

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



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, HOUSE DRAFT 1, SENATE DRAFT 1  
RELATING TO THE HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION

By

Tommy Johnson, Director

Senate Committee on Judiciary  
Senator Karl Rhoads Chair  
Senator Mike Gabbard, Vice Chair

Friday, March 24, 2023; 9:40 a.m.  
State Capitol, Conference Room 016 and Via Videoconference

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Department of Public Safety (PSD) supports House Bill (HB) 1132, House Draft (HD) 1, Senate Draft (SD) 1, which in addition to other proposed changes, seeks to extend the term of the Oversight Coordinator for the Hawai'i Correctional System Oversight Commission (HCSOC), broaden the coordinator's authority, and would require the coordinator and all members of the HCSOC to be subject to the advice and consent of the Senate.

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 can and does routinely request information, records, and the coordinator and any member of the Commission already have the authority to enter any correctional facility unannounced via written administrative directive previously issued to all correctional facilities.

Thank you for the opportunity to provide testimony in support of HB 1132, HD 1, SD1.

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



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

EDMUND "FRED" HYUN  
CHAIR

GENE DEMELLO, JR.  
CLAYTON H.W. HEE  
MILTON H. KOTSUBO  
CAROL K. MATAYOSHI  
MEMBERS

COREY J. REINCKE  
ACTING ADMINISTRATOR

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

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

by  
Edmund "Fred" Hyun, Chairman  
Hawaii Paroling Authority

Senate Committee on Judiciary  
Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair

Friday, March 24, 2023 – 9:40 AM  
Conference Room 016

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Hawaii Paroling Authority (HPA) supports House Bill (HB) 1132, HD1, SD1, relating to the Hawaii Correctional System Oversight Commission.

Thank you for the opportunity to provide testimony on HB 1132, HD1, SD1.

JOSH GREEN, M.D.  
GOVERNOR



MARK PATTERSON  
CHAIR

CHRISTIN M. JOHNSON  
OVERSIGHT COORDINATOR

COMMISSIONERS  
HON. MICHAEL A. TOWN  
(ret.)  
HON. RONALD IBARRA  
(ret.)  
TED SAKAI  
MARTHA TORNEY

**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 Karl Rhoads, Chair  
The Honorable Mike Gabbard, Vice Chair  
Senate Committee on Judiciary

FROM: Mark Patterson, Chair  
Hawaii Correctional System Oversight Commission

SUBJECT: House Bill 1132, Senate Draft 1, Relating to the Hawaii Correctional System Oversight Commission  
Hearing: Friday, March 24, 2023; 9:40 a.m.  
State Capitol, Room 016

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

The Hawaii Correctional System Oversight Commission (the Commission) **supports** House Bill 1132, Senate Draft 1, Relating to the Hawaii Correctional System Oversight Commission, which strengthens our ability to carry out our Legislative directives as found in Act 179/SLH 2019.

There are three aspects of Senate Draft 1 that we strongly support:

1. Extending the term of the Oversight Coordinator from two to four years.
2. Allowing the Commission to hold meetings closed to the public for the specific purpose of discussing confidential complaints and investigations; and
3. Allowing the Oversight Coordinator universal unfettered access to inspect correctional facilities on demand, not just pursuant to an investigation of a complaint.

Senate Draft 1 introduces a new requirement, though, that gives the members of the Commission pause—requiring Senate confirmation. Act 179/SLH 2019 established “a single, independent oversight commission led by an oversight coordinator and guided by an experienced group of commission members...” Members are selected by five different entities: 1) the Governor; 2) the President of the Senate; 3) the Speaker of the House; 4) the Chief Justice; and 5) the Chair of the Office of Hawaiian Affairs’ Board of Trustees. By subjecting the appointees to Senate confirmation undermines the authority of the appointing agencies and introduces a political process that can threaten the independence of the members. Independent oversight is critical to making prisons and jails safer, more accountable, and transparent.

House Bill 1132, Senate Draft 1, Relating to the Hawaii Correctional System Oversight  
Commission  
Senate Committee on Judiciary  
March 24, 2023  
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We appreciate the interest and support the Commission members and Oversight Coordinator Christin Johnson have received during this Legislative session and ask that you pass Senate Draft 1 to foster further discussion on this measure. Should you have additional questions, Commissioner Martha Torney can be reached by calling (808) 224-7360 or by email at [martha.t.torney@gmail.com](mailto:martha.t.torney@gmail.com). Thank you for the opportunity to testify.

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON JUDICIARY

Sen. Karl Rhoads, Chair

Sen. Mike Gabbard, Vice Chair

Friday, March 24, 2023

Room 016

9:40 AM

## **STRONG SUPPORT FOR HB 1132 SD1** **HAWAII CORRECTIONAL SYSTEM OVERSIGHT COMMISSION**

Aloha Chair Rhoads, Vice Chair Gabbard 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 4,009 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 916 - 26.4% 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 important bill. HB 1132 SD1 requires that members of the Hawaii Correctional System Oversight Commission be subject to the advice and consent of the Senate and amends the Oversight Coordinator's term to four years.

Community Alliance on Prisons wants to again reiterate the importance of a six-year term for the Coordinator who has the mammoth job of facilitating the transition of our broken correctional system to a rehabilitative and therapeutic model. Corrections has many moving parts and a six-year term would give the Coordinator time to make the necessary changes to accomplish the Governor's goal.

Community Alliance on Prisons is delighted that Hawai'i finally has a professional coordinator to oversee our correctional system. Ms. Johnson is doing an amazing job!

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

[https://dps.hawaii.gov/wp-content/uploads/2023/03/Pop-Reports-Weekly-2023-03-14\\_George-King.pdf](https://dps.hawaii.gov/wp-content/uploads/2023/03/Pop-Reports-Weekly-2023-03-14_George-King.pdf)

<sup>2</sup> Why are 26.4% 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 77%; Halawa Special Needs Facility is at 59%; Kulani is at 44%; Waiawa is at 52% of operational capacity.

The other part of this bill is the authorization for the Commission to conduct investigative hearings of complainants in Executive Sessions. One of the important aspects of oversight is communication with the staff downtown as well as the line staff working in our jails and prisons.

Community Alliance on Prisons supports these confidential investigations to protect whistleblowers, however, **provided that when an investigation is concluded, the commission shall publish a summary of the investigation, without information that would identify the complainant or witnesses, and any action taken by the commission in response.**

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 an agency funded by our hard-earned tax dollars.

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.*

*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*

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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>

*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 was 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. The Commission has also taken over the responsibilities of the Corrections Population Management Commission and the Reentry Commission in addition to their specific requirements under Act 179.

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!

Amending the statute as suggested, will ensure that publicly-funded institutions will not operate in the dark. Transparency and accountability should be modeled by those working in the system.

Community Alliance on Prisons urges the committee to pass this important measure to shine the light of truth onto those dark and hidden places where policy sometimes hides.

Mahalo!



Committee: Senate Judiciary  
Hearing Date/Time: Friday, March 24, 2023, 9:40 A.M.  
Place: Conference Room 016 & Videoconference  
Re: H.B. 1132, H.D. 1, S.D. 1 Relating to the Hawaii Correctional System Oversight Commission – SUPPORT

Aloha Chair Rhoads, Vice Chair Gabbard and Committee Members:

The ACLU of Hawai'i strongly supports **H.B. 1132, H.D. 1, S.D. 1 Relating to the Hawai'i Correctional System Oversight Commission and respectfully requests the adoption of the H.D. 1 version.**

The ACLU of Hawai'i fully supports the statutory mandate of the Hawaii Correctional System Oversight Commission “to ensure transparency, support safe conditions for employees, inmates, and detainees, and provide positive reform towards a rehabilitative and therapeutic correctional system.”

For decades, Hawaii's jails and prisons have been severely overcrowded, resulting in inhumane and unconstitutional conditions of confinement. Recognizing these challenges and the risk of federal intervention within our correctional system, this legislative body created a strong independent oversight body to review, investigate, audit and make systemic policy recommendations relating to our correctional system.

In order to continue their robust work to date, and expand their independent oversight duties consistent with the HCSOC's Strategic Plan for 2023-2024, **it is imperative that the Oversight Commissioner's position is converted from a two year position to a six year position as outlined in H.D. 1.** Additionally, effective oversight requires the Oversight Coordinator to have broad authority to make inquiries, obtain information and inspect correctional premises and jails and prisons at any time, whether conducting an active investigation or during routine inspections.

The **ACLU of Hawai'i also supports requiring the Oversight Commission to issue public summaries of their investigations and any actions taken by the**



Chair Rhoads and Members of Judiciary Committee

March 24, 2023, 9:40 A.M.

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**Commission after holding closed meetings to discuss a complaint with the Oversight Coordinator.**

Given that jails and prisons are closed institutions and that the State has a legal responsibility to provide for the health and safety of incarcerated people, the public must be informed about the operations of all correctional facilities and private out-of-state prisons. This is a fundamental principle of oversight, and promoting the twin goals of transparency and accountable within our jails and prisons.

Thank you for the opportunity to submit testimony in support of this important measure.

Sincerely,

*Carrie Ann Shirota*

Carrie Ann Shirota

Policy Director

ACLU of Hawai'i

[cshirota@acluhawaii.org](mailto:cshirota@acluhawaii.org)

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.*

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**HB-1132-SD-1**

Submitted on: 3/21/2023 3:01:25 PM

Testimony for JDC on 3/24/2023 9:40:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,

I support this resolution.

Mahalo nui,

Cards Pintor

**Senator Karl Rhoads, Chair**  
**Senator Mike Gabbard, Vice Chair**

**Date:** Friday, March 24, 2023

**Time:** 9:40 AM

**Location:** Conference Room 016 & Videoconference  
State Capitol  
415 South Beretania Street

**Testimony In Support of HB1132 HD1 SD1, Relating to the Hawai`i Correctional System Oversight Commission**

Aloha Chair Rhoads, Vice Chair Gabbard, and all the members of the committee,

My name is Deizhanna Kaya-Abad, and ***I support HB1132 HD1 SD1***. As a community member with experience working in the justice system, I have seen the conditions in which those incarcerated have to live. I have also had the opportunity to hear stories about people's lack of support while incarcerated.

Since the formation of the Hawai`i Correctional System Oversight Commission, several issues have been brought to public attention, such as the poor conditions of the correctional facilities that staff and those incarcerated have to work/live in.

By supporting HB1132 HD1 SD1 the following can occur:

- The Hawai`i Correctional System Oversight Commission will become more effective by ***creating longer terms for the coordinator, allowing them to establish a stronger foundation for their work.***
- The Hawai`i Correctional System Oversight Commission will be able to continue ***addressing the various issues that revolve around the correctional system here in Hawai`i.***
- The Hawai`i Correctional System Oversight Commission will ***ensure the safety and rehabilitation of those who are incarcerated.***

Please support HB1132 HD1 SD1 to continue supporting the Hawai`i Correctional System Oversight Commission and those incarcerated.

Mahalo nui loa,  
Deizhanna Kaya-Abad

**HB-1132-SD-1**

Submitted on: 3/23/2023 12:44:34 AM

Testimony for JDC on 3/24/2023 9:40:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Diana Bethel	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am writing in support of HB1132 HD1, SD1. This bill requires members of the Hawaii Correctional System Oversight Commission be subject to the advice and consent of the Senate and extends the term of the Coordinator of the Hawaii Correctional System Oversight Commission to four years. It allows for closed door meetings to maintain confidentiality when discussing complaint investigations and authorizes the Oversight Coordinator to make inquiries, obtain information, and inspect the premises of agencies and correctional facilities.

**Rigorous Oversight Is Needed**

For too long, Hawaii’s correctional system has had **zero oversight**. This has resulted in a multitude of problems, some of which have cost the State hundreds of thousands of dollars in litigation and claims made by victims or their families. Thanks to the Oversight Coordinator’s investigations, it was discovered that our correctional institutions were committing many violations of federal corrections law that were endangering the lives and well being of the imprisoned population. It was surprising that prison officials and employees were not even aware of the laws they were violating. Rigorous oversight of our correctional institutions is clearly needed to limit the State’s liability.

**The Oversight Commission Must Be Independent**

The members of the Oversight Commission must be independent from political influence. If the Commission is subject to the advice and consent of the Senate, it will be at the mercy of whatever political winds are blowing at the time, aided by certain legislators and corrections-related officials who whip up fear on the part of the public.

**A Six-Year Term Provides Continuity**

Given the magnitude of the problem, the Oversight Coordinator must be given enough time to establish a firm foundation for oversight and to implement the Commission’s mandate to transition Hawaii’s problem-plagued correctional system to a more rehabilitative and therapeutic model. A six-year term, as is the case for members of the Public Utility Commission, is preferable to four years.

Please pass HB1132 HD1, SD1 to enable the Oversight Coordinator to continue her vital work to limit the State's liability and help create a more rehabilitative correctional system that will reduce recidivism and thereby reduce taxpayer costs. This is the best way to protect public safety.

Mahalo for your consideration.

Diana Bethel, Honolulu

**HB-1132-SD-1**

Submitted on: 3/23/2023 1:22:14 AM

Testimony for JDC on 3/24/2023 9:40:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kristine Crawford	Individual	Support	Written Testimony Only

Comments:

I am writing to ask that you extend to six years the term of the Oversight Coordinator for the Hawaii Correctional System Oversight Commission. I fear a shorter term will mean that the errors, abuses, and cover-ups of the past, which have resulted in the expensive legal problems of the present, will quickly return. Thank you for your consideration.