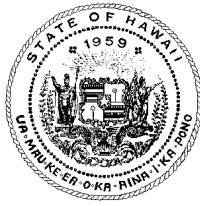


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII
**DEPARTMENT OF CORRECTIONS
AND REHABILITATION**
*Ka 'Oihana Ho'omalu Kalaima
a Ho'oponopono Ola*
1177 Alakea Street
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Deputy Director
Rehabilitation Services
and
Programs

No. _____

TESTIMONY ON HOUSE BILL 1812, HOUSE DRAFT 1
RELATING TO CORRECTIONS.

By
Tommy Johnson

House Committee on Judiciary & Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair

Friday, February 16, 2024; 2:00 p.m.
State Capitol, Conference Room 325 & via Videoconference

Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

The Department of Corrections and Rehabilitation (DCR) **opposes** House Bill (HB) 1812, HD 1, which seeks to restrict the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specific exceptions. This measure also requires DCR to use appropriate alternatives to "solitary confinement" for vulnerable inmates as defined in HB 1812 and requires a progress report on full compliance with the Act to the 2023 Legislature.

DCR opposes this measure for the following reasons. HB 1812 has many similarities with DCR's established policies and procedures, which are periodically reviewed and updated. The Department's policies and procedures align with the guidelines of the National Institute of Corrections (NIC) and the American Correctional Association (ACA). DCR's Correctional Policy (COR.11.01) Administrative Segregation and Disciplinary Segregation is not confidential and is posted on DCR's website for anyone to access and review.

The DCR notes, that the term "solitary confinement" is no longer used; instead, there are now several levels of confinement used nationwide that are more specifically described both to ensure the safety and well-being of inmates and to address

unacceptable, disruptive, and violent behaviors displayed by some inmates. As written, HB 1812, HD 1 would restrict DCR's ability to ensure the health and safety of inmates; placing unneeded barriers that would prevent DCR from acting promptly to address volatile situations that routinely occur.

Recently, there have been unprovoked attacks by inmates on correctional staff resulting in serious injuries. One officer suffered serious facial structural injuries, another was hospitalized from being pushed down a flight of stairs as he rushed to intervene and assist an inmate being assaulted, and yet another officer sustained a concussion. A nurse was attacked for no apparent reason, requiring her to go to the hospital, while she attempted to provide treatment services. If enacted, the requirements of HB 1812, HD 1 would have hindered or delayed DCR staff intervention, which would increase the levels of danger and disruption to staff, other inmates, and the facilities.

The Department notes, that age, developmental disability, and mental illness have very little to do with the State's requirement for the protection of others from harm, assault, and even loss of life. DCR has the responsibility to assure the safety and well-being of all offenders. Separating and monitoring offenders exhibiting inappropriate behaviors are necessary for the greater good and the protection of those offenders. In attempting to cover most scenarios, the measure's requirements tend toward generalities, which run counter to the updated national standards which are moving towards more specificity for administrative and disciplinary segregation. DCR's current policies and procedures regarding inmate classification, housing, and internal disciplinary processes, including the inmate's ability to avail themselves of the complaint and grievance processes, all help to ensure inmates are not mistreated and housed in locations consistent with their level of custody and security requirements. This fosters participation in the appropriate programs of need and the overall safety of an institution.

Thank you for the opportunity to provide testimony **opposing** HB 1812, HD 1.

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February 15, 2024

H.B. No. 1812: RELATING TO CORRECTIONS

House Committee on Judiciary and Hawaiian Affairs
Hearing: February 15, 2024 at 9:00 a.m.

Chair David A. Tarnas
Vice Chair Gregg Takayama
Honorable Committee Members

The Office of the Public Defender (OPD) **supports** this bill. While the OPD opposes any form of solitary confinement this bill represents a first step toward the goal of a complete abolition of the use of solitary confinement within Hawai'i's correctional facilities.¹

The United Nations defines "torture" in relevant part as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person ... at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."² Solitary confinement undoubtedly meets the U.N.'s definition of "torture."

¹ "Hawai'i's correctional facilities" would include facilities within the State of Hawai'i and any other facility contracted with by the State to house committed persons who have been committed to the custody of the DCR. See subsection (f), p. 22, lines 6-13 of the Bill.

² See United Nations, Human Rights Instruments, "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" (adopted December 10, 1984 by General Assembly resolution 39/46)

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

Contrary to the claims of the Department of Corrections and Rehabilitation (DCR), which are supported in previous testimony by anecdotal testimony rather than statistics, solitary confinement is not an appropriate or valid means of ensuring the safety and well-being of committed persons. Solitary confinement is an antiquated form of psychological and physical torture. If the DCR is truly committed to its goal of “provid[ing] a secure correctional environment for comprehensive rehabilitative, holistic and wraparound re-entry services^[3]” it should also support this bill. In fact, rather than rehabilitate, solitary confinement “can take a severe, sometimes permanent, toll on emotional and mental health.”⁴ “Researchers have found that prisoners in solitary quickly become withdrawn, hypersensitive to sights and sounds, paranoid, and more prone to violence and hallucinations.”⁵ In short, solitary confinement has absolutely no rehabilitative value.

In regard to the particular provisions of the bill, some areas raise questions or concerns.

Section (a)(1), p. 6, lines 1-11: This section sets forth standards to guide the decision to place a committed person in solitary confinement. While the OPD agrees that objective criteria and standards should be used in such a decision, if there is no means by which an independent person or body (meaning a person not connected to the DCR) can review the decision, these criteria and standards would not provide meaningful protection for committed persons. One suggestion would be to empower the Hawai'i Correctional Oversight Commission as the body which reviews all decisions to place a committed person in solitary confinement rather than the warden or the warden's designee.

Section (a)(4)(A), p.7, lines 6-10: This section requires an initial hearing within seventy-two hours of the committed person's placement in solitary confinement. Due to the severe consequences of even a short period of time in solitary confinement, this period should be shortened to twenty-four hours.

Section (a)(4)(C), p.7, line 12: This section affords a committed person a right to “[b]e represented at the hearing[.]” The OPD is unaware of any instances where a committed person has a right to counsel at administrative hearings within a facility. For example, there is no right to counsel at a misconduct hearing involving an alleged violation of facility rules. If the right to representation at a solitary confinement hearing is limited to another employee at the facility, the OPD does not believe the right to representation has any substantive value.

Section (a)(4)(D), p.7, line 13: This section requires an “independent hearing officer.” The OPD does not believe that any other employee within the facility can be truly “independent.”

³ See State of Hawai'i, Department of Corrections and Rehabilitation, “Our Mission.” <https://dcr.hawaii.gov/>

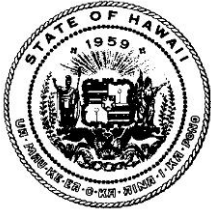
⁴ “Solitary Confinement is Cruel and Ineffective” Scientific American, August 1, 2013. <https://www.scientificamerican.com/article/solitary-confinement-cruel-ineffective-unusual/>

⁵ Id.

Section (a)(5), p.7, lines 16-19: This section empowers the “warden or the warden’s designee” to make the “final decision to place a committed person in solitary confinement.” The OPD does not believe that the warden or his designee can be truly impartial or independent in making such a decision.

Section (a)(6), pp. 7-8, lines 20-21, 1-3: This section empowers the “warden or the warden’s designee” to make decision on continued solitary confinement. Again, the OPD does not believe that the warden or his designee can be truly impartial or independent in making such a decision.

Thank you for the opportunity to comment in support of H.B. No. 1812.



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
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February 16, 2024

TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

House Bill 1812 House Draft 1 – Relating to Corrections

The Disability and Communication Access Board (DCAB) supports House Bill 1812 House Draft 1 - Relating to Corrections.

The bill restricts the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specified exceptions. Prohibits the use of solitary confinement and requires the use of appropriate alternatives for committed persons who are members of a vulnerable population.

Studies have shown that inmates with mental health conditions are more likely to be assigned solitary confinement because staff may not recognize their behavior is a result of their mental health condition. Studies have also shown that inmates who do not have any mental health issues may develop mental health issues as a consequence of solitary confinement, and this elevated risk persists even after they are released from prison. For these reasons, DCAB believes that solitary confinement should be used in very limited situations and as a last resort.

Thank you for considering our position.

Respectfully submitted,

KIRBY L. SHAW
Executive Director

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COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative David A. Tarnas, Chair

Representative Gregg Takayama, Vice Chair

Friday, February 16, 2024

Room 325 & VIDEOCONFERENCE

2:00 PM

STRONG SUPPORT FOR HB 1812 HD1 - REGARDING SOLITARY CONFINEMENT

Aloha Chair Tarnas, Vice Chair Takayama 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 3,866 Hawai`i individuals living behind bars¹ and under the “care and custody” of the Department of Public Safety/Corrections and Rehabilitation on any given day. We are always mindful that 858 - 25% - of Hawai`i’s imprisoned male population 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.

Community Alliance on Prisons is grateful for the opportunity to share our concerns, research, and alternatives on HB 1812 HD1 that restricts the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specified exceptions. Our testimony has been informed by the former Director of the Department of Public Safety, Ted Sakai, as well as the numerous letters and calls from people inside and their families outside.

This bill prohibits the use of solitary confinement and requires the use of appropriate alternatives for committed persons who are members of a vulnerable population and requires DCR to develop UPDATED written policies and procedures by 7.1.25, review committed persons placed in solitary by 4.1.25 and report to the legislature.

When the Hawai`i Delegation went to Norway in 2015, led by Justice Michael Wilson, they toured Norwegian prisons with a Delegation from North Dakota, which included the

¹ DPS/DCR Weekly Population Report, February 12, 2024

<https://dcr.hawaii.gov/wp-content/uploads/2024/01/Pop-Reports-Weekly-2024-02-12.pdf>

Director and Deputy Director for Corrections. After they arrived home, the Director of the North Dakota Prisons asked for all the files of those in solitary. There were approximately 100 files of people in solitary at that time. The Director went through each file and released most people from solitary because the trip to Norway made her realize the harms the state was inflicting on its people by the use of solitary. Between January 2016 and December 2019, the number of people in solitary confinement in North Dakota decreased by more than 74% and the length of solitary sentences decreased by 59%.”

It is common knowledge that humans are social beings, and how they are treated while under the care and custody of the state matters greatly as they will eventually reenter their communities. Research has shown that isolation is one of the most damaging things that a human can endure. Luckily, there are alternatives to punitive sanctions such as Solitary, Segregation, the Hole, Restrictive Housing, Special Housing Unit (SHU), or whatever other euphemisms are used to cover up the harms caused by the state.

ALTERNATIVES TO SOLITARY ²

“Alternatives to Solitary Enhance Prison Safety Instead of addressing the root causes of violence in prisons, solitary confinement is used as a catch-all for responding to disobedience and managing populations. This has created a cycle within carceral facilities where both violent and nonviolent behaviors are punished with more violence. The following approaches have been shown to reduce violence against both correctional staff and incarcerated people.

Decarceration: When examining rates of prison violence in comparison with population levels, a 2007 study found that individuals with histories of violent behavior were more likely to commit violent acts when housed in an overcrowded facility. By decreasing overcrowding, facilities decrease the likelihood that a volatile individual will be placed in a situation that instigates violent acts. In addition, fewer people in prison means more resources for programming and other options shown to reduce violence.

Increased Visitation: A 2012 study found that individuals who were visited while incarcerated were less likely to commit both high and low-level misconduct. The same study found that those who had visitation were less likely to reoffend upon release. Through increasing opportunities to connect with loved ones, correctional departments can disrupt violence by fostering meaningful human connections and systems of support.

Racial Diversity Among Staff: Evidence gathered from a 1995 study found a correlation between prisons’ ratios of white to Black correctional staff and rates of both inmate and staff

² NEW FACT SHEET EXPLODES THE MYTH THAT SOLITARY CONFINEMENT REDUCES VIOLENCE IN PRISONS, by Jean Casella | February 28, 2023. <https://solitarywatch.org/2023/02/28/new-fact-sheet-explodes-the-myth-that-solitary-confinement-reduces-violence-in-prison/>

assaults. This lack of diversity, combined with specific acts of racist discrimination and abuse, is a barrier to trust between staff and incarcerated individuals.

Positive Incentives: Reward systems in prison (RSPs), or remunerative controls, are used throughout the world as an alternative to punitive or coercive control methods of prison management. A review of current research on RSPs showed that they are “effective in advancing mental health among mentally ill participants, decreasing violent behavior among high-risk participants, increasing academic achievement, and reducing problem behavior among adolescents and young adults.”

Increased Autonomy: As opposed to the “control model” that dominates U.S. prisons, some European prisons rely more on a “responsibility model” or “consensus model” that gives incarcerated people greater freedom and responsibility, while prison staff enact the minimum amount of control required to keep order. The principle of “normalization” is central to Norwegian prisons’ approach. When building Halden Prison, Norway set out to “design life inside correctional facilities to resemble life outside prison as much as possible.” Although “nearly half [of incarcerated people at Halden are imprisoned for violent crimes like murder, assault or rape,” incidents of violent behavior or threats are extremely rare.

Enhanced Programming: Data collected and analyzed by the U.S. Bureau of Justice Statistics found that participation in substance abuse, sex offender, family and life skills, vocational, and educational programming was associated with significant reductions in prisoner-on-prisoner violence. Additionally, a 2003 study of 4,000 incarcerated people across 185 facilities showed that individuals “employed both inside and outside of the facility were significantly less likely to assault staff.”

Staff Training and Approaches: The Norwegian Department of Correctional Services (NDCS) base their operations on principles of “dynamic security,” emphasizing communications and relationship-building between staff and incarcerated people. In 2015, following participation in an exchange program with the NDCS, North Dakota began instituting reforms targeted at reducing the use of solitary confinement. Included in these reforms were the development of a transition unit for those exiting solitary, changes to disciplinary policies, changes to correctional officer training, and “articulat[ing] individualized plans that incorporate positive reinforcement strategies to address negative behaviors.”

We cannot emphasize enough the importance of training. Just as Warden Bersch from North Dakota discovered when she realized that solitary/segregation is inhumane, Hawai`i can also realize that punitive sanctions like solitary don’t comport with the values that our communities hold dear.

While Community Alliance on Prisons is aware of the department’s policies and procedures Policy No. COR. 11.01 that supersedes COR. 11.01, dated 12.12.09, this bill

UPDATES COR. 11.01 dated 11.28.14. This bill is the work of CAP and Ted Sakai, who authored the current COR. 11.01 and felt that there needed to be a pathway out of solitary/segregation. Ted and I worked on this bill incorporating his decades of correctional experience and best practices and because Community Alliance on Prisons receives many letters from people while they are in difference forms of segregation.

We have never been convinced that isolating a human being from other humans is an appropriate sanction. Humans need contact, and many people decompensate while in solitary/segregation, which aggravates their vulnerable condition. We have witnessed people who were mentally stable going into segregation and who emerge from solitary/segregation in poor shape. This is concerning as these folks can become prey for predators, putting the facility in turmoil and potentially causing a lockdown or worse.

In Saguaro, putting someone in segregation appears to be arbitrary. We have received a recent letter from one of our men in Saguaro who has refused the 'voluntary' SHIP (Special Housing Incentive Program), which is lockdown for 23 hours a day, then 22 hours a day. THIS IS NOT A PROGRAM. IT IS LOCKDOWN, where Bronson Nunuha was murdered. Why doesn't a person have the right to refuse a 'voluntary' program? SHIP is a sanction, not a program. People in solitary/segregation need to keep their brains active. There must be some classes, mental health and substance treatment, education, where they can keep their brains active. What can people learn in a place of isolation and potential violence?

Other letters talk about solitary/segregation in Saguaro being the ability of the facility to seize their property, which sometimes 'gets lost' when they are released from segregation or before hearings their documents appealing the sanction are "lost". The unfairness is striking and doesn't bode well for people who will be returning to our communities. We don't need more bitter, angry people who exit incarceration with few skills to support themselves or their families. This helps no one.

Halawa's Special Holding Unit (SHU) also has problems as the letters and phone calls we receive indicate. Gang activity appears to be alive and well there. We are concerned because people have said that they fear for their lives and many families have asked for our help. People should not fear for their lives when they are in the 'care and custody' of the state.

There is a plethora of research on the harms that solitary/segregation cause - and it is not just while the person is incarcerated - these effects can last a lifetime. In other words, the state harms people in their care and custody and then returns them to the community where some people have committed suicide.

THE RESEARCH

CALCULATING TORTURE³

The most recent research is entitled, **CALCULATING TORTURE** (2023)³, the first ever comprehensive accounting of the number of people in solitary in both prisons and jails, using data from the federal Bureau of Justice Statistics, two state prison systems that did not report to BJS, and Vera Institute of Justice’s survey of local jails. Finds there are approximately 122,000 people locked in solitary for 22+ hours on any given day in the United States, far more than previously estimated.

This report documents that the incidence of solitary confinement in this country is far greater than anyone has previously reported. It is now more urgent than ever that local, state, and federal jurisdictions across the United States end this massive system of government torture that causes devastating harm; leads to death; increases the risks of violence in places of detention and outside communities; and is disproportionately inflicted on Black people, Latino/a/x people, Native people, and other people of color. Ending solitary confinement would stop torture, save lives, and improve safety – not only for 122,000 people, but for everyone.

REPETITIVE SELF-HARM IN SOLITARY CONFINEMENT⁴

Terry A. Kupers, M.D., M.S.P

A big part of the psychological harm of solitary confinement in prison and jail is the extraordinarily high risk of suicide and self-harm. Averaging the various states for which we have figures for prison suicide rates, 50% of prison suicides – actions leading to death, as distinct from attempts – occur among the 3% to 6% or 8% of the prison population consigned to some form of solitary confinement. It is important to examine the link between solitary confinement on the one hand, and prison suicide and self-harm on the other. A large amount of research provides evidence that solitary confinement for longer than 15 days causes emotional distress, damage and disability.

According to the United Nations’ Standard Minimum Rules for the Treatment of Prisoners, the “Mandela Rules”: “For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact.”

But it is not social isolation alone that causes lasting damage; there is also the lack of meaningful activity.

³ **CALCULATING TORTURE** - Analysis of Federal, State, and Local Data Showing More Than 122,000 People in Solitary Confinement in U.S. Prisons and Jails, A Report by Solitary Watch and the Unlock the Box Campaign, May 2023. <https://solitarywatch.org/wp-content/uploads/2023/05/Calculating-Torture-Report-May-2023-R2.pdf>

⁴ **Repetitive Self- Harm in Solitary Confinement**, Terry A. Kupers, M.D., M.S.P., Correctional Health Reporter, Volume 24, No. 3 Summer 2023 ISSN 1526-9450 Pages 53–76. <https://solitarywatch.org/wp-content/uploads/2023/07/CHC-2403-01-Kupers-Self-Harm.pdf>

⁵ **Nowhere Else to Go—Solitary Confinement as Mental Health Care**
Nathaniel P. Morris, MD; Jacob M. Izenberg, MD, June 16, 2023.
<https://jamanetwork.com/journals/jama/article-abstract/2806498>

...The strongest root "cause" of prison suicide is solitary confinement itself. In that light, self-harm in solitary is iatrogenic. The self-harm and the suicide are iatrogenic in the sense the prisoner known to be at very high risk of suicide or self-harm is sent to the place we know is correlated very strongly with self-harming and suicidal behavior. And typically, mental health staff perform a pre-segregation evaluation and approve the individual's return to solitary confinement. ...

The alternative to returning the self-harming prisoner to solitary confinement is transfer to a mental health setting, perhaps a "stepdown" residential mental health treatment unit within the prisons. A basic principle of the Hippocratic Oath sworn by physicians is "first, do no harm."

IN THE NEWS

Nowhere else to go - Solitary Confinement as Mental Health Care ⁵

Solitary confinement, or the isolation of incarcerated people in housing that severely restricts out-of-cell time and other activities, is a controversial practice in jails and prisons. Placement into solitary confinement is associated with adverse health outcomes, including psychiatric distress, self-harm, and deterioration of physical well-being.^{1,2} Like incarceration broadly, solitary confinement disproportionately affects people from racial and ethnic minority populations, particularly Black people.³ For both its harms and racial inequities, long-term solitary **confinement** has attracted increasing scrutiny, yet even short periods of such confinement can be harmful. A troubling pattern has emerged across the US of using short-term solitary confinement to manage acute psychiatric distress; these practices reflect the ongoing crisis of inadequate community-based mental health services and the results of leaving such care to jails and prisons.

The Mayor Calls Solitary a Safety Measure. They Call It Torture.

More than a half-century after he was locked in solitary confinement on Rikers Island, Victor Pate still avoids elevators.

"The enclosure, that small space when the doors close: It's so reminiscent of going into that cell and the door closing on me," Mr. Pate, 71, said at a City Hall rally this week supporting a bill [banning solitary confinement](#) in most cases in New York. "I've not gotten beyond that."

Community Alliance on Prisons urges the committee to look at the harms caused by the state and the big impact that has on the families and communities to which they return. We CAN stop the harm and give people a chance at success. Letting people sit idle with no programming or visitation is cruel and serves no one, including the correctional system.

Mahalo nui!



Committee: Judiciary & Hawaiian Affairs
Hearing Date/Time: Friday, February 16, 2024 at 2:00pm
Place: Conference Room 325 & via Videoconference
Re: Testimony of the ACLU of Hawai'i in support of HB1812 HD1
Relating to Corrections

Dear Chair Tarnas, Vice Chair Takayama and Committee Members:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes in **support of HB1812 HD1**. This bill restricts the use of solitary confinement in state operated and state contracted correctional facilities, with certain specified exceptions. The bill also requires the Department to use appropriate alternatives to solitary confinement for incarcerated persons who are members of a vulnerable population.

The ACLU of Hawai'i is committed to transforming Hawai'i's criminal legal system and building anew vision of safety and justice. First and foremost, we **advocate for diversion and decarceration strategies to reduce the number of people in our jails and prisons**, the majority of whom are Native Hawaiians, Pacific Islanders and people of color. Simultaneously, we advocate for evidence based community supervision practices, humane conditions of confinement, meaningful rehabilitation opportunities, and comprehensive re-entry support services that starts from the first day of incarceration.

Over the past few decades, Hawai'i, similar to the continental United States, has increasingly used solitary confinement to hold incarcerated people in isolation. Although the Department of Public Safety uses the label "restrictive housing," "administrative segregation," or "disciplinary segregation" rather than solitary confinement, this is merely a difference in terminology that amounts to the same practice.

Solitary confinement that lasts more than 15 consecutive days is recognized by the United Nations and various human rights organizations as torture. This practice places incarcerated persons alone in cells for 22-24 hours per day with little or no human interaction or outside stimulus, often causing negative psychological reactions in all persons subjected to it. Solitary confinement is known to be especially devastating for people with mental illness who are disproportionately represented in solitary confinement.¹ It can also bring on mental illness where it did not exist before. Some people are confined in solitary for months, years, and even decades.

¹ Roy King, The Rise and Rise of Supermax: An American Solution in Search of a Problem? 1 PUNISHMENT & SOC. 163, 177 (1999). See also, <https://news.un.org/en/story/2011/10/392012>

Solitary confinement is extremely costly, and studies show that it neither deters violent behavior in jails and prisons nor prevents recidivism.² Research also shows that incarcerated people deprived of normal human contact cannot properly reintegrate into society, resulting in higher recidivism rates.³

As long as jails and prisons exist, we must limit the use of solitary confinement. At minimum, Hawai'i's practices must meet the **American Bar Association Standards for Criminal Justice, Treatment of Prisoners**.⁴ This requires appropriate procedures prior to placing a person in solitary; decreasing extreme isolation, close mental health monitoring for people in solitary and ending the solitary confinement of persons with mental illness.

In addition, better alternatives exist to placing people in solitary confinement. Here are a few examples of successful federal and state measures:

- Colorado Department of Corrections had an external review conducted of its administrative segregation policies and practices. As a result of reforms implemented, Colorado reduced its administrative segregation by 36.9%.
- Michigan reformed its administrative segregation practices through incentive programs. As a result, the number of violent incidents and misconduct dropped.
- Maine reduced its special management population by over 50% and expanded access to programming and social stimulation.
- Mississippi changed its use of solitary confinement and reduced the segregated population of one institution from 1000 to 150 and eventually closed the entire unit.

PSD Has Failed to Provide Solitary Confinement Data for Consideration by Lawmakers

In the past, the Department of Public Safety (now renamed the Department of Corrections and Rehabilitation) has opposed similar bills, in part, because it “has many similarities with PSD’s established policies and procedures which are periodically reviewed and updated as appropriate.”

Rather than citing system-wide data to support their opposition in the past, PSD/DCR cited anecdotal data. **While anecdotal data should be considered in shaping public policy, it is not a substitute for system-wide data.** PSD, like all governmental agencies, have a responsibility to provide agency wide data to assist Hawai'i lawmakers while deliberating on proposed bills that may become public policies.

To assist with meaningful discussion on this measure, the following questions are offered for consideration by lawmakers:

² DANIEL P. MEARS, URBAN INST., EVALUATING THE EFFECTIVENESS OF SUPERMAX PRISONS 4 (2006).

³ See, e.g., KERAMET REITER, PAROLE, SNITCH, OR DIE: CALIFORNIA’S SUPERMAX PRISONS AND PRISONERS 50 (2006).

⁴ ABA Standards for Criminal Justice, Treatment of Prisoners, 23-1, et. Seq (2010).

1. Is it a goal or objective of DCR to reduce the number of people placed under administrative and disciplinary segregation?⁵
2. What is the **current total number and percentage** of people in **administrative segregation** compared to the general population in Hawai‘i’s jails and prisons and out-of-state private for profit prisons? How does the current total number and percentage of people placed in administrative segregation compare to 5 years ago?
3. What is the **current total number and percentage of people in disciplinary segregation** compared to the general population in Hawai‘i’s jails and prisons and out-of-state private for profit prisons? How does the current total number and percentage of people placed in disciplinary segregation compare to 5 and 10 years ago?
4. What **reforms** have DCR implemented in the past five years to reduce the number of people placed under administrative and disciplinary segregation?
5. How are DCR’s current policies and practices relating to administrative and disciplinary segregation **similar** to the proposed bill?
6. How are DCR’s current policies and practices relating to administrative and disciplinary segregation **different** from the proposed bill?
7. How **many people** are placed under **administrative segregation** in Hawai‘i’s jails and prisons, as well as Saguaro prison in Arizona?
8. How **many people** are placed under **disciplinary segregation** in Hawai‘i’s jails and prisons, as well as Saguaro prison in Arizona?
9. What is the **duration** under **administrative segregation (shortest to longest length)**?
10. What is the **duration** under **disciplinary segregation (shortest to longest length)**?
11. How many people in our jails and prisons in Hawai‘i and out of state private for profit prisons have **committed suicide** while under administrative segregation or disciplinary segregation, or upon release from administrative segregation or disciplinary segregation in the past five years?
12. Has the Department of Public Safety **consulted with experts to conduct a third party external review of its administrative and administrative segregation policies and practices** similar to Colorado that reduced its administrative segregation population by 30%?

⁵ <https://www.civilbeat.org/2016/12/do-hawaii-prisons-overuse-solitary-confinement/>

Since the vast majority of people in solitary confinement are eventually released back into the community, it is essential that we invest our limited public dollars in proven alternatives that lead to greater rehabilitation and pave the way for successful re-entry and reintegration.

In closing, we respectfully request that you pass HB1812 HD1.

Sincerely,

Carrie Ann Shirota

Carrie Ann Shirota

Policy Director

ACLU of Hawai'i

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-1812-HD-1

Submitted on: 2/16/2024 9:12:02 AM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Henry Q Curtis	Life of the Land	Support	In Person

Comments:

Life of the Land strongly supports ending torture. Solitary confinement imposes unnecessary damage to all people, especially those with mental illnesses. Please pass this bill. Mahalo

HB-1812-HD-1

Submitted on: 2/14/2024 11:14:29 PM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Hawaii Disability Rights Center	Support	Remotely Via Zoom

Comments:

We have always felt that solitary confinement should either never be utilized or at most rarely, and only under exigent circumstances. It is particularly damaging to individuals who already have a mental illness. We understand that there may currently be protocols in place regarding the use of solitary confinement. However, we believe that codifying these restrictions would be much better.

TESTIMONY IN SUPPORT OF HB 1812, HD 1

TO: Chair Tarnas, Vice-Chair Takayama, & Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: February 16, 2024 (2:00 PM)

Hawai'i Health & Harm Reduction Center (HHRC) **strongly supports** HB 1812, HD 1, which restricts the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specified exceptions and requires the Department of Corrections and Rehabilitation (DCR) to use appropriate alternatives to solitary confinement for inmates who are members of a vulnerable population.

This measure is necessary to help ensure that this state's carceral facilities, including those on the continent, are administered in a fashion that is congruent with [DCR's express mission to provide services with "professionalism, integrity, and fairness."](#) Limitations on solitary confinement are necessary to protect those who are already struggling with mental health conditions and other behavioral health issues.

Under the [Mandela Rules promulgated by the United Nations in 2015](#), **placement in solitary for longer than 15 days is the equivalent of a form of torture**. The United Nations underscores the moral imperative of the equitable treatment of those in carceral facilities: *"All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times."*

[In its most recent periodic report on the United States of America pertaining to its compliance with the International Covenant on Civil and Political Rights](#), the Human Rights Committee of the United Nations Office of the High Commissioner expressed concern with

“reports of the extensive use of solitary confinement in the State party, including prolonged and even indefinite solitary confinement, and of its use with respect to juveniles and persons with intellectual or psychosocial disabilities or health needs.”

In addition to bringing all legislation and practice relating to solitary confinement into line with the standards set forth in the Mandela rules, the Committee called for a blanket prohibition on the use of solitary in prison for persons with intellectual or psychosocial disabilities.

The American Public Health Association called for an end to punitive segregation in a 2013 policy statement, “[Solitary Confinement as a Public Health Issue](#),” that underscores the imperative of an incarcerated person’s health in non-punitive segregation:

Correctional authorities should implement policies that eliminate solitary confinement for security purposes unless no other less restrictive option is available to manage a current, serious, and ongoing threat to the safety of others. Punitive segregation should be eliminated. Isolation for clinical or therapeutic purposes should be allowed only upon the order of a health care professional and for the shortest duration and under the least restrictive conditions possible. Prisoners who are separated from the general population for their own protection should be housed in the least restrictive conditions possible.

The American Bar Association succinctly articulates the harmful toll that periods of isolation can take on a person in its [2018 resolution calling for limits on the use of solitary confinement](#):

Scientific research confirms that solitary confinement is physiologically and psychologically harmful. Although the most widely reported effects are psychological, physiological effects are commonly reported and include heart palpitations, diaphoresis (sudden excess sweating), insomnia, back

and other joint pain, deterioration of eyesight, poor appetite, weight loss, lethargy, weakness, shaking, feeling cold, and aggravation of preexisting medical conditions. Individuals held in solitary confinement experience a whole host of negative responses, including negative attitudes and affect; insomnia; anxiety; panic; aggression and rage; depression; and lower levels of brain function, including a decline in electroencephalogram (EEG) activity that is observable after only seven days in isolation.

The ABA recommends that solitary confinement be prohibited “for individuals with intellectual disability or serious mental illness; the elderly; women who are pregnant, are postpartum, or recently had a miscarriage or a terminated pregnancy; and individuals whose medical conditions will be exacerbated by such confinement.”

Further, the ABA recommends that solitary confinement “should be used only in exceptional cases as a measure of last resort, where less restrictive settings are insufficient, and for no longer than is necessary to address the specific reason for placement, typically not to exceed 15 consecutive days.”

This harmful toll of solitary confinement also impacts family members of the incarcerated, including children. Incarceration of a parent is an “[adverse childhood experience](#)” that has lasting consequences for a person’s health and well-being over the course of their life. Prolonged physical isolation from a parent increases that harm.

As the [Vera Institute notes in a 2021 policy brief on the impact of solitary confinement](#), “A large body of research shows that maintaining family engagement—particularly through frequent and meaningful in-person visits—is vital for the well-being of incarcerated people and their loved ones; it can also increase their chances of a successful transition back into the community after incarceration.”

[The National Commission on Correctional Health Care underscores the critical role of health care officials in the administration of solitary confinement in a 2016 statement.](#)

Among its recommendations:

- Isolation for clinical or therapeutic purposes should be allowed only upon the order of a health care professional and for the shortest duration and under the least restrictive conditions possible, and should take place in a clinically designated and supervised area.
- Individuals who are separated from the general population for their own protection should be housed in the least restrictive conditions possible.
- Individuals in solitary confinement, like other inmates, are entitled to health care that is consistent with the community standard of care.
- Health care staff should evaluate individuals in solitary confinement upon placement and thereafter, on at least a daily basis. They should provide them with prompt medical assistance and treatment as required.
- Health care staff must advocate so that individuals are removed from solitary confinement if their medical or mental health deteriorates or if necessary services cannot be provided.

Prevailing prosecutorial practices, along with the continued absence of substantive bail reform, sentencing reform, and probation reform, set the stage for perennially overcrowded carceral facilities. The continued criminalization of personal drug use and possession significantly perpetuates lasting social, medical, and legal stigma. Criminalization subjects persons from under-resourced communities to prolonged periods of criminal legal supervision. [The enforcement of drug laws pertaining to personal use and possession of drugs has disproportionately impacted Native Hawaiians](#) and the broader Pasifika community.

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals who are impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those relating to substance use and underlying mental health conditions. Many of our clients and participants have been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.



National Alliance on Mental Illness Hawaii
A State Organization of NAMI

TO: The Honorable David A. Tarnas
Chair, House Committee on Judiciary and Hawaiian Affairs
The Honorable Gregg Takayama
Vice Chair, House Committee on Judiciary and Hawaiian Affairs

FROM: Trisha Chaung
Advocacy Manager, NAMI Hawaii

RE: HB 1812 HD1 – RELATING TO CORRECTIONS

HEARING: February 16, 2024 at 2:00 PM

POSITION: **NAMI Hawaii supports HB 1812 HD1**

NAMI Hawaii supports HB 1812 HD1 as a step toward the abolition of the use of solitary confinement. Although we believe that no one should be subject to practices that can cause or worsen mental health symptoms, and thus oppose the use of solitary confinement and equivalent forms of administrative segregation for people with mental health conditions, we write in support of HB 1812 HD1 in hopes that it will serve as an example of reform legislation.

Solitary confinement and other forms of administrative segregation are often used to control and manage inmates with serious mental illness. This needs to stop, and we support and draw special attention to HB 1812 HD1's clause that states that a "committed person [who] is twenty-one years of age or younger, has a disability based on mental illness, or has a developmental disability shall not be subject to discipline for refusing treatment or medication, or for engaging in self-harm or related conduct or threatening to do so." We also support all clauses in HB 1812 HD1 that mitigate and frequently evaluate the amount of time spent in solitary confinement, that ensure access to care, programming, and services while in solitary confinement, and that require documentation, right to appeal, and demonstrated effort to seek the least restrictive environment before placing an individual in solitary confinement.

The long-term effect of solitary confinement is devastating. It can leave individuals with mental illness unable to function in correctional facilities and unprepared to successfully reenter communities after their release. Limiting the use of solitary confinement and eliminating its use for vulnerable populations, including people with mental illness, people with intellectual/developmental disabilities, and juveniles, would result in:

- Fewer psychiatric symptoms
- Lower rates of violence
- Improved re-entry and transitions back into the community
- Increased cost savings to correctional systems

That being said, rather than using isolation strategies that can cause long-term damage, NAMI Hawaii urges correctional authorities to provide mental health care alternatives to solitary confinement. NAMI Hawaii, like most who provide care and education within the community, wants a world where people with mental illness receive help in the earliest parts of the Sequential Intercept Model and thus never enter jails/prisons, but that wish does not absolve us of our responsibility to help those *currently* in jails/prisons. We have also submitted testimony in support of SB 2005 (construction of a mental health facility to provide medically appropriate care to currently incarcerated individuals) and support other supplementary bills/policies that will divert incarcerated individuals to the least restrictive interventions for stabilization, treatment, and personal/facility safety.

HB 1812 HD1 should be seen as a step forward, not a final destination. Thank you for the opportunity to provide testimony on HB 1812 HD1.

HB-1812-HD-1

Submitted on: 2/15/2024 2:30:53 PM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nikos Leverenz	Drug Policy Forum of Hawaii	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice-Chair Takayama, & Committee Members:

Drug Policy Forum of Hawaii strongly supports this bill to place needed parameters on the use of solitary confinement in carceral facilities funded by the state. The [2018 resolution of the American Bar Association](#) (ABA) on this penological practice, much of which runs afoul of international human rights law, bears close reading by policymakers and administrators alike.

DPFH reiterates the ABA’s recommendation that the use of solitary confinement, including practices referred to in bureaucratic newspeak as “administrative segregation” and “punitive segregation,” be prohibited for those with intellectual disabilities and serious mental illness, the elderly, women who are pregnant or post-partum, women who recently had a miscarriage or terminated pregnancy, and those whose medical conditions are exacerbated by its use.

Hawaii continues to disproportionately criminalize those with behavioral health problems, particularly those from rural, under resourced Native Hawaiian and Pasifika communities. This ongoing policy failure embodies the type of structural racism that the legislature declared a “public health crisis” via [HCR 112 in 2021](#).

In its prior testimony on this measure, the Department of Corrections and Rehabilitation notes that “age, developmental disability, and mental illness have very little to do with the State’s requirement for the protection of others from harm, assault and even loss of life.”

As demonstrated by the cases of [Joseph O’Malley](#) and [Diamond Simeona-Agoo](#), among others, the Department has been grossly deficient in the provision of adequate care services for those with persistent mental health challenges.

Confining suicidal inmates to solitary without prior authorization by appropriate health care staff, daily evaluation to provide needed medical assistance and treatment, and ensuring that it takes place in a clinically designated and supervised area is cruel and inhumane.

Given that Hawaii operates a unified jail and prison system, legislators must be far more diligent in providing the Department with appropriate parameters to ensure that sound, evidence-based penological practices are adopted and implemented in this state and in its contracted facilities in Arizona, [which have already received international attention for its administrative deficiencies](#).

With an annual per capita cost of incarceration now approaching \$90,000, the legislature must do everything possible to ensure that public resources on this front are not being used to sustain the kind of continued maladministration resulting in preventable deaths that cost taxpayers additional large sums in legal settlements and judgments.

The lack of appropriate care services behind the walls and meaningful re-entry services, coupled with the continued criminalization of poverty and behavioral health problems, significantly damage our state's families across generations. The images of Ms. Simeona-Agoo prior to her death (in the above link) and as a young child [visiting her mother at the Women's Community Correctional Center in 2006](#) provide one individual compelling narrative regarding the need for more far-reaching systemic reforms.

Mahalo for the opportunity to provide testimony.

HB-1812-HD-1

Submitted on: 2/14/2024 5:06:20 PM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Zoe Ryan	Individual	Support	Remotely Via Zoom

Comments:

Hello.

I am writing to support any and every bit of reducing solitary confinement, which is presented as segregation to make it seem less extreme. Solitary confinement is NOT appropriate for ANY human, under any circumstance. My husband spent the first 21/2 YEARS of his incarceration in solitary/seg. In a concrete room with ABSOLUTELY NOTHING to do. Not allowed to take college courses, not allowed to connect with his family. If that won't drive a man literally mad in the first days... I don't know how these guys survive.

My husband is severely mentally damaged from this. The story is long, the effect is not acceptable. The result is a broken man, a broken family, and the next generation of struggling people. We need to do better. We need to educate those who are tasked with rehabilitation. We need to fire facility employees who are power hungry and love to abuse these guys. (I can give you the names of more than one at Saguaro Correctional Center)

My husband has been sent to the hole for petty, trivial reasons for months at a time. This is more than wrong, and it needs to stop.

Zoe

JUDICIARY AND HAWAIIAN AFFAIRS

FRIDAY, FEBRUARY 16, 2023

2:00 PM – ROOM 325 & VIDEOCONFERENCE

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee,

My name is Olivia Chang and I'm writing in **strong support of HB 1812**. The World Medical Association calls solitary confinement a form of torture. The UN has prohibited solitary confinement of more than 15 consecutive days and denounces the use of solitary for women and children. Solitary is "so severe as to be inherently degrading, threatening an individual's personal integrity and membership in a community". Solitary causes a host of terrible effects on people, including psychological and physical harm. Formerly incarcerated people who had spent time in solitary had higher overall mortality 5 years after release than did those who had not spent time in solitary confinement.

Solitary makes prisons more dangerous. After Washington, Colorado, and Mississippi enacted reforms to reduce the number of people sent to solitary and limit the length of time people were allowed to spend in solitary, assaults on staff decreased by 40 to 50 percent. After North Dakota implemented changes that resulted in a 75% reduction in the use of solitary confinement, "infractions involving violence decreased at one prison overall and it decreased within the units at both prisons that were previously used for solitary confinement. [...] Both incarcerated persons and staff members reported improvements in their health and well-being, enhanced interactions with one another, and less exposure to violence following the reforms."

And after release, solitary confinement increases the chance that incarcerated individuals are convicted of a new crime. One study found that Danish inmates placed in disciplinary segregation as a punishment were less likely to be employed post-release, compared to inmates who received difference disciplinary sanctions for an infraction, and more likely to be convicted of a new crime. Placing incarcerated people in solitary significantly compromise[s] their chance of successfully reintegrating into society after release.

States like New York, New Jersey, and Colorado have already implemented these reforms, because they know banning solitary confinement is not only the right thing to do, but saves money. Solitary New York State's HALT Solitary Confinement Act, passed in 2021, is in on the path to saving the state \$1.3 billion over ten years.

Solitary confinement is deeply immoral. What does it say about us that we continue to allow this practice? It's long past time for us to ban this cruel and unusual punishment.

HB-1812-HD-1

Submitted on: 2/14/2024 8:23:16 PM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carolyn Eaton	Individual	Support	Written Testimony Only

Comments:

Aloha, Chair Tarnas, Vice Chair Takayama and members of the Committee,

My name is Carolyn Eaton and I support this measure wholeheartedly. Solitary confinement has been used with poor judgment by Corrections in our jails and prisons. The deaths in custody resulting have cost the State millions. The lives in our custody must be spared indiscriminate use of this dangerous practice, except in only the few circumstances listed.

Mahalo for your consideration of the humanity of incarcerated individuals and for my strong support of this measure.

HB-1812-HD-1

Submitted on: 2/14/2024 10:33:06 PM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Diana Bethel	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee,

I am writing in strong support of HB 1812 HD1 which prohibits prolonged solitary confinement and restricts its use in both state and contract-operated facilities, prohibits its use for vulnerable populations, prohibits inhumane conditions such as placement in dark or constantly lit cells, and requires a report to be submitted to the Legislature and the Hawaii Correctional System Oversight Commission by 4/1/2025.

Solitary confinement is a punitive practice in which an individual is confined to a small room for 22 to 23 hours a day. Increased attention has been paid to the impact of solitary confinement in recent years. Researchers, including medical professionals, have conducted studies of people in solitary confinement and have discovered that there are significant mental and physical health effects. It was found that individuals subjected to solitary confinement experience increased psychological distress and suffer from symptoms such as anxiety, depression, anger, irritability and hostility, paranoia, panic attacks, worsened mental health issues, problems with attention, concentration, and memory, hallucinations affecting all the senses, poor impulse control, social withdrawal, outbursts of violence and/or psychosis. These psychological impacts may be severe and become irreversible. Post-traumatic stress disorder is a predictable result of this punitive practice. Suicide and suicidal ideation may also occur.

Physical health is also affected by solitary confinement and many physical ailments have been observed and recorded.

We know that 95% of incarcerated individuals will return to our communities at some point. Solitary confinement inflicts major psychological and physical harms on incarcerated individuals and they are returned to society in an extremely damaged state. Their solitary confinement experiences do not help them reintegrate into society and become good neighbors. On the contrary, they are less likely to successfully adapt to life in the community and may end up reoffending and returning to prison.

Solitary confinement has been called a form of torture and it's time to end this barbaric practice. Please support HB1812 HD1.

Mahalo,

Diana Bethel, Honolulu

HB-1812-HD-1

Submitted on: 2/15/2024 12:12:42 AM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Raelyn Reyno Yeomans	Individual	Support	Written Testimony Only

Comments:

I am in STRONG SUPPORT!

ROBERT K. MERCE
2467 Aha Aina Place
Honolulu, Hawai'i 96821
(808) 398-9594

February 15, 2024

TO: Committee on Judiciary and Hawaiian Affairs

RE: HB 1812 H.D. 1

HEARING: Friday, February, 16, 2024

TIME: 2:00 p.m.

ROOM: Conf. Rm. 325 and video conference

POSITION: Strongly Support

Chair Tarnas, Vice-Chair Takayama, and Members of the Committee,

My name is Bob Merce. I am a retired lawyer and have been a prison reform advocate for many years. **I support H.B. 1812, H.D. 1.**

The detrimental effects of solitary confinement have been documented for more than century, yet its use and abuse continue, often under euphemisms such as “administrative segregation,” “restrictive housing,” “disciplinary segregation,” or other names. H.B. 1812, H.D. 1 is an important step toward reducing the inappropriate use and misuse of solitary confinement, and I strongly urge its adoption.

Thank you for allowing me to testify on this important bill.

HB-1812-HD-1

Submitted on: 2/15/2024 8:52:29 AM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Thaddeus Pham	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice Chair Takayama, and JHA committee,

As a public health professional and concerned community member, I write in **STRONG SUPPORT** of HB1812 HD1, which would restrict solitary confinement and ensure accountability measures.

I am appalled by stories I hear of the misuse and abuse of solitary confinement, which clearly no longer represent just or corrective action. Please ensure that our state's correctional system reflects the Aloha values of Hawai'i.

Mahalo for considering this important bill.

Thaddeus Pham (he/him)

TO: Chair David Tarnas, Vice Chair Takayama, and members of the House Committee on
Judiciary and Hawaiian Affairs

FROM: Dr Barbara Polk

RE: Comments on HB1812, HD1 for February 16, 2024 2PM hearing

In general I oppose the use of solitary confinement for the reasons spelled out in the Section 1 of HB1812 HD1. However this bill contains many provisions that make great strides toward a more humane and effective system of incarceration, especially in the banning of the use of solitary confinement for vulnerable persons and limiting it for all persons. I also support the many other changes in the bill, including establishing rights of people placed in solitary confinement, and requirements for the humane treatment of those held.

However, there are contradictory portions of the bill that need correction before it is passed:

The purpose of the act includes (p.4, lines 17-19):

(A) Prohibiting indefinite solitary confinement;

(B) Prohibiting prolonged solitary confinement;

And Proposed Part (9) is consistent with those purposes (p. 8 lines 18-20, p9 lines 1-2)

(9) Except as otherwise provided in subsection (d), during a facility-wide lockdown, a committed person shall not be placed in solitary confinement for more than fifteen consecutive days, or for more than twenty days total during any sixty-day period;

However, Part (4)(A) seems to permit, or even assume, that persons will be held more than 15 days, but will be reevaluated every 15 days (p.7, lines 6-10).

(4)A) An initial hearing held within seventy-two hours of placement in solitary confinement and a review every fifteen days thereafter, in the absence of exceptional circumstances, unavoidable delays, or reasonable postponements;

This provision violates the purpose of the act as well as Part (9) above, by permitting persons to be held for indefinite or prolonged periods. The Legislature needs to decide whether it intends to violate the UN's Nelson Mandela Rules spelled out in the introduction to this bill by allowing this loop-hole to permit people to be held for periods of time that are regarded as torture.

I urge you to amend this bill to correct the contradiction above by removing the bold portion of (4)(A) to ensure that Hawai'i does not perpetuate torture in our jails and prisons.

Opportunity Youth Action Hawai‘i

February 16, 2024

House Committee on Judiciary and Hawaiian Affairs

Hearing Time: 2:00 PM

Location: State Capitol Conference Room 325

Re: HB1812 HD1, RELATING TO CORRECTIONS

Aloha e Chair Tarnas, Vice Chair Takayama, and members of the Committee:

On behalf of the Opportunity Youth Action Hawai‘i hui, we are writing in **strong support** of HB1812 HD1, relating to crisis corrections. This bill restricts the use of solitary confinement in state-operated and state-contracted correctional facilities, with certain specified exceptions. It prohibits the use of solitary confinement and requires the use of appropriate alternatives for committed persons who are members of a vulnerable population. This bill also requires the Department of Corrections and Rehabilitation to develop written policies and procedures regarding solitary confinement by 7/1/2025 and requires the Department to develop policies and procedures to review committed persons placed in solitary confinement, and develop a plan for committed persons currently in solitary confinement, by 4/1/2025. Additionally, this bill also requires a report to the Legislature and Hawai‘i Correctional System Oversight Commission.

The practice of solitary confinement within prison systems denies inmates a sense of humanity and restricts standard needs inmates have. This is especially true for vulnerable populations that face increased trauma if subjected to solitary confinement. Therefore, restricting the use of solitary confinement is the correct path to ensure that inmates are afforded all opportunities for proper rehabilitation without subjecting them to further psychological distress.

Opportunity Youth Action Hawai‘i is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth homelessness and housing market discrimination against young adults; and promote and fund more holistic and culturally informed approaches among public/private agencies serving youth.

Please support HB1812 HD1.

Aloha Chair Tarnas, Vice-Chair Takayama, and committee members,

I strongly support HB 1812, a bill that restricts the use of solitary confinement in state-operated and state-contracted correctional facilities. Section 1 of this bill very clearly lays out the reasons why it must be passed. Every person should be treated with respect for their inherent dignity and value that all of us possess as human beings.

Mahalo for your time,

-Michael Paul, resident of House District 27

HB-1812-HD-1

Submitted on: 2/15/2024 8:12:57 PM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carter Wy C	Individual	Support	Written Testimony Only

Comments:

As a physician, father, and concerned community member I am writing in strong support of HB 1812!

HB-1812-HD-1

Submitted on: 2/15/2024 8:30:06 PM

Testimony for JHA on 2/16/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Maddie Zi-Ling Chang	Individual	Support	Written Testimony Only

Comments:

My name is Maddie and I am a middle school student. I really support this bill because it would stop people from being put in solitary confinement. Which the United Nations says is torture and torturing people is terrible and wrong and immoral. We should actually care about people. Please please pass this bill.