

JOSH GREEN, M.D.  
GOVERNOR



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
*Ka 'Oihana Ho'opalekana Lehulehu*  
1177 Alakea Street  
Honolulu, Hawaii 96813

**TOMMY JOHNSON**  
DIRECTOR

**Melanie Martin**  
Deputy Director  
Administration

**Michael J. Hoffman**  
Acting Deputy Director  
Corrections

**William F. Oku**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 1132, HD 1  
RELATING TO THE HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

By  
Tommy Johnson, Director

House Committee on Finance  
Representative Kyle T. Yamashita, Chair  
Representative Lisa Kitagawa, Vice Chair

Wednesday, February 22, 2023; 2:30 p.m.  
State Capitol, Conference Room 308 and Via Videoconference

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

The Department of Public Safety (PSD) supports House Bill (HB) 1132, HD 1, which seeks to extend the term of the Oversight Coordinator for the Correctional System Oversight Commission and to also broaden the Coordinator's authority with the following recommendations.

PSD recommends the legislature consider amending Section 1 to a four-year term, which is more in line with other boards and commissions such as the Chairman of the Hawaii Paroling Authority (§ HRS 353-63). It is also recommended that the legislature consider requiring the Coordinator to be confirmed by the Senate. Given the unique nature of the duties and responsibilities of the position coupled with the authority vested in the Coordinator, requiring senate confirmation would be appropriate.

With respect to Section 3 of this measure, which seeks to amend §HRS Section 353L-7(c), PSD has no concerns as the Oversight Coordinator already has the ability to request information, records, and the Coordinator and any member of the Commission already have the authority to enter any correctional facility unannounced.

Thank you for the opportunity to provide testimony in support of HB 1132, HD1.



**STATE OF HAWAII**  
**HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**  
235 S. Beretania Street, 16<sup>th</sup> Floor  
HONOLULU, HAWAII 96813  
(808) 587-4160

TO: The Honorable Kyle T. Yamashita, Chair  
The Honorable Lisa Kitagawa, Vice Chair  
House Committee on Finance

FROM: Mark Patterson, Chair  
Hawaii Correctional System Oversight Commission

SUBJECT: House Bill 1132, House Draft 1, Relating to the Hawaii Correctional  
System Oversight Commission  
Hearing: Wednesday, February 22, 2023; 2:30 p.m.  
State Capitol, Room 308

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

The Hawaii Correctional System Oversight Commission (the Commission) strongly supports House Bill 1132, House Draft 1, Relating to the Hawaii Correctional System Oversight Commission, which strengthens our ability to carry our Legislative directives as found in Act 179/SLH 2019. This is a no-cost measure.

The Commission's mandate, codified in Chapter 353L, HRS, includes four core functions: 1) investigating complaints at correctional facilities and facilitating a transition to a rehabilitative and therapeutic model of corrections; 2) establish maximum inmate population limits for each correctional facility and formulate policies to prevent overcrowding; 3) monitor, review and make recommendations about the comprehensive offender re-entry program and parole services; and, 4) ensure that the comprehensive offender reentry system under chapter 353H is working properly.

Senate Bill 455 addresses three areas that will improve the work of the Commission:

1. Extend the term of the Oversight Coordinator from two to six years. Much of the work of the Commission is delegated by Act 179 to the Oversight Coordinator. Hawaii's criminal justice and correctional systems are unique to our State and requires intimate knowledge to address the requirements of Chapter 353L. It is through gaining that knowledge and developing working relationships with elected and appointed officials, private entities, and their staff that will make the Commission successful. Staff longevity is in the best interest of the Commission.
2. Section 353L-3, HRS, mandates the Commission "have jurisdiction over investigating complaints at correctional facilities..." and Section 353L-7 (d), HRS, requires the Oversight Coordinator when conducting investigation complaints to "maintain confidentiality in respect to all matters and the identities of the

complainants or witnesses...” The Commission has jurisdiction over investigating complaints but no clause demanding confidentiality. This disconnect means the Oversight Coordinator cannot discuss investigations with the Commission as a whole in a confidential manner. Rather, Hawaii’s sunshine laws would require the discussion take place at a public meeting. Exceptions can be made to hold a meeting closed to the public under Section 92-5(8), HRS, if the purpose is “to deliberate or make a decision upon a matter that requires the consideration of **information that must be kept confidential pursuant to state or federal law, or a court order.**” [Emphasis added.]

3. Effective oversight of a correctional system requires unfettered access to facilities, including entering without notice to inspect the site. Section 353L-7 currently limits that unfettered access to the Oversight Coordinator only pursuant to an investigation of a complaint. As an independent Commission, our staff should be able to access and inspect facilities on demand. Section 3 of this measure makes access universal.

In closing, we would like to bring to your attention that even though the Commission was formed in 2019, funds were not released until 2022, preventing staff hires and greatly impeding progress in achieving the Commission’s mandate. In July 2022 Christin M. Johnson was hired as the Oversight Coordinator, bringing with her an abundance of experience in oversight of jails, prisons and police. Since her hiring, the Commission has made substantial steps in achieving its goals. We are very grateful to have someone of her caliber join us.

We urge your support of this measure to support the mandate of the Hawaii Correctional System Oversight Commission. Should you have additional questions, the Oversight Coordinator, Christin Johnson, can be reached at 808-900-2200 or at [christin.m.johnson@hawaii.gov](mailto:christin.m.johnson@hawaii.gov). Thank you for the opportunity to testify.

JOSH B. GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
**HAWAII PAROLING AUTHORITY**  
*Ka 'Ākena Palola o Hawai'i*  
1177 Alakea Street, First Floor  
Honolulu, Hawaii 96813

EDMUND "FRED" HYUN  
CHAIR

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MILTON H. KOTSUBO  
CAROL K. MATAYOSHI  
MEMBERS

COREY J. REINCKE  
ACTING ADMINISTRATOR

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 1132, HD 1  
RELATING TO THE HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

by  
Edmund "Fred" Hyun, Chairman  
Hawaii Paroling Authority

House Committee on Finance  
Representative Kyle T. Yamashita, Chair  
Representative Lisa Kitagawa, Vice Chair

Wednesday, February 22, 2023 – 2:30 p. m.  
Conference Room 308

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

The Hawaii Paroling Authority (HPA) supports HB 1132, HD 1, which seeks to extend the term of the Oversight Coordinator for the Correctional System Oversight Commission and to also broaden the Coordinator's authority with the following recommendation.

- HPA recommends the legislature consider amending Section 1 to a four-year term, which is more in line with other boards and commissions such as the Chairman of the Hawaii Paroling Authority (§ HRS 353-63). It is also recommended that the legislature consider requiring the Coordinator to be confirmed by the Senate. Given the unique nature of the duties and responsibilities of the position, coupled with the authority vested in the coordinator, requiring Senate confirmation would be appropriate.

Thank you for the opportunity to provide testimony on HB 1132, HD 1.

# COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON FINANCE

Rep. Kyle Yamashita, Chair

Rep. Lisa Kitagawa, Vice Chair

Wednesday, February 22, 2023

Room 308

2:30 PM

## **STRONG SUPPORT FOR HB 1132 HD1 - HAWAII CORRECTIONAL SYSTEMS OVERSIGHT COMMISSION**

Aloha Chair Yamashita, Vice Chair Kitagawa 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 in Hawai`i for more than two decades. This testimony is respectfully offered on behalf of the 4,028 Hawai`i individuals living behind bars<sup>1</sup> and under the “care and custody” of the Department of Public Safety/Corrections and Rehabilitation on any given day. We are always mindful that 917 (41% of the male imprisoned population<sup>2</sup>) of Hawai`i’s imprisoned people are serving their sentences abroad -- thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Mahalo for this opportunity to testify in strong support of this measure and mahalo for introducing this important bill. HB 1132 HD1 extends the term for the Hawai`i Correctional System Oversight Commission (HCSOC) Coordinator from two years to six years. This is so important to the transition Hawai`i is making to a rehabilitative and therapeutic model. Corrections has many moving parts and a six-year term would give the Coordinator time to start making the necessary changes to accomplish the Governor’s goal.

The other agency that also has six-year terms is the Public Utilities Commission in acknowledgement of the work it takes to transition from a fossil fuel system to a clean and renewable energy system. Both these agencies are creating the path for Hawai`i’s sustainable future for our families.

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<sup>1</sup> Department of Public Safety, Weekly Population Report, February 13, 2023.

[https://dps.hawaii.gov/wp-content/uploads/2023/02/Pop-Reports-Weekly-2023-02-13\\_George-King.pdf](https://dps.hawaii.gov/wp-content/uploads/2023/02/Pop-Reports-Weekly-2023-02-13_George-King.pdf)

<sup>2</sup> Why are 41% of Hawai`i’s male prison population sent thousands of miles from home when the following prisons in Hawai`i have room here: Halawa is at 74.3%; Halawa Special Needs Facility is at 63.6%; Kulani is at 39.5%; Waiawa is at 59% of operational capacity.

Community Alliance on Prisons is delighted that Hawai'i finally has a professional coordinator to oversee our correctional system.

The other part of this bill is the authorization for the Commission to conduct investigative hearings of complaintants in Executive Sessions. One of the important aspects of oversight is communication with the staff downtown as well as staff working in our jails and prisons throughout Hawai'i nei. We support the important change in the HD1 regarding the Commission conduct investigations that are confidential to protect the people coming forward with information and publishing a redacted report after the completion of the investigation that is available to the public.

Traditionally, it has been difficult to get information from the department, therefore, this change will promote much-needed transparency for the community since this is a publicly-funded agency.

An article by Michele Deitch<sup>3</sup>, the expert in Oversight explains:

*Prisons and jails in this country are among the most opaque public institutions in our society. We have erected massive walls and razor wire fences around these buildings, placed them in remote corners of each state, limited public access to these spaces, and restricted information that can reveal what is happening inside the walls. We lack reliable data pertinent to the health, safety, and well-being of people in custody, and cannot even assess the relative safety or danger of any particular facility. [Information about deaths in custody remains elusive](#) in many states. Even [data about the spread and toll of Covid-19 behind bars is spotty and unreliable](#), and is virtually nonexistent in local jails. In contrast to our peer nations, [most states in this country lack oversight mechanisms](#) that can prevent harm in prisons and jails by allowing independent officials to routinely monitor conditions of confinement.*

*For decades, we relied on our federal courts to provide that oversight. In the 1970s and 1980s, many states' prison systems operated under the scrutiny of federal judges who had found conditions in the correctional facilities in violation of the Eighth Amendment prohibition against cruel and unusual punishment. Cases in Texas, Arkansas, New York City, and Alabama, among other places, revealed and seared into our collective memories appalling practices such as [the use of brutal prisoners as guards to control cellblocks; torture devices that deliver electric shocks to the genitals; "hitching posts"](#) to restrain prisoners in the fields, and [rampant violence and overcrowding in dilapidated facilities](#). Long-term court oversight of the detailed consent decrees in these and other cases ensured the dismantling of those practices, often through regular inspections conducted by court monitors and special masters, and by the ongoing threat of contempt fines for agencies that resisted reform.*

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<sup>3</sup> <sup>2</sup> Independent Oversight Is Essential for a Safe and Healthy Prison System, Michele Deitch, November 3, 2021.

<https://www.brennancenter.org/our-work/analysis-opinion/independent-oversight-essential-safe-and-healthy-prison-system>

*But there are several reasons that court oversight is insufficient to fill the gap and promote transparency. First, court oversight is reactive, occurring only after problems have hit constitutional rock bottom; it does not prevent those problems in the first place. Second, increasingly narrow interpretations of the Eighth Amendment by the Supreme Court, and the restrictions imposed by [the Prison Litigation Reform Act \(PLRA\)](#) passed by Congress in 1996, vastly reduce the likelihood of successful lawsuits (the PLRA also limits the extent of ongoing court oversight following a rare judgment against a prison agency). Third, court oversight is timebound, lasting only as long as it takes to remedy the problem, even though conditions can (and do) easily backslide after the court's supervision ends. Finally, the objective of court oversight is to raise institutional conditions to constitutional minima, not to help the agency implement best practices, or work towards a more humane culture. The courts continue to be essential as a backstop against the worst punitive excesses, but we fool ourselves if we think they can fundamentally change prison culture and transform prisons and jails into places that respect human dignity. One need only look at [the horror that is Rikers Island](#) to realize that even court-sanctioned consent decrees do not always solve deep-seated problems.*

Since the passing of the Prison Reform Litigation Act (PLRA) correctional systems have become even more closed. Litigation was one way the public could find out what is happening in these institutions. We mention this because we don't ever want to see Hawai'i go backwards and hide publicly-funded information about how our jails and prisons operate while they house our family and friends.

We cannot underscore enough the importance of this Commission in moving Hawai'i toward a rehabilitative and therapeutic model. Mahalo for caring enough about Hawai'i to support overseeing the system that has done so much harm to our families. We can change this, and Ms. Johnson and the Oversight Commission are the great leaders Hawai'i needs to help us get there!

Community Alliance on Prisons urges the committee to pass this measure!

*Jails and prisons are the complement of schools; so many less as you have of the latter, so many more must you have of the former.*

Horace Mann

**HB-1132-HD-1**

Submitted on: 2/20/2023 6:56:11 PM

Testimony for FIN on 2/22/2023 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Evern Williams	Individual	Support	Written Testimony Only

Comments:

I strongly support this bill. The Coordinator's task is to ensure the transition to a rehabilitative and therapeutic model and a 6 year term is critical toward this program's success.



**HB-1132-HD-1**

Submitted on: 2/20/2023 6:59:43 PM

Testimony for FIN on 2/22/2023 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Barbara Polk	Individual	Support	Written Testimony Only

Comments:

I strongly support HB1132 to extend the term of the Oversight Coordinator for the Hawaii Correctional System Oversight Commission from two years to six years and clarify and increase investigative authority. The Commission operated without a Coordinator for more than a year, greatly limiting what it could do. A two year term would seriously harm the effectiveness of this Commission. I urge you to pass HB1132.

**HB-1132-HD-1**

Submitted on: 2/21/2023 5:34:35 AM

Testimony for FIN on 2/22/2023 2:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Zoe Ryan	Individual	Support	Written Testimony Only

Comments:

Good Morning. I wholeheartedly support any improvements in removing roadblocks for the oversight commission to successfully implement "best practices " by investigating experiences of currently incarcerated individuals. The commission should be able to gather information in confidence, use it wisely, and not jeopardize the safety of those individuals or their families. The goal is to create a safe place for inmates to successfully return to their communities with dignity, a safe place for their loved ones to visit without being vilified and traumatized, and a clear path home!! We desperately need to dig deeper right now!! Change is waaaay overdue!

**HB-1132-HD-1**

Submitted on: 2/21/2023 11:12:43 AM

Testimony for FIN on 2/22/2023 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Carla Allison	Individual	Support	Written Testimony Only

Comments:

My name is Carla Allison and I **strongly support HB1132** and a 6 year term for the Oversight Coordinator. Additionally, the Oversight Coordinator needs the authority proposed in this bill to make inquiries, obtain information, and inspect the premises of agencies and correctional facilities. Requiring the Commission to publish summaries of investigations is a step in the right direction. **Please support HB1132.** Thank you.