

March 17, 2015

COMMITTEE ON HUMAN SERVICES

Rep. Dee Morikawa, Chair
Rep. Bertrand Kobayashi, Vice Chair
Rep. Della Au Belatti
Rep. Jo Jordan

Rep. Richard P. Creagan
Rep. Marcus R. Oshiro
Rep. Mark J. Hashem
Rep. Beth Fukumoto Chang

NOTICE OF HEARING

DATE: Thursday, March 19, 2015
TIME: 9:00 a.m.
PLACE: Conference Room 329
State Capitol
415 South Beretania Street

**RE: TESTIMONY IN STRONG SUPPORT OF SB269 SD2
RELATING TO PUBLIC ORDER**

Establishes the process and grounds for a person to petition the court to vacate a conviction for obstructing a public place on grounds that the person was homeless at the time of committing the offense.

Dear Committee on Human Services:

The Pacific Alliance to Stop Slavery (PASS) strongly supports SB269 SD2. PASS has been helping the houseless population in Kakaako for the past year. We attest that the existing laws that are utilized to “sweep” the sidewalks and parks of homeless persons are extremely harmful to this vulnerable community.

These laws criminalizing the poverty make it exponentially difficult for social services to maintain contact with the houseless to direct them toward permanent housing. City laws are selectively enforced upon the houseless population and these victims of unconstitutional policies in application need a remedy from the criminalization of poverty.

These City-run sweeps or “raids” on homeless encampments also result in:

- 1) many houseless persons losing their jobs since they must miss work to tend to their belongings during raids;
- 2) confiscation and unconstitutional disposal of identification and important documents such as social security cards, birth certificates, and marriage licenses, all of which are documents needed to obtain and maintain benefits, housing, housing first, employment and medication for serious medical conditions; and
- 3) relegating the victims of these raids to prolonged poverty since these raids are responsible for the confiscation of all property belonging to the houseless person involved.

This is no way to effectively handle homelessness and even makes the problem worse.

Problematic Criminalization Policies Implemented in Other U.S. Cities¹

Costly measures to incarcerate and fine homeless individuals:

- **Issuing citations to homeless persons is expensive.** San Francisco spent \$9.8 million between 2004 and 2008 on over 56,000 “quality of life” citations.
- **Incarcerating homeless people costs twice as much as providing them permanent housing.** In Cleveland, incarceration costs \$65 per day, versus \$30 per day for shelter. Seattle’s “Housing First” program indicated that provided permanent housing for homeless people was 53% less expensive than having them live on the street. This marginal cost saving increased over time as program participants became financially stable and independent.
- **Issuing citations does not prevent homelessness.** Minneapolis spent an estimated \$2.6 million between 1994 and 2005 issuing citations and incarcerating 33 chronically homeless individuals, with minimal desired results.
- **It may in fact make people more likely to remain homeless.** Indianapolis spends \$3 to \$7 million annually on its population of 500 homeless individuals (similar in size to Honolulu’s unsheltered homeless population estimate of 505 in 2013). The Indianapolis study notably linked contact with law enforcement with longer periods of homelessness and higher costs associated with healthcare.

Policies Proved to be Effective in Other U.S. Cities²

- **Seattle’s** programs to place the chronically homeless into permanent housing cost \$1.1 annually and saved a total of \$2.5 million per year (\$2,400 per person), which was previously spent on medical expenses, bookings, and shelter.
- **Portland’s** “A Key not a Card” initiative placed 936 homeless people into permanent housing between 2005 and 2009 at a cost of \$1.9 million per year.
- **A Palo Alto, Calif.** program created kits that other municipalities could purchase to establish their own employment and housing support services for homeless individuals. **Daytona Beach, Fla.** has recently implemented its kit with success.
- UC Berkeley’s Policy Law Clinic issued a study in 2012 and again in February 2015. The 2012 study states that they found “no meaningful evidence to support the arguments that Sit-Lie laws increase economic activity or improve services to homeless people.”³

¹ The National Law Center on Homelessness & Poverty and The National Coalition for the Homeless (July 2009)

² Ibid.

³ Cooter, Joseph and Meanor, Ericka and Soli, Emily and Selbin, Jeffrey, Does Sit-Lie Work: Will Berkeley's 'Measure S' Increase Economic Activity and Improve Services to Homeless People? (October 22, 2012). Available at SSRN: <http://ssrn.com/abstract=2165490> or <http://dx.doi.org/10.2139/ssrn.2165490>

Serious Concerns of Criminalization of Non-Violent Offenses

We enumerate some facts to consider with regard to criminalization and erosion of rights for the Homeless:

1) PRISON OVERCROWDING/INCARCERATION OF NONVIOLENT OFFENDERS

Established ordinances and laws that criminalize the homeless exacerbate the overcrowding of our prison system and add more costs for the price of incarceration. To make room for the influx of more inmates, our Correctional Facilities would be incentivized to transport other inmates who have committed felonies, into the Federal Detention Center (FDC) or to mainland prisons, all at the taxpayers' expense. Many inmates have been abused and traumatized by their out-of-state transfer.

- i. As of the end of 2009, it cost approximately \$118 per day to incarcerate an inmate in OCCC (over \$42,000 per year per inmate), and at least \$62 per day to incarcerate him or her in a private prison on the mainland (over \$22,000 per year per inmate)⁴.
- ii. Furthermore, it is unjust to incarcerate nonviolent offenders along with violent convicted felons as a method of “rehabilitation” or to prevent recidivism. It only serves to traumatize these nonviolent offenders and create anti-social behavior.
- iii. Governor Abercrombie has publicly stated that he is committed to returning Hawaii’s inmates back to Hawaii⁵. These proposed laws would complicate this commitment, should our prison system be burdened with the incarceration of more non-violent offenders, which these policies propose.

2) WASTE OF TAXPAYER DOLLARS

Criminalizing the homeless has proved, in other places (San Francisco, Los Angeles, South Carolina, Massachusetts, Florida, etc.) as well as in Honolulu, to be massively ineffective and only succeeds in wasting taxpayer dollars. Once the “offenders” have served their time, they go back to the streets and sidewalks and the State and City will have accomplished nothing. The only outcome these policies do is make it even harder for homeless persons to exit out of poverty since they will then have an additional hardship: a criminal record.

<http://www.kitv.com/news/hawaii/sidewalk-nuisance-law-has-done-little-to-clear-clutter/-/8905354/21507216/-/8sv5eez/-/index.html>

Civilbeat.com stated that the City spends \$15,000 each time it “sweeps” the streets of homeless persons, and the Mayor has publicly stated that he has increased the number of sweeps to 3 times a week. <http://www.civilbeat.com/2014/06/nightly-migration-homeless-chased-from-waikiki-for-a-few-hours/> and <http://www.kitv.com/news/hawaii/city-plans-on-homeless-sweeps->

⁴ Johnson, D. (2011) Hawaii’s Imprisonment Policy and the Performance of Parolees Who Were Incarcerated In-State and on the Mainland. Hawaii State Department of the Attorney General. Retrieved on January 11, 2014, from: <http://ag.hawaii.gov/cpia/files/2013/01/AH-UH-Mainland-Prison-Study-2011.pdf>

⁵ Reyes, B.J. (2010) Abercrombie pledges isle inmates' return. A suit against an Arizona prison spurs the move. http://www.staradvertiser.com/news/20101216_Abercrombie_pledges_isle_inmates_return.html?id=111986729

3-times-a-week/-/8905354/23876950/-/guhgxz/-/index.html

3) **DEHUMANIZATION**

Criminalization of the homeless has serious repercussions in our overall society. When marginalized groups of people are criminalized by law, surrounding community members tend to dehumanize this group as we've seen throughout the past, especially with the Nuremberg Laws of Nazi Germany. In present day Hawaii, we have seen several violent beatings, and even murder of homeless persons in the recent past, coming on the heels of well publicized laws and ordinances criminalizing the homeless. <http://www.examiner.com/article/third-homeless-man-murdered-on-oahu-6-weeks>

4) **A HUMAN RIGHTS VIOLATION**

Criminalizing the homeless is also a human rights violation recognized by the United Nations. The UN has called upon the United States to repeal laws criminalizing homelessness. <http://www.unmultimedia.org/radio/english/2012/04/united-states-urged-to-repeal-laws-criminalizing-homelessness/>

5) **CRIMINALIZATION OF HOMELESS/RUNAWAY CHILDREN**

A particularly vulnerable population, within the overall homeless community, are juveniles at high risk for human trafficking. These children deserve basic rights, services, and care, not criminalization. Hawaii exceeds the national average in its rate of the incarceration of nonviolent juveniles for status offenses, with roughly 30% incarcerated for runaway offenses and another 20% for trancies. Further criminalization for being a homeless youth would only worsen and already serious existing problem facing Hawaii's Juvenile Justice System⁶.

We must enable the houseless with the right to live free to selective enforcement. PASS kindly and respectfully urges you to pass SB269 SD1, to enable the houseless who have been criminalized, fined, and incarcerated for these unjust laws, to have a fighting chance to leave homelessness with a clean record from these unnecessary petty crimes of poverty.

Sincerely,

Kathryn Xian
Executive Director
Pacific Alliance to Stop Slavery

⁶ Umemoto, K.; Spencer, J.; Miao, T.; Momen, S.. (June, 2012) Disproportionate Minority Contact 2000-2010. State of Hawaii, Crime Prevention and Justice Assistance Division. Retrieved on April 24th 2013, from: <http://ag.hawaii.gov/cpia/files/2013/01/DMC-FINAL-REPORT-2012.pdf>

kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 13, 2015 4:25 PM
To: HUS testimony
Cc: diane.ragone@gmail.com
Subject: *Submitted testimony for SB269 on Mar 19, 2015 09:00AM*

Categories: duplicate

SB269

Submitted on: 3/13/2015

Testimony for HUS on Mar 19, 2015 09:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Diane Ragone	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: Kahana Ho <kahanakitty@gmail.com>
Sent: Friday, March 13, 2015 12:39 PM
To: HUS testimony
Subject: STRON SUPPORT for SB269 SD2

Aloha mai, Chair Dee Morikawa, Vice Chair Bert Kobayashi, and the esteemed members of the House Committee on Human Services:

As a life-long resident of Hawai'i, I am writing to express my STRONG SUPPORT of SB 269 SD2 "Relating to Public Order", which "Establishes the process and grounds for a person to petition the court to vacate a conviction for obstructing or occupying a public space on grounds that the person was homeless at the time of committing the offense."

Having worked in social services as early as 1989 through the the early 2000's, I have witnessed the profound effects of houselessness and lack of domicile on individuals, families, and most tragically, youth.

Once one becomes undomiciled, one has to take shelter whenever and wherever one can find it. This is a matter of simply surviving, of staying alive. However, laws, ordinances, rules, and regulations are promulgated which criminalize the basic activities of living, including simply being in a space, that would not be criminal if they were occurring in a legal domicile. Houseless, or otherwise undomiciled persons have few, if any options as to where to "be" without being criminalized, for the simple fact of being houseless.

With a record of a criminal conviction, one encounters significant obstacles to obtaining employment and housing, the very things one needs to escape the condition of houselessness., and thus, being houseless becomes a "Catch-22" situation, if only for the existence of a criminal conviction related to being houseless.

SB 269 SD2 offers a reasonable way of providing undomiciled persons a means to clear their record of a conviction of an act that is inescapably the outcome of being houseless..

Therefore, I respectfully request that the members of the House Committee on Human Services vote in support of SB 269 SD2.

**Me ke aloha pūmehana,
Ms. Kahana Ho**

Sent from kat's iPhone

kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 13, 2015 1:56 PM
To: HUS testimony
Cc: patricia.blair@msn.com
Subject: *Submitted testimony for SB269 on Mar 19, 2015 09:00AM*

SB269

Submitted on: 3/13/2015

Testimony for HUS on Mar 19, 2015 09:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Blair	Individual	Support	No

Comments:

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kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 9:41 AM
To: HUS testimony
Cc: lynneronderko@gmail.com
Subject: *Submitted testimony for SB269 on Mar 19, 2015 09:00AM*

Categories: duplicate

SB269

Submitted on: 3/16/2015

Testimony for HUS on Mar 19, 2015 09:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Lynn Onderko	Individual	Support	No

Comments:

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kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2015 2:00 PM
To: HUS testimony
Cc: patriciablaire@msn.com
Subject: *Submitted testimony for SB269 on Mar 19, 2015 09:00AM*

Categories: duplicate

SB269

Submitted on: 3/17/2015

Testimony for HUS on Mar 19, 2015 09:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Blair	Individual	Support	No

Comments:

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Criminalization of the homeless is a human rights violation recognized by the United Nations. The UN has called upon the United States to repeal laws criminalizing homelessness:

<http://www.unmultimedia.org/radio/english/2012/04/united-states-urged-to-repeal-laws-criminalizing-homelessness/>

I strongly support SB269 which establishes a process to petition the court to vacate a conviction for obstructing a public place on grounds that the person was homeless at the time.

The Pacific Alliance to Stop Slavery (PASS) has been helping the houseless population in Kakaako for the past year and recently becoming aware of the deplorable situation, I have joined in to support these families with small children who live in tents there. The existing laws that are used to “sweep” the sidewalks and parks of homeless persons are extremely harmful to this vulnerable community.

These City-run sweeps or “raids” on families in homeless encampments cause:

- 1) Houseless persons losing their jobs as they miss work to tend to their belongings during raids;
- 2) Difficulty for social services providers to maintain contact with the houseless and to direct them toward permanent housing and medical services;
- 3) Confiscation and unconstitutional disposal of identification and important documents such as Social Security cards, birth certificates, and marriage licenses, all of which are documents needed to obtain and maintain benefits, housing, housing first, employment and medication for serious medical conditions;
- 4) Relegating the victims of these raids to prolonged poverty since raids are responsible for the confiscation of all property belonging to the houseless person involved.

Also within the overall homeless community are juveniles at high risk for human trafficking. These children deserve basic rights, services, and care, not criminalization.

Criminalization in no way resolves the homelessness issue but makes the problem even worse. Criminal convictions result in the inability to obtain employment, housing and necessary services.

Finally, criminalizing the homeless has proved massively ineffective in other places (San Francisco, Los Angeles, South Carolina, Massachusetts, Florida, etc.) as well as in Honolulu, and only succeeds in wasting taxpayer dollars. Once the “offenders” have served their time, they go back to the streets and sidewalks and the State and City will have accomplished nothing. The only thing these policies do is make it even harder for homeless persons to exit out of poverty since they will then have an additional hardship: a criminal record see:

<http://www.kitv.com/news/hawaii/sidewalk-nuisance-law-has-done-little-to-clear-clutter/21507216>

kobayashi2-Lynda

From: Andrea Anixt <andreapeatmoss@gmail.com>
Sent: Wednesday, March 18, 2015 8:28 AM
To: HUS testimony
Subject: SB269SD2 Testimony: I support the passage of this Bill.

Categories: duplicate

Please pass this Bill. There is an obvious downside to poverty on many levels, but is being 'criminals' forever and further locked into their record right? It only makes their ability to be self-supporting less likely ever. Mahalo,

Andrea Claire Anixt

kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2015 10:04 AM
To: HUS testimony
Cc: dave.mulinix@juno.com
Subject: Submitted testimony for SB269 on Mar 19, 2015 09:00AM

SB269

Submitted on: 3/18/2015

Testimony for HUS on Mar 19, 2015 09:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
David Mulinix	Individual	Support	No

Comments: Aloha, My name is David Mulinix for several years I served as the first Executive Director of Hawai'i Habitat for Humanity and built many houses for the Houseless on Oahu. For the past four years I and a group of friends have been feeding the Houseless every Sunday at Thomas Square Park. And for the past three weekends I have volunteered to help the University of Hawai'i conduct a survey of the needs of the Houseless at Kaka'ako Gateway Park and A'ala Park. I've worked with and intimately know folks who are Houseless and I am very familiar with their needs and situations. I am writing asking you to vote in support of SB269 SD2 to Vacate Convictions of the Houseless. This law is needed because the City and County of Honolulu has passed a series of laws that are criminalizing the poor just because they are Houseless and living on the street. The City by their lack of providing adequate resources and facilities for our Houseless community is making it inevitable that just because they are poor and living on the street they will be made into criminals. For example the City is not providing an adequate number of public restrooms and through their recent laws have closed public restrooms overnight. When a Houseless person tries to fulfill a basic function like using the only restroom available to them they can get a ticket because the City closed it at night to prevent the Houseless from using it. These tickets include fines that the Houseless cannot afford to pay. Not paying a ticket will inevitably land them in jail for nonpayment of a fine. Once in jail their simple act of using a restroom has now made them into criminal and while in jail they can miss work and loose their job, driving them deeper into poverty. SB269 simply vacates the conviction of these petty misdemeanors that the Houseless can get just because they are living on the street and need to fulfill basic functions. Please vote for SB269 and help decriminalize the actions of those who had no intent to break the law but just by living their living on the street their actions made it inevitable that they would be charged with a crime. Mahalo Nui Loa for your kind attention, Malama Pono, David Ray Mulinix Ahuimanu, 96744

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kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2015 12:01 PM
To: HUS testimony
Cc: duanedgs@yahoo.com
Subject: Submitted testimony for SB269 on Mar 19, 2015 09:00AM

SB269

Submitted on: 3/18/2015

Testimony for HUS on Mar 19, 2015 09:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Duane Sosa	Individual	Support	No

Comments: Aloha!!! My name is Duane Sosa. I am humbly testifying in SUPPORT of SB 269. Mahalo

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kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2015 11:33 AM
To: HUS testimony
Cc: kahanakitty@gmail.com
Subject: Submitted testimony for SB269 on Mar 19, 2015 09:00AM

SB269

Submitted on: 3/18/2015

Testimony for HUS on Mar 19, 2015 09:00AM in Conference Room 329

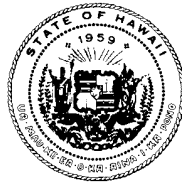
Submitted By	Organization	Testifier Position	Present at Hearing
Kahana Ho	Individual	Comments Only	No

Comments: Aloha mai, Chair Morikawa, Vice-Chair Kobayashi, and the esteemed members of the House Committee on Human Services: While I have already submitted testimony in support of SB269 SD2, in light of the deferral of SB1014, I wish to urgently request your compassion and support for some of the most disadvantaged and disenfranchised members of Hawai'i's society, and ask once again most respectfully that you pass SB269 SD2, RELATING TO PUBLIC ORDER, which establishes the process and grounds for a person to petition the court to vacate a conviction for obstructing or occupying a public place on grounds that the person was homeless at the time of committing the offense. This would help so many of the houseless community break out of the institutionalized barriers to moving to a more stable condition of human existence. Mahalo for your consideration of this request for your support of SB269 SD2. Aloha pūmehana, Kahana Ho Honolulu, Hawai'i

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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DAVID Y. IGE
GOVERNOR



RACHAEL WONG, DrPH
DIRECTOR

PANKAJ BHANOT
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P.O. Box 339
Honolulu, Hawaii 96809-0339

LATE

COLIN KIPPEN

- Chair of the Hawaii Interagency Council on Homelessness •
 - State Coordinator on Homelessness •
- Telephone 808 586-0974

March 18, 2015

MEMORANDUM

TO: The Honorable Dee Morikawa, Chair
House Committee on Human Services

FROM: Colin Kippen, Chair of the Hawaii Interagency Council on
Homelessness, State Coordinator on Homelessness

SUBJECT: **S.B. 269 SD 2 – RELATING TO PUBLIC ORDER**

Hearing: Thursday, March 19, 2015; 8:45 a.m.
Conference Room 329; State Capitol

PURPOSE: S.B. 269 SD 2 establishes the process and grounds for a person to petition the court to vacate a conviction for obstructing a public place on grounds that the person was homeless at the time of committing the offense.

POSITION: I **support** this bill with comments.

The proffered legislation enables a person who was homeless at the time of committing an offense of sitting or lying on a public sidewalk or obstructing or occupying a public place to vacate that judgment if they establish they were homeless,

AN EQUAL OPPORTUNITY AGENCY

by a preponderance of the evidence. It is similar in purpose to legislation passed and signed into law as Act 216 in 2012 relating to the vacation of prostitution convictions.

If this bill becomes law, we can reasonably assume that the individuals who would petition for the vacation of their convictions on the grounds specified would be individuals who would otherwise have a clean record but-for these convictions, and who would also meet the requirement of being homeless at the time they were cited. It will enable a person who was homeless at the time of committing the offense to vacate a conviction predicated on the fact that they had nowhere else to live and were destitute and living homeless on public sidewalks or public places. It would remove the stain of a criminal conviction that could otherwise become a barrier to accessing employment, housing, and the other amenities of life. It acknowledges that the repercussions of the original prosecution and conviction may make it more difficult for a homeless person to move from the streets to become a self-sufficient and productive member of society, especially if that progress is impeded by a lasting criminal conviction predicated on the fact that they were impoverished and homeless.

Thank you for the opportunity to testify.



LATE

46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

TESTIMONY FOR SENATE BILL 269, SENATE DRAFT 2, RELATING TO PUBLIC ORDER

**House Committee on Human Services
Hon. Dee Morikawa, Chair
Hon. Bertrand Kobayashi, Vice Chair**

**Thursday, March 19, 2015, 9:00 AM
State Capitol, Conference Room 329**

Honorable Chair Morikawa 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 SB 269, SD2, relating to public order.

This bill vacates convictions for various nuisance laws that result from homelessness. 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. Only housing will. 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. If the aforementioned nuisance laws are not intentionally designed to target the homeless, as city leaders maintain, we submit that there should be no argument against passing this bill to vacate nuisance convictions that resulted from homelessness and, essentially, could not be helped, but have the unintended consequence of turning Hawai'i's homeless into a suspect class whose civil rights are routinely violated. Criminal convictions that would be vacated by this bill 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 must ask ourselves: are poor people in need of a jail cell or a helping hand? We hope you choose the latter. Mahalo for the opportunity to testify in support of this bill.

Sincerely,
Kris Coffield
Executive Director
IMUAlliance

LATE

HAWAII YOUTH SERVICES NETWORK

677 Ala Moana Boulevard, Suite 702 Honolulu, Hawaii 96813

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Daryl Selman, President
Judith F. Clark, Executive Director
Aloha House
American Civil Liberties Union of Hawaii
Bay Clinic, Inc.
Big Brothers Big Sisters of Honolulu
Big Island Substance Abuse Council
Blueprint for Change
Bobby Benson Center
Catholic Charities Hawaii
Child and Family Service
Coalition for a Drug Free Hawaii
Courage House Hawaii
Domestic Violence Action Center
EPIC, Inc.
Family Programs Hawaii
Family Support Hawaii
Hale Kipa, Inc.
Hale 'Opio Kauai, Inc.
Hawaii Behavioral Health
Hawaii Student Television
Healthy Mothers Healthy Babies Coalition
Hina Mauka Teen Care
Hui Malama Learning Center
Kaanalike
Kahi Mohala Behavioral Health
KEY (Kualoa-Heeia Ecumenical Youth)
Project
Kids Hurt Too
Kokua Kalihi Valley
Life Foundation
Marimed Foundation
Maui Youth and Family Services
Palama Settlement
P.A.R.E.N.T.S., Inc.
Parents and Children Together (PACT)
Planned Parenthood of Hawaii
REAL
Salvation Army Family Intervention Svcs.
Salvation Army Family Treatment Svcs.
Sex Abuse Treatment Center
Susannah Wesley Community Center
The Catalyst Group
The Children's Alliance of Hawaii
Waikiki Health Center
Women Helping Women
YWCA of Kauai

March 19, 2015

xx

To: Representative Dee Morikawa
And members of the Committee on Human Services

Testimony on SB 269 Relating to Public Order

Hawaii Youth Services Network (HYSN), a statewide coalition of youth-serving agencies, supports the intent of SB 269 Relating to Public Order.

HYSN is concerned about the impact of recently passed laws regarding use of sidewalks on runaway and homeless youth as well as homeless adults and families on Oahu. Each year, youth outreach workers encounter more than 800 unaccompanied homeless youth (not living with their families) ages 12 – 21 on the streets of Oahu, the bulk of them in the Waikiki area.

We support the idea of vacating convictions for sitting or lying on the sidewalk or storing belongings there. A criminal record creates barriers for young people in obtaining employment, housing, or college financial aid. Homeless youth face enough challenges in getting off the streets without adding involvement with the criminal justice system to their issues.

HYSN is concerned however, that this bill does not address some of the more immediate consequences of enforcement of the sidewalk laws. We have had reports from outreach workers about overzealous enforcement that has resulted in some youth losing identification and essential medications.

Outreach workers have reported that when police encounter these youth sitting on a Waikiki sidewalk, they enforce the sit/lie sidewalk ordinance and require the youth to leave the area. If the homeless youth's backpack or other possessions are on the sidewalk next to them and the youth is not physically holding them at the time the police officer approaches, they are told not to touch it and their possessions are confiscated. Homeless youth do not have the resources to pay the \$200 fine in order to claim their belongings.

The Honolulu Police Department has informed us that their practice is to photograph and inventory the possessions and then return identification and medications to the individual. Runaway and homeless youth are afraid of involvement with law enforcement and may not wait while the police complete the inventory. They do not understand that they may be able to reclaim the ID and medicines, and think that they will be arrested if they do not leave the area immediately.

Losing identification makes it difficult to help these youth enroll in school or obtain employment. Losing essential medication for conditions such as diabetes or epilepsy could be life threatening.

HYSN encourages the Hawaii Legislature to address these concerns.

Thank you for this opportunity to testify.

Sincerely,

A handwritten signature in black ink, reading "Judith F. Clark". The signature is written in a cursive, flowing style.

Judith F. Clark
Executive Director

kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2015 7:02 PM
To: HUS testimony
Cc: kmurray.testimony@gmail.com
Subject: Submitted testimony for SB269 on Mar 19, 2015 09:00AM

LATE

SB269

Submitted on: 3/18/2015

Testimony for HUS on Mar 19, 2015 09:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Murray	Individual	Support	No

Comments: I fully support SB269 and hope that you pass it. The slew of bills that were passed, we all knew were aimed at criminalizing the homeless. Please do not support the industry being built upon homelessness. Instead support public housing and low-income housing not being sold to transient military who have housing subsidies.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2015 2:08 PM
To: HUS testimony
Cc: stevensk013@hawaii.rr.com
Subject: Submitted testimony for SB269 on Mar 19, 2015 09:00AM

LATE

SB269

Submitted on: 3/18/2015

Testimony for HUS on Mar 19, 2015 09:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
kathleen ak stevens	Individual	Support	No

Comments: All data tell us that criminalizing the most vulnerable only makes matters worse.

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kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 18, 2015 8:17 PM
To: HUS testimony
Cc: davidsher@juno.com
Subject: Submitted testimony for SB269 on Mar 19, 2015 09:00AM

LATE

SB269

Submitted on: 3/18/2015

Testimony for HUS on Mar 19, 2015 09:00AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Pollack	Individual	Support	No

Comments: I strongly support SB269 which vacates convictions for sitting or lying on the sidewalk or storing belongings there. As a result of recent laws passed by the City of Honolulu, the poor and homeless have been targeted for harassment. These individuals and families are regularly having their essentials confiscated, including identification, medication, food, and bedding. There are not enough shelter beds to accommodate, there is a many-year long waiting list for housing. So in the mean time, these individuals have no option but to live on the street, but face fines and a criminal record for doing so. A criminal record creates barriers for obtaining employment, housing, or college financial aid, all things that could help them move out of their poverty. Homeless families face enough challenges in getting off the streets without adding criminal records to their problems. I was deeply disappointed when this committee recently chose to defer the Homeless Bill of Rights. Consequently, until something can be done to stop the unjust laws the City is enforcing, your full support and passage of this bill, to vacate a record for petty crimes of poverty, is now even more crucially needed. I urge you to do what is pono and pass this bill. Sincerely, Sherry Pollack Ahuimanu

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