

# COMMUNITY ALLIANCE ON PRISONS

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CAP TESTIMONY BEFORE HCR 23 TASK FORCE

COMMUNITY INPUT MEETING

Monday, September 11, 2023

5pm-7pm

University of Hawai'i, Manoa

Campus Center, Executive Dining Room

2465 Campus Road, Honolulu, Hawai'i 96815

Aloha e Chair Patterson and Members of the HCR 23 Task Force,

Mahalo for this opportunity to share our thoughts, concerns and suggestions as you embark on your work for the next year improving the quality of justice in Hawai'i nei!

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 almost 30 years. This testimony is respectfully offered on behalf of the 3,953 Hawai'i individuals living behind bars<sup>1</sup> and under the "care and custody" of the Department of Public Safety as of September 4, 2023. We are always mindful that 872 of our people are in Arizona -- 44% of the total male prisoned population - 1980<sup>2</sup> especially since our prisons are not overcrowded<sup>2</sup> -- it is the jails that are obscenely overcrowded. Why are so many of Hawai'i's imprisoned people 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 when there is room in Hawai'i?

One of the biggest issues facing Hawai'i government is the lack of communication between agencies, the legislature and the community. This has been highlighted by the Lahaina fires where the community was left on their own to navigate this disaster. This problem is evidenced in every government system.

Today, Community Alliance on Prisons presents our testimony in three sections: Issues; Practices; and Resources.

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<sup>1</sup> Department of Public Safety, Weekly Population Report, September 4, 2023.

<https://dps.hawaii.gov/wp-content/uploads/2023/09/Pop-Reports-Weekly-2023-09-04.pdf>

<sup>2</sup> Why are 48% 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 87.6%; Halawa Special Needs Facility is at 0%; Kulani is at 42%; Waiawa is at 47.6% of operational capacity.

## ISSUES:

### HCR 23 PAROLE TASK FORCE MEETING ARE CLOSED TO THE PUBLIC???

The notice on the HCSOC website announces that the meetings of the HCR 23 Parole Task Force are closed to the public! Community Alliance on Prisons certainly hopes that a publicly-funded agency and its task force understands that shutting the public out of discussions about an issue that impacts so many of our families is immoral and anti-democratic. This type of government behavior only serves to promote distrust in the community.

Community Alliance on Prisons respectfully requests that the HCR 23 Task Force meetings are made publicly available online at the time of the meeting. Even if the public is not invited to attend the meetings or participate in the discussion online, we could listen in and submit comments to HCSOC for the Task Force's consideration. Community Alliance on Prisons is pushing for transparency AND accountability. The meeting minutes should be posted on the HCSOC website along with any testimony and resources consulted.

### VITAL TASK FORCE MEMBERSHIP ELEMENTS ARE MISSING: PEOPLE WITH LIVED EXPERIENCE AND THEIR FAMILIES

Community Alliance on Prisons is again dismayed at the lack of transparency regarding the members of the Task Force. One excuse proffered was that the legislature picked the task force membership and it couldn't be changed.

However, the HCR 85 Task Force - whose members were also chosen by the legislature - held open meetings and created subcommittees where the community was invited to the table - sometimes to make presentations, sometimes to participate in the discussion. This led to wide-spread support for the establishment of the Hawai'i Correctional System Oversight Commission.

The Hawai'i Correctional System Oversight Commission has consistently held monthly meetings since 2020 and there are always 2 slots on the agenda for public participation. THIS IS WHAT DEMOCRACY IS ALL ABOUT.

Community Alliance on Prisons respectfully requests that the Task Force invite people who have been through the parole process to help the Task Force understand the first-hand experience of people who have successfully completed the parole process.

These insights can help the Task Force understand what practices are employed and can lead to development of better ways to understand and assist people making the transition from institutional to community life.

## THE VOICES OF THOSE WITH LIVED EXPERIENCE

Here are some comments made by justice-involved people in California and Mississippi:

*"People who have gone through the system have the best perspective."*

*"Parole puts out their fairness, but it relies on an old paradigm."*

*"Parole is more focused on maintaining the status quo."*

*"Hearings tend to look like resentencing hearings."*

*"Multiple parole hearings are traumatizing."*

### **PRACTICES:**

#### IS HPA ABOUT PUNISHMENT OR SUCCESSFUL REENTRY?

Community Alliance on Prisons read the July 1989 Guidelines for Establishing Minimum Terms of Imprisonment wherein the first three pages of the 8 page report ‘punishment’ is mentioned 6 times! This highlights the problem.

Punishment should NOT be within the purview of the Hawai`i Paroling Authority - their main objective should be to assist people who have been incarcerated in safely and smoothly transitioning back to their communities.

This misunderstanding seems to be the fundamental problem with parole - many people who work in that agency believe that their job is punishment and surveillance. We have heard this characterization from people who have been interviewed for positions at HPA. How can anything change with that mentality?

#### THE IMPORTANCE OF LANGUAGE

How people are referenced makes a difference in how they see themselves. All throughout the Guidelines for Minimum Terms (as well as Hawai`i Revised Statutes) the term “offender” is used for the person that comes before the parole board.

That the state continues to use these labels that stigmatize, not only the person but their families also, and then expects that a person can make a smooth transition upon release is naïve and potentially dangerous.

People who have been released need to reintegrate into community life. Constantly reminding them of their past transgressions does not facilitate a successful reentry to their communities.

One of the most impactful presentations I ever heard was a gentleman who was justice-involved speaking at the Riverside Church in NYC. He spoke of doing time and the struggle with reentry when a person bears so many labels – so much stigma. He emphasized, “I am not a convict. I am not an inmate. I am not the worst thing I have ever done. I AM A MAN!”

WHY DO PEOPLE CHOOSE TO SERVE THEIR MAXIMUM SENTENCE?

Community Alliance on Prisons has spoken to many people inside who have chosen to max-out rather than go through the parole labyrinth. What we have learned is that people scheduled for parole rarely, if ever, receive any assistance in developing a parole plan that they can present to the board. In our experience, most people have no idea what to expect or how to actually present themselves to the board, who many believe are focused on the original crime and not how they have changed and learned from their behavior.

*Recidivism Rates, by Offender Type, FY 2016 Cohort<sup>3</sup>*

	Probationers (N=1,301)*	Parolees (N=531)	Maximum-Term Release Prisoners (N=317)
Recidivism	54.6%	50.1%	57.1%

*These numbers depict probationer, parolee, and maximum-term released prisoner recidivism rates. Recidivism is defined as any new arrest, or the revocation of probation or parole, within three years of the start of supervision, released to parole, or prison release date.*

*The data reveal a 54.6% recidivism rate for probationers; a 50.1% recidivism rate for parolees; and a 57.1% recidivism rate for maximum-term released prisoners. The differences in recidivism rates by offender type are statistically significant at the p<.01 level. The overall recidivism rate for the entire FY 2016 study cohort is 53.8%.*

Supportive services are crucial for successful reentry. When so many people choose to serve their maximum sentences, isn’t that a call to review what is going on at parole and its contribution to mass incarceration?

**RESOURCES:**

Here are some wonderful resources that can help the Task Force develop viable recommendations:

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<sup>3</sup> Interagency Council on Intermediate Sanctions, March 2021, Timothy Wong, ICIS Research Analyst State of Hawaii, FY 2016 Cohort - 2019 Recidivism Update, page 3.  
<https://icis.hawaii.gov/wp-content/uploads/2021/05/2019-Hawaii-Recidivism-Update.pdf>

- *Macarthur Justice Center's National Parole Transformation Project (NPTP)*<sup>4</sup>

Community Alliance on Prisons recently tuned in on two PAROLE panels hosted by The Marshall Project and the MacArthur Justice Center's National Parole Transformation Project (NPTP). NPTP is a coordinated campaign of strategic impact litigation and community-based advocacy directly challenging the parole systems feeding mass incarceration. These systems of surveillance and control have expanded unchecked, funneling hundreds of thousands of people into prisons. Through collaboration with a growing network of advocates, lawyers and systems-impacted individuals, NPTP develops and supports local and national efforts to end the expansion of carceral systems of post-conviction supervision across the country.

The two parole teach-in panels from California and Mississippi provide incite into the parole process that is important.

- *The Importance of Supporting Family-Connections to Ensure Successful Reentry*<sup>5</sup>

*WHY DO FAMILY CONNECTIONS MATTER?*

- They offer critical emotional and psychological support
- They may help incarcerated individuals gain practical support that aids successful re-entry
- They may mitigate the harm parental incarceration has on children
- Family connections are an important part of family reunification
- Family connections promote public safety

*CONCLUSION*

Behind most incarcerated individuals is a family that is critical to encouraging positive change on the inside and supporting them as they prepare for life on the outside. Despite this, government policies and family circumstances often impede the ability of families to stay connected during incarceration. However, changes to government policies, community-based partnerships and the expansion of family-oriented programming can help families overcome these obstacles, with great benefit both to individuals and to society as a whole.

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<sup>4</sup> MacArthur Justice Center, National Parole Transformation Project, 2023.  
<https://www.macarthurjustice.org/litigation/national-parole-transformation-project/>

<sup>5</sup> *The Importance of Supporting Family-Connections to Ensure Successful Reentry*  
R STREET SHORTS NO. 63  
Emily Mooney and Nila Bala  
October 2018  
6 pages  
<https://www.rstreet.org/wp-content/uploads/2018/10/Final-Short-No.-63-1.pdf>

- **Comprehensive Policies Can Improve Probation and Parole<sup>6</sup>**

Framework offers solutions to strengthen community supervision

The advisory council organized its recommended policies according to the following objectives:

**Enact alternatives to arrest, incarceration, and supervision.**

Research has consistently shown that supervision is not effective for individuals with a low risk of reoffending and can even increase that risk.<sup>4</sup> Additionally, probation and parole may be overly punitive for people who commit minor offenses. The council recommends using alternative sanctions, including community service for people convicted of low-level offenses such as traffic violations and minor drug crimes.

**Implement evidence-based policies centered on risks and needs.**

Evidence-based decision-making is the foundation of effective supervision that yields positive outcomes, and its essential components are the principles of risk, need, and responsivity (RNR)—an assessment methodology that enables parole and probation officers to develop case plans tailored to individuals' needs and level of risk to reoffend. The council recommends that agencies assess people's risk and needs using validated tools and tailor case plans and supervision intensity based on those assessments.

**Adopt shorter supervision sentences and focus on goals and incentives.**

Two main factors have driven growth in the community corrections population: the number of people sentenced to probation and placed on parole and the length of time they spend under supervision. Research has demonstrated that long supervision terms deliver diminishing public safety benefits.<sup>5</sup> To address these challenges, agencies should adopt earned compliance credits and other incentives and policies that offer early termination of supervision for people who follow rules or meet other criteria.

**Establish effective and appropriate supervision conditions.**

People on supervision must follow a long list of standard conditions and sometimes special requirements as well. Individuals who fail to follow these rules can face sanctions, which can include incarceration.<sup>6</sup> The council recommends locating officers and treatment programs near the people they serve to support compliance and limiting conditions to those that are most likely to enhance public safety and align with each person's case plan goals and assessed risks, such as by using drug testing only when necessary to determine a treatment need.

**Develop individualized conditions for payment of legal financial obligations.**

People are often ordered to pay fines, fees, and restitution as part of a criminal sentence. And many supervision agencies require the people they supervise to pay for drug testing, electronic monitoring, and other programs and conditions. Although these financial obligations can help enforce accountability and mitigate victims' losses, they also impose

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<sup>6</sup> **Comprehensive Policies Can Improve Probation and Parole**, Framework offers solutions to strengthen community supervision, PEW PUBLIC SAFETY PERFORMANCE PROJECT, FACT SHEET April 23, 2020, 4 pages. <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2020/04/comprehensive-policies-can-improve-probation-and-parole>

economic burdens that can hinder supervision success.<sup>7</sup> The council provided guidance to help agencies better manage the imposition and collection of fines and fees and recommended that states, agencies, and departments take steps to mitigate the harms associated with these costs to help people successfully complete supervision.

### **Reduce use of and pathways to incarceration.**

Supervision revocations, especially for technical violations—noncompliance with one or more supervision rules that may result in a sanction—are a major driver of costly incarceration, and even short jail stays can cause people serious hardship, including loss of employment, decreased wages, housing insecurity, and family instability.<sup>8</sup> The council recommends limiting the use of arrest and incarceration as a sanction for technical violations and before revocation hearings and guaranteeing counsel in those hearings.

### **Support community supervision agencies.**

Meaningful and lasting reform will require upfront investments. States must ensure that agencies are equipped with the resources they need to implement evidence-based practices while supporting the work of probation and parole officers to enhance successful supervision completion.

## **THE COMMUNITY IS VITAL TO SUCCESSFUL REENTRY**

If Hawai'i is truly interested in reentry decades after the 2007/Act 8 Community Safety Act was passed – we would work in systems – not silos. We would be working to assist people who have lost their way or those who have never found it. Wrongdoing is the result of poverty, lack of education, mental and physical health challenges, and bad policies that demonize certain sectors of our communities.

In closing, we appreciate the task force reviewing policies of other jurisdictions and urge you to promote transparency and accountability, not only from the people appearing before the board, but by the board itself. People should receive the assistance they need to create a parole plan to present to the board.

*Parole systems should give every incarcerated person ample opportunity to earn release and have a fair, transparent process for deciding whether to grant it. A growing number of organizations and academics have called for states to adopt policies that would ensure consistency and fairness in how they identify who should receive parole, when those individuals should be reviewed and released, and what parole conditions should be attached to those individuals.<sup>7</sup>*

Mahalo for this opportunity to testify.

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<sup>7</sup> Grading the Parole System of all 50 states, By Jorge Renaud, February 26, 2019.  
[https://www.prisonpolicy.org/reports/grading\\_parole.html](https://www.prisonpolicy.org/reports/grading_parole.html)