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Mr. Mark Patterson, Chairperson
HCR23 Task Force
Hawaii Correctional System Oversight Commission
235 S. Beretania Street
Honolulu, HI 96813

Subject: Testimony on House Concurrent Resolution No. 23 (HCR23)

Dear Mr. Mark Patterson and Members of the HCR23 Task Force,

I am writing to provide my testimony regarding House Concurrent Resolution No. 23 (HCR23). As a resident of Hawaii and an engaged member of our community, I believe it is important to share my perspective on this resolution, particularly in relation to my experience with Criminal Case No. 1CPC-21-0000774 - State v. Kevin Manners.

My name is Chasity Hovey, and I have taken on the mission of actively participating in the discussion surrounding criminal justice reform, having been thrust into this position as a surviving family member of a deceased victim. This unexpected turn of events has compelled me to share my insights, which are rooted in my direct experience with the case. I have witnessed the implications of current policies in action, giving me a unique understanding of the challenges faced by both the post-conviction process and the individuals navigating it.

My testimony advocates for removing the responsibility of setting minimum terms of imprisonment from the Hawaii Paroling Authority. This change would enhance the administration of justice by allowing the Authority to focus on its primary functions: assessing prisoners' fitness for parole and supervising parolees. By refocusing their efforts on these critical areas, the Hawaii Paroling Authority can more effectively contribute to the rehabilitation and successful reintegration of offenders into society.

I believe that the recommendation should primarily involve the State (Department of the Prosecuting Attorney) and the Defense in determining the final minimum term(s) of imprisonment, as they are intimately familiar with the case.

Comprehensive Case Knowledge to Determine Minimum Term(s): The State and the Defense are well-acquainted with the details of the case from its inception through every judicial stage. In contrast, the Hawaii Paroling Authority (HPA) may not be able to review case files as thoroughly, as the Board consists of one full-time member and four part-time members. As stated in HCR23, the Board spends approximately thirty percent of its time solely on the post-

conviction minimum sentencing process, while also managing other equally important tasks. This comprehensive understanding allows both the State and the Defense to make more informed decisions regarding minimum terms of imprisonment. This is particularly true in cases that have not gone to trial but have undergone rigorous negotiations, resulting in a plea agreement.

Parole Board's Training, Annual Training, and Expertise: Despite the Board members' impressive backgrounds and accolades, the audio recording of the hearing in Criminal Case No. 1CPC-21-0000774 - State v. Kevin Manners reveals their collective inability to remain impartial and to ask critical follow-up questions that aim to seek the truth. This raises concerns about the training and frequency of such training that Board members receive to ensure they perform their responsibilities to the highest standards. The State and Defense in criminal cases are highly skilled in trial room interviewing, giving them an upper hand in seeking truth through critical and follow-up questions.

Over-Reliance on Defense Presentations and Assertion: The Board appears to accept and rely heavily on the Defense Attorney's presentation, the defendant's oral testimony, the defendant's written personal statement, and character letters of support in Criminal Case No. 1CPC-21-0000774 - State v. Kevin Manners, without thorough independent verification. Moreover, there seems to be a lack of independent knowledge of the facts of the case prior to the Minimum Term(s) Hearing. As heard on the audio, at about 18:33, Male Board Member 1 states, "*Kay. It's clear from the support letters, yeah, and the letter you wrote regarding your character, yeah, and how in these instances, it did not appear that you were the perpetrator or the instigator, that you were actually the victim in the abuse. Would you agree with that?*" Additionally, as heard on the audio, at about 29:26, Male Board Member 2 asks the Defense Attorney, "I mean that was that was on all of the misc. pubs?" This question was raised after the Defense Attorney attempted to assert that both the victims' and the offender's families were supportive of the offender and understood the underlying issues that led to the situation, implying that the victim was the "actual" abuser. To provide a bit more context, "misc. pub" refers to the Honolulu Police Department's reporting classification. This classification is used for circumstances where no criminal elements exist but documentation is needed. The Defense Attorney is suggesting to the Parole Board that the "misc. pub" documents, which detail disturbances involving the victim and the offender, are evidence of abuse perpetrated by the victim. This reliance suggests a lack of inquisitiveness and an unhealthy level of trust, especially given the absence of oath-taking or affirmation under penalties of law to ensure the truthfulness of statements, raising the question of what the Board has read to gain comprehensive knowledge of this felony case.

Precedent of Plea Negotiations Undermined: The Board's actions in Criminal Case No. 1CPC-21-0000774 - State v. Kevin Manners, particularly their drastic deviation from the recommended joint agreement of a minimum of 10 years imprisonment to just three years, undermine the extensive plea negotiations conducted by both the State and the Defense. These actions have rendered the entire plea negotiation process, as well as the overall judiciary process, ineffective. Furthermore, if this case had gone to trial and been subjected to the scrutiny of a judge or jury, would the post-conviction parole board process ultimately render that trial meaningless? It appears that this two-step redundancy serves no meaningful purpose.

Predetermined Bias and Ineffective Questioning: The Board’s line of questioning and comments during the hearing suggest a predetermined bias, particularly in the context of Criminal Case No. 1CPC-21-0000774 - State v. Kevin Manners. This bias is evident in how they portray the defendant as a victim rather than holding him accountable for his actions. Furthermore, the lack of pointed follow-up questions indicates a failure to conduct a thorough examination of the case, raising concerns about the objectivity of the proceedings.

For example, in the audio recording at approximately 8:53, the offender begins to describe the incident. His recollection of events starkly contrasts with those of the two witnesses: the victim and the offender’s juvenile daughters. While the witnesses did not observe the actual murder, they were present and actively calling the police and yelling for help. According to the Honolulu Police Report on the murder in the second degree (later pled to manslaughter), the witnesses observed their father, the offender, lying on top of their mother, the victim, who was struggling to breathe and could later be heard gurgling during her last breaths. Before taking the victim’s life, the offender shut and locked the door to prevent their daughters from witnessing the event, intervening, or both.

At no time did the Board ask focused, truth-seeking follow-up questions such as, “Your recollection of events differs from those of the two witnesses. Can you explain why that might be? Where were the witnesses during this incident? Did the witnesses say anything to you or ask you to do anything? Can you describe how your wife, the victim, approached you? Can you describe your wife’s physical stature and her physical capabilities or limitations (such as medical issues, athleticism, cardio endurance, and any martial arts training)? Can you describe your own physical stature and capabilities or limitations (including medical issues, athleticism, cardio endurance, and any martial arts training)?”

Another example of the lack of impartiality is the statement made by Male Board Member 1 at approximately 18:33, which is referenced and quoted above.

Inconsistency and Overreach of the Hawaii Paroling Authority: A significant concern is the inconsistency and potential overreach of the Hawaii Paroling Authority (HPA) in the application of "diminished responsibility" when determining minimum terms of imprisonment. The Board referenced 'diminished responsibility,' indicating that the offender's mental illness or severe emotional stress contributed to the offense, yet did not absolve them of penal responsibility. However, the Deputy Prosecuting Attorney clarified that “extreme mental or emotional disturbance” was not a factor in this case. This inconsistency raises questions about the Board's ability to accurately assess such factors, especially since “diminished responsibility” was not a factor during the State and Defense’s plea negotiation. Consequently, removing the responsibility for setting minimum terms of imprisonment away from the HPA could lead to a more consistent and equitable application of the justice.

Increase Transparency by Accessible Information: Given the immense responsibility of the Hawaii Paroling Authority, it is imperative to value and promote transparency and accessibility. A robust and user-friendly website is a perfect vehicle for achieving this goal. The site should prominently display contact information, ensuring that users can easily reach out for assistance. Incorporating searchable PDF documents and editable forms will streamline access to important

materials and facilitate user interaction. Providing clear instructions on how to request public records, including 92F requests, will further promote openness. An "About" page, a "Meet the Board Members" section, and an organizational chart will help users understand the structure and key personnel of the HPA. Additionally, a comprehensive FAQ page can address common inquiries, reducing the need for direct contact and enhancing the user experience. Regularly updating the website, including the opening message, will ensure that information remains current and relevant. By focusing on these elements, the HPA webpage can truly become a model of transparency and accessibility.

Ensuring Impartiality in Board Hearings: The Board consists of five members—one employed full-time and the other four part-time. There is concern about whether they have enough time to thoroughly understand a case without outside influence from the State, Defense, or letters of support or objection. It is crucial for the Board to maintain an unbiased and impartial standpoint going into any hearing, especially the Minimum Terms Hearing, which sets a timeline for any given case.

Need for Oversight: Ensuring Transparency and Fairness: The significant discretionary power of the HPA, as detailed in the Parole Handbook (available in PDF format on the HPA website), emphasizes the necessity of establishing robust oversight mechanisms. The subjective criteria for minimum term(s) determination, parole eligibility, minimal due process in revocation proceedings, and the absence of external audits collectively highlight an urgent need for transparency and fairness. Without these critical checks and balances, the HPA's decisions may result in inconsistent and potentially unjust outcomes. This situation underscores the essential role of accountability in protecting the rights of individuals under parole supervision, victims of crimes, surviving family members of deceased victims, and the community at large.

Since August 24, 2024, I have contemplated daily how justice for my murdered sister might have been better served if the Hawaii Paroling Authority did not hold such immense responsibility, and if that role had instead belonged to the Judiciary. Additionally, I have been reflecting on the immediate changes the Authority could implement to make the post-conviction process and proceedings easier to navigate and, more importantly, more effective. While the Hawaii State Legislature determines the long-term future, I firmly believe that meaningful strategies could be enacted right away to better serve victims, surviving family members of deceased victims, offenders, and the community as a whole.

Meaningful Strategies for Immediate Improvement


1. **Require State Presence at Minimum Term Hearings:** The State's presence at the Minimum Term(s) Hearing is crucial for the Parole Board's determination of minimum terms of imprisonment. This hearing occurs shortly after sentencing. In the short term, this requirement could be established as a policy through a mutual agreement with the Department of the Prosecuting Attorney's office. In the long term, the Hawaii Paroling Authority (HPA) and the HCR23 Task Force should propose and advocate for this change in the next legislative session to update the Hawaii Administrative Rules, Title 23, Department of Public Safety, Subtitle 5,

Hawaii Paroling Authority, Chapter 700. With the focus of the Hawaii State Legislature, now is the time to propose meaningful changes to the law.

2. **Implement Oath Requirement at Hearings:** Implement penalties under the law requiring all parties testifying at the Minimum Term Hearings to take an oath or affirmation to tell the truth.
3. **Set Timeline for Hearing Determinations:** Require the Parole Board to submit minimum hearing determinations no earlier than ten (10) working days after the hearing and no later than thirty (30) days, as stated in the HPA Parole Handbook. This timeline provides a reasonable period to address any disputes that may arise during the hearing.
4. **Revamp HPA Website:** Revitalize the HPA's website to make it robust and user-friendly, prominently displaying contact information and incorporating searchable PDF documents and editable forms. This will streamline access to important materials and facilitate user interaction. Providing clear instructions on how to request public records and including sections such as an "About" page, a "Meet the Board Members" section, and an organizational chart will enhance the user experience. Regular updates, including the opening message, are essential.
5. **Adopt Complete Criminal Justice Flow Chart:** Adopt and display on the HPA's website a comprehensive "Criminal Justice Flow Chart" that extends from the offense to the post-conviction process. Partnering with the State of Hawaii Department of the Attorney General, which already has a digital flow chart, will expedite this process.
6. **Enhance Notification Process:** The HPA needs to take ownership of properly notifying offenders, victims, and surviving family members about Minimum Term Hearings, parole consideration hearings, and parole violation hearings. Notifications should be timely and not solely reliant on tools like VINE link.
7. **Improve HPA Parole Handbook for Victims:** Revamp the HPA Parole Handbook to include information helpful for victims and surviving family members of deceased victims. Currently, the handbook primarily focuses on the offender, and additional resources should be made available for victims seeking information.
8. **Promote Transparency through 92F Requests:** An effective tool for promoting transparency is the 92F request, which provides access to government records in Hawaii. The HPA should proactively inform the public about this availability and the procedure for making such requests.

In conclusion, I urge the committee to consider the insights I have shared from my experience with Criminal Case No. 1CPC-21-0000774 as it relates to HCR23. I hope that my testimony highlights the importance of reforming our approach to parole. I would be more than happy to speak with any member of the task force or legislator about the contents of this testimony. Thank you for your time and attention to this matter.

Sincerely,


Chasity Hovey