



Testimony to the Twenty-Fourth Legislature
House Committee on Public Safety & Military Affairs
The Honorable Cindy Evans, Chair
The Honorable Sharon E. Har, Vice Chair

Thursday, January 31, 2008, 8:30 a.m.
State Capitol, Conference Room 309

by
Janice Yamada
Adult Client Services Branch Administrator
Hawaii State Judiciary

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2024, Relating to Criminal Procedure

Purpose: Requires electronic monitoring of probationers and parolees convicted of offenses related to criminal street gangs.

Judiciary's Position:

The Judiciary takes no position on this measure; however, we note the following concern. Although this measure indicates offenders may be required to “pay all or a portion of the costs of the electronic monitoring, but only if the defendant has sufficient financial resources...” we note that many, if not most, of these offenders will be unable to pay because they are indigent or have very limited funds.

Thank you for the opportunity to provide testimony on this matter.

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 ALAKEA STREET, GROUND FLOOR
Honolulu, Hawaii 96813

ALBERT TUFONO
CHAIR

DANE K. ODA
MEMBER

ROY W. REEBER
MEMBER

MAX OTANI
A/ADMINISTRATOR

No. _____

TESTIMONY ON HB 2024
RELATING TO CRIMINAL PROCEDURE

HAWAII PAROLING AUTHORITY
Alfred Tufono, Chairman

Committee on Public Safety and Military Affairs
Representative Cindy Evans, Chair
Representative Sharon Har, Vice Chair

Thursday 31, 2008 8:30 a.m.
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Chair Evans, Vice Chair Har and Members of the Committee

The Hawaii Paroling Authority (HPA) supports the intent of House Bill 2024, requiring electronic monitoring of probationers and parolees convicted of offenses related to criminal street gangs. It is HPA' interpretation that this bill would enhance public safety by utilizing global positioning system technology (GPS) in community supervision of parolees. However, there are concerns regarding this bill as written. First, the legal definition of "criminal street gang" is not defined. It would be imperative that a legal definition be determined to target the population intended in this bill.

Secondly, it is the intent of this bill to have the defendant to pay for the cost of the GPS equipment. While the intent is good, many inmates are released on parole with limited resources and funds that they have saved are normally used for basic needs such as housing, food and transportation. It is estimated that the cost of a single GPS system could range from \$10 to \$20 per day. This cost could place a financial burden on the parolee and his/her

family.

Finally, there are no funds included in this bill. It is our understanding that additional resources will be needed to operate a successful GPS system. If the system is being used to it's capacity, real time notification would have to occur to prevent the parolee from violating parole or committing a new crime. Staff would be required to monitor the system 24 hours per day, seven days per week to ensure that the parolee is in compliance. HPA does not operate under a 24-hour system and we currently do not have the staff to fulfill this service.

We thank you for this opportunity to testify on this matter of public safety.



Office of the Public Defender State of Hawaii



Timothy Ho, Chief Deputy Public Defender
Testimony of the Office of the Public Defender,

State of Hawaii to the House Committee on Public Safety & Military Affairs

January 31, 2008, 8:30 a.m.

RE: H.B. 2024: Relating To Criminal Procedure

Chair Evans and Members of the Committee:

This measure would require a court to order a person convicted of an offense related to a criminal street gang to be subject to electronic monitoring when released on probation and/or parole.

The Office of the Public Defender opposes this measure. What is a criminal street gang? How will that be defined? What is an offense related to a criminal street gang? These questions cannot be answered with any specificity, and thus we believe will not pass constitutional muster.

We also believe that this bill will target certain minority groups and constitutes racial profiling.

We are concerned about the cost of this program. Who will pay for the cost of the GPS transmitter, and the cost of administering this program? Will this be a case of probation and parole granted only to those who can afford to pay for the GPS transmitter, and lengthier jail terms for the indigent? Preferential treatment only for those who can afford to pay for conditions related to obtaining release on probation and parole violates the equal protection clause of the constitution.

How will the information about the movements of a person fitted with these transmitters be used? Again, we believe that GPS tracking under this measure will lead to racial profiling.

We oppose H.B. 2024. Thank you for the opportunity to comment on this bill.