



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. 2824: Relating To Sentencing

Chair Evans and Members of the Committee:

This measure would allow a court to require a person convicted of sexual assault in the first degree to be fitted with a global positioning system (GPS) transmitter upon his or her release from prison for a period up to ten years.

The Office of the Public Defender has many concerns and objections to this measure.

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 earlier parole granted only to those who can afford to pay for the GPS transmitter, and lengthier jail terms for the indigent?

How will the information about the movements of a person fitted with these transmitters be used? We are concerned that this information will be abused, and that the police will detain all individuals fitted with the GPS transmitters who were in an area where a crime was committed, leading to repeated seizures and arrests, which could lead to false accusations and convictions.

A GPS system presents a false sense of security. While GPS tracking will tell the government where a defendant is at all times, it cannot discern whether or not the defendant is simply moving about or actually committing a crime. This committee will need to decide, is a false sense of security worth all this money?

We believe that GPS tracking of parolees violate their right to privacy. Furthermore, the ten year time limitation may extend the court and paroling authority's jurisdiction over a defendant beyond the twenty year period for a class A felony. The above-mentioned objections we would argue, are unconstitutional, and will be subject to a legal challenge.

We oppose H.B. 2824. Thank you for the opportunity to comment on this bill.

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TESTIMONY ON HOUSE BILL 2824
RELATING TO SENTENCING
by
Clayton A. Frank, Director
Department of Public Safety

House Committee on Public Safety & Military Affairs
Representative Cindy Evans, Chair

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

Representative Evans, Representative Har, and Members of the Committee:

The Department appreciates the intent of House Bill 2824, which would require offenders convicted of class "A" felony sex assault or those that have a prior conviction for sex assault in the first degree to wear a global positioning system transmitter for up to ten years following their release from prison. This would also require the global position system to transmit the offender's location to the Hawaii Paroling Authority (HPA) the Department of Public Safety (PSD), or any County Police Department.

We have the following serious concerns regarding this measure:

1. Once an offender has completed his/her sentence and/or is discharged from parole, neither the PSD nor the HPA have any jurisdiction over

the offender. Therefore, we would be unable to legally enforce the use of any type of supervision tools.

2. This measure does not address which agency will be responsible to monitor the offender, how to address violations/infractions, nor does it specify whom (the Department, HPA, County Police Department or the offender) is financially responsible for this service.
3. We believe the global positioning system is an effective supervision tool when combined with other supervision tools on offenders under the jurisdiction of the PSD and the HPA.

Thank you for this opportunity to testify on this important matter.