **Treatment Works; Prisons Don't.**

BUILD PEOPLE; NOT PRISONS!

Mahalo for this opportunity to testify.

SB1268

Submitted on: 2/10/2015

Testimony for PSM on Feb 12, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kenny Wusstig	Individual	Support	No

Comments: