

Note: To the chair:

Our apologies, we needed to leave before public comment on other items was opened. Mahalo. Submitting in writing instead.

Public Comment – Hawai'i Correctional Oversight Commission

January 8, 2026

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Today my comment follows up on the last two meetings regarding the transfer of protected witnesses of the Attorney General who are currently in the custody of the Department of Corrections and Rehabilitation and being sent through interstate compacts without due process.

Specifically, this concerns individuals who are ^{profiled} ~~marked~~ as Security Threat Groups, or STGs, based on tattoos, under COR policy^{8.1} and OffenderLink. These markings are being treated as active gang affiliation, despite the absence of any meaningful process for removal or review prior to transfer.

For the public record, on November 13 Commissioner Patterson stated: "I think we need to begin a commitment among ourselves to review, assess, and evaluate the STG program and the interstate compact, and report back so that we can make sincere recommendations to DCR." Commissioner Browning concurred, emphasizing concerns about fundamental fairness and due process, and acknowledging that further education on this issue is necessary.

I want to emphasize that DCR currently has no STG step-down or debriefing program. As a result, the State proceeded with prosecution without a mechanism to mitigate or manage the known risks attached to STG designation, particularly when testimony is compelled. I want the Commission to know that I have prepared a policy brief that I am submitting today copies to all Commissioners. That brief is confidential, as it includes the names of known individuals.

- it's a practice based on a photograph policy.

I want to emphasize that this is not a single case. It is a cohort of witnesses—three individuals currently in custody—who are in a double bind. They are state-compelled witnesses in a prison gang trial, yet they have been stripped of all gang protection. In prison culture, that status—being an outcast—is among the most dangerous an inmate can have.

This presents a critical safety concern under *Farmer v. Brennan*. These individuals are being transferred to mainland prisons where, as local men and as racially mixed individuals, they will not fit into existing White, Black, or Mexican prison gangs. As protected custody inmates, they are highly vulnerable to shake-downs and exposure. And because the State failed to adequately protect their identities, it is likely that their witness status will become known.

In closing, I recognize that resources are limited and that the Commission is handling hundreds of complaints. But this issue cannot be subject to a prolonged evaluation. What is needed is a short-turnaround impact assessment, particularly in light of the weak statutory language of HRS §28-101.

Judges emeritus and officers of the Court who sit on this Commission are well-positioned to assess this policy scenario quickly and make a determination consistent with the Commission's statutory role—not only as a recommending body, but as a conscience. The Deputy Attorneys General, under the State's highest law enforcement authority, are empowered to protect their

Keeper of the state's

witnesses—if they choose to do so. And right now, the political will to choose that protection is missing.

Thank you.