LEGISLATIVE AGENDA 2019

Civil Asset Forfeiture

The use of civil asset forfeiture by law enforcement to seize personal property raises, with only a modicum of due process, troubling issues. Hawaii’s state forfeiture law ranks among the worst in the country, and it is in serious need of reform. In 2016, progress was made in the legislature by raising the issue via several different bills and a resolution. The adopted resolution, HCR4, requests that the State Auditor undertake the first audit of Hawaii’s civil asset forfeiture program since 1995 and 1998 (!). After progress stalled in 2017-18, we now aim to leverage the passage of further reform on the Mainland, especially the law passed in California, as well as the shocking results of our state audit that was released during the summer of 2018. This fall, DPFH signed onto a related amicus brief by the Drug Policy Alliance that was filed for the U.S. Supreme Court case Indiana v. Timbs that was heard on November 28th. As in the past, we will be working with our allies at the ACLU of Hawai‘i.

Reduced Penalties for the Use and Possession of Certain Drugs

Building on the success with the decriminalization drug paraphernalia via Act 72 of 2017, Hawai‘i now needs to defelonize the use and possession (“promotion”) of “dangerous” and “harmful drugs,” such as heroin, methamphetamine and cocaine. Oregon did this is 2017, as did Oklahoma and these were supported by law enforcement groups for the same reasons as they support diversion and other programs. Currently, California, Utah and Alaska have also passed similar laws. Ohio put the issue to the voters in 2018, but they voted 63% - 37% to reject it.

In addition to decreasing incarceration and eliminating many collateral sanctions, this type of sentence reduction could also mean less automatic deportations of immigrants.

Legalization of Cannabis Sales & Possession

In the past session, numerous cannabis legalization as well as decriminalization bills were introduced but did not receive a hearing. In 2019, we will work for a hearing to highlight that we need to begin the legalization process now. Such a process must be informed by the social justice elements (retroactive resentencing, expungement of records and community reinvestment) from California’s Proposition 64. In 2016 (the latest available data), Hawai‘i saw over 620 adult arrests for cannabis possession and over 400 arrests for juveniles. Arrests of African Americans (“Blacks”), Filipinos, Native Hawaiians (“Hawaiians”) and Pacific Islanders are highly disproportionate, particularly for juveniles. We are working with local partners to make this a broad community-based effort.
OTHER MEASURES

*Criminal Justice Reform, including bail, parole and probation*
Other states have begun to tackle bail reform as an integral part of criminal justice reform. In California, supporters include the Chief Justice of the Supreme Court, Tani Cantil-Sakauye. As the momentum to preventing the building of a new Oahu prison to replace OCCC gathers steam, it is crucial to reform policies and laws that keep people locked up both before and after a conviction. With over half of inmates at the current OCCC being held pre-trial, reforming bail is a way to negate the insatiable need for more “bedspace.” If we change enough practices, it will become increasingly hard for the “lock ‘em up” crowd to cling on to their plans.

The impact of cash bail has been shown to have a discriminatory impact on communities of color, is detrimental to the health of a person in need of treatment for substance use and the cost of alternatives to detention is a fraction of incarcerating a person pre-trial. The ACLU of Hawai‘i released a preliminary report highlighting the devastating impact of the cash bail system here in the islands. They expect to release a final report in the near future.

Hawai‘i has over 20,000 individuals under correctional control (mainly probation, but some on parole). They are at risk of re-incarceration for e.g. any drug offense.

*Advocacy for Hawai‘i’s Medical Cannabis Patients*
With medical cannabis dispensaries now open, it is more important than ever to advocate for the rights of Hawai‘i’s patients to have easy, affordable access to their medicine. DPFH’s focus as an official expert resource to Legislative Oversight Working Groups created by Acts 116 (employment protections & edibles) & 161 (insurance reimbursement) is on patient rights as well as education of health care professionals and the community at large. DPFH will push for the recommendations the WGs adopts and advocate those that are ignored.

*Law Enforcement Assisted Diversion (LEAD)*
Ensure that DOH is appropriated funds to continue this nascent program, now supported by the new chief of the Honolulu Police Department, Susan Ballard, and expand it to all Neighbor Islands including Kauai. Expand the eligible offenses to include low-level drug possession.

*Hepatitis C*
Working with allies, advocate for greater funding for Hepatitis C prevention and treatment. Explore options to combat discrimination of Hepatitis C patients, including in employment law (this exists in Washington State).

*Drug Therapy*
Explore options to expand drug treatment for substance use disorders, especially with buprenorphine, known by the brand names Subutex as well as Suboxone, which also contains naloxone.