

**HB 3016 HD3**

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**CLAYTON A. FRANK**  
DIRECTOR

**DAVID F. FESTERLING**  
Deputy Director  
Administration

**TOMMY JOHNSON**  
Deputy Director  
Corrections

**JAMES L. PROPOTNICK**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

**TESTIMONY ON HOUSE BILL 3016 HD3  
RELATING TO LAW ENFORCEMENT**

by  
Clayton A. Frank, Director  
Department of Public Safety

Senate Committee on Public Safety  
Senator Will Espero, Chair  
Senator Clarence K. Nishihara, Vice Chair

Senate Committee on Water and Land  
Senator Clayton Hee, Chair  
Senator Russell S. Kokubun, Vice Chair

Thursday, March 13, 2008, 2:45 p.m.  
State Capitol, Room 225

Senator Espero, Senator Nishihara, Senator Hee, Senator Kokubun, and Members  
of the Committees:

The Department of Public Safety (Department) would like to request that  
House Bill 3016 HD3 be amended to include investigators of its Narcotics  
Enforcement Division (NED) to the list of law enforcement officers authorized to  
utilize the taser. The Department presently has two law enforcement Divisions, the  
Sheriff Division and the NED. The measure as it is currently written would prevent  
NED from utilizing tasers.

The Department, therefore, requests the following amendments to section 1  
of House Bill 3016 HD3:

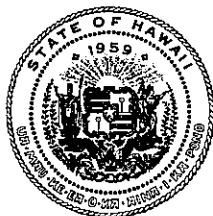
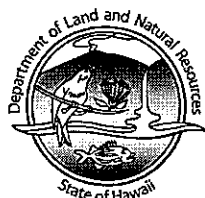
"SECTION 1. Section 134-16, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) This section shall not apply to law enforcement officers of county police and ~~[sheriff departments]~~ the department of public safety of this State, and enforcement officers of the conservation and resources enforcement program under chapter 199, or vendors providing electric guns to those entities; provided that electric guns shall at all times remain in the custody and control of the county police or ~~[sheriff departments.]~~ law enforcement officers of the department of public safety or the conservation and resources enforcement program of the department of land and natural resources.

(d) The county police and ~~[sheriff departments]~~ law enforcement officers of the department of public safety of this State, and the conservation and resources enforcement program of the department of land and natural resources shall maintain records regarding every electric gun in their custody and control. ~~[Such]~~ The records shall report every instance of usage of the electric guns; in particular, records shall be maintained in a similar manner as for those of discharging of firearms. The county police and ~~[sheriff departments]~~ department of public safety and the conservation and resources enforcement program shall annually report to the legislature regarding these records twenty days before the beginning of each session."

Thank you for the opportunity to testify on this matter.

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

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DEPUTY DIRECTOR - WATER

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CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**TESTIMONY OF THE CHAIRPERSON**  
**OF THE BOARD OF LAND AND NATURAL RESOURCES**

**ON HOUSE BILL 3016, HOUSE DRAFT 3 – RELATING TO LAW ENFORCEMENT**

**BEFORE THE SENATE COMMITTEES ON**  
**PUBLIC SAFETY**  
**and**  
**WATER AND LAND**

March 13, 2008

House Bill 3016, House Draft 3 authorizes the Department of Land and Natural Resources' Division of Conservation and Resources Enforcement (DOCARE) to use and purchase electronic guns (tasers), provided DOCARE has received accreditation or recognition from a nationally recognized law enforcement accreditation or credential program in the use of tasers. The Department of Land and Natural Resources (Department) supports the usage of tasers by its DOCARE Officers while performing their duties within the State, but has concerns with the fiscal implications this bill will have on the Executive Supplemental Budget request.

Tasers provide a viable alternative to the need for escalating deadly force when dealing with a combative suspect. While reducing risk and injury to both DOCARE Officers and suspects, tasers have proven to be a useful tool for law enforcement throughout the United States and Hawaii. The Department also acknowledges the need to provide adequate training for its officers and establish protocols governing the use of tasers and management of equipment before moving forward with this initiative.

At this time, the Department respectfully asks for this Committee's support for the addition of eleven conservation and resources enforcement positions and four clerk typist positions for deployment statewide to each of the four counties as identified in the Department's supplemental budget request. These additional positions would increase needed staffing statewide and would help improve conservation enforcement capabilities in each of the four counties. In addition, Department respectfully asks for support on the passage of the Department's enforcement package, House Bill 3177 - RELATING TO PENALTIES FOR VIOLATIONS WITHIN THE CONSERVATION DISTRICT, House Bill 3178 - RELATING TO CIVIL PENALTIES FOR VIOLATIONS ON PUBLIC LANDS, and House Bill 3176 - RELATING TO ADMINISTRATIVE PENALTIES FOR DAMAGE TO STONY CORAL AND LIVE ROCK.



**HAWAII GOVERNMENT EMPLOYEES ASSOCIATION**

AFSCME LOCAL 152, AFL-CIO

888 MILILANI STREET, SUITE 601 • HONOLULU, HAWAII 96813-2991



Randy Perreira *Executive Director*  
Tel: 808 543-0011 Fax: 808 528-0922

Nora A. Nomura *Deputy Executive Director*  
Tel: 808 543-0003 Fax: 808 528-0922

Derek M. Mizuno *Deputy Executive Director*  
Tel: 808 543-0055 Fax: 808 523-6879

The Twenty-Fourth Legislature, State of Hawaii  
Hawaii State Senate  
Committee on Public Safety  
Committee on Water and Land

Testimony by  
Hawaii Government Employees Association – HGEA/AFSCME, Local 152  
March 13, 2008

**H.B. 3016, HD3 – RELATING TO  
LAW ENFORCEMENT**

The Hawaii Government Employees Association supports the passage of H.B. 3016, HD3.

Authorizing the Department of Land and Natural Resources (DLNR) Division of Conservation and Resources Enforcement (DOCARE) Officers to use electric or “taser” guns benefits the department, officers and the public.

Having the electric gun as an available tool and option will certainly enhance the DOCARE Officers’ ability to be more effective in the performance of their duties and responsibilities. In many cases, these law enforcement personnel are working alone in a remote, isolated area of the state. Confronted by a hostile, combative and possibly violent suspect or suspects, the use of a “taser” gun offers an option to restrain a potentially dangerous individual and reduce the chance of a physical incident where deadly force might otherwise be considered. It is our understanding that even the knowledge or presentation of the electric gun will increase the likelihood of compliance by a suspect. Without a doubt, this makes it safer for everyone involved.

DOCARE Officers perform such an important function keeping watch over Hawaii’s invaluable natural resources. The protection and preservation of these resources in our great state is truly a huge responsibility. Any program that can help make their working environment a safer one as they work to preserve our natural resources for generations to come is worthwhile.

We urge your support of H.B. 3016, HD3 and thank you for the opportunity to testify.

Respectfully submitted,

Nora A. Nomura  
Deputy Executive Director

The Honorable Clayton Hee, Chair  
and Members  
Committee on Water and Land  
Hawaii State Senate  
State Capitol  
Honolulu, Hawaii 96813

Senate Committee on Water and Land (WTL)  
Hearing Date: March 13, 2008, 2:45pm  
Conference Room: 226

Dear Chair Hee and Members:

**SUBJECT: Senate Bill No. 3016 HD3- Relating to Law Enforcement**

I am Dexter Tom, Supervisor for the Department of Land and Natural Resources, Division of Conservation and Resources Enforcement. I support Senate Bill No. 3016 HD3, Relating to Law Enforcement.

The Maui Police Department have successfully incorporated the use of the taser for their personnel within the last four years, and have notice a decline in injuries to their officer(s), and those being arrested. Maui Police Chief Tom Phillips does support our Maui DOCARE Division, in the use of the taser.

Our officers do patrol in remote areas, and the taser can effectively control an aggressive person's behavior, in a minimal amount of time, preventing injury to the officer or the aggressor.

The taser can subdue any person, regardless of their large body frame, or martial arts experience. In the United States, full contact fighting has become a popular sport, and many citizens are training and have become proficient in their fighting / martial arts abilities.

The most important option the taser provides us in law enforcement, is the use of non-lethal force, versus deadly force.

Again, I humbly request that you support this important bill.

Mahalo,

  
Dexter TOM / DLNR-DOCARE Supervisor

March 11, 2008

Senator Clayton Hee, Chairman  
Senator Russell Kokubun, Vice-Chair and Members of the  
Committee on Water and Land  
State Capitol  
Honolulu, Hawaii, 96813

March 13, 2008 at 2:45 pm.  
Conference Room 225, State Capitol

### **Testimony in Support of HB 3016 HD3**

Dear Chair Hee and Committee Members:

**SUBJECT: Hearing on HB 3016 HD3, Relating to Law Enforcement.**

Thank you for hearing my testimony in support HB 3016 HD3. As a 24 year Law Enforcement officer and currently a Field Supervisor with DLNR-DOCARE on Maui, the passing of this bill makes sense. With the escalating violence in today's world and the everyday dangers we have to face, we want to have an alternative to avoid having to use Deadly Force.

We are all commissioned officers that carry firearms and the ones who daily lay our lives on the line for the protection of the natural resources of Hawaii.

Please provide us with the proper tools to make our job not only safer for the officer but also for the persons that we may have to take enforcement action against in a violent situation. Please pass this bill.

Sincerely,

Clarence M Yamamoto  
Field Supervisor-West District  
State of Hawaii – DLNR DOCARE  
175 S. Puunene Ave., Kahului, HI 96732  
Phone: (808) 264-1807

Senator Will Espero, Chair  
Senator Clarence K. Nishihara, Vice-Chair  
Committee on Public Safety

Conservation and Resources Enforcement Officer III-Randy DeCambra  
State of Hawaii/Department of Land and Natural Resources-  
Division of Conservation and Resources Enforcement  
175 S. Puunene Avenue  
Kahului, HI 96732

March 12, 2008

***SUPPORT OF HB 3016 HD3 RELATING TO LAW ENFORCEMENT***

I am and have been a Conservation and Resources Enforcement Officer III with the State of Hawaii/Department of Land and Natural Resources-Division of Conservation and Resources Enforcement for approximately 10 years. I **strongly support HB 3016 HD3 RELATING TO LAW ENFORCEMENT.**

Under Hawaii Revised Statutes 199-4 (a), Conservation and Resources Enforcement Officers (thereafter referred to as CREO) are law enforcement officers whom possess all the power and authority of a Police Officer in which we routinely conduct extensive investigations, effect arrests, and issue citations.

CREO's execute their law enforcement activities in a non-traditional law enforcement environment. CREO's often conduct investigations alone in remote areas that often result in the dealings and arrest of multiple armed suspect's. Due to the lack of manpower and the remote work areas that CREO's work in, CREO's usually don't have the luxury of expeditious back-up support enjoyed by other law enforcement agencies. Tasers would provide a very important level of safety for the officer and the public.

Tasers would also provide CREO's with another much needed level of force in assisting the CREO's execution of their duties. Currently, Hawaii County and Maui County Police Departments have reported great success in the use of Tasers, as its use/possession nationwide have resulted in the decrease of Worker's Compensation Claims, decrease in deadly use of force incidents, decrease in suspect/officer injuries, and the decrease of officer sick leave absences arisen from injuries sustained from subduing suspects.

Maui County Police officer's have conveyed to me there overwhelming satisfaction with Taser use. They reported that majority of the time; just the presentation of the Taser accomplishes and promotes suspect compliance in which the suspect is arrested without harm to the suspect and the officer.

I urge your committee to **pass/support HB 3016 HD3 RELATING TO LAW ENFORCEMENT** and lets keep CREO's safe, so they can effectively perform their duties in the protection of our invaluable natural resources. Thank you for this opportunity to testify.



March 11, 2008

The Honorable Clayton Hee, Chair  
And Members  
Senate Committee on Water and Land

Hearing Date: March 13, 2008 @ 2:45pm

**SUBJECT: House Bill # 3016-HD3; Related to law Enforcement**

Aloha Mr. Clayton Hee and Members:

My name is Randy Awo. I am the Branch Chief for the Division of Conservation and Resources Enforcement, Maui Nui. We are the Enforcement Division for the Department of Land and Natural Resources and are granted full police powers as provided via the Hawaii Revised Statutes, Chapter 199-4.

I support House Bill 3016-HD3, which authorizes DOCARE Officers to use tasers while performing duties in their official capacity. According to the Maui Police Department the cost for tasers is approximately \$1000.00 per unit. The cost of purchasing this tool is nominal when compared to the much higher costs associated with serious bodily injury and/or death to the public and our Officers as a result of using firearms.

Throughout the nation, law enforcement agencies have transitioned to the "Taser Conductive Energy Weapon" recognizing its value as a less than deadly force option when dealing with volatile situations. National studies show that this tool has reduced injuries to Officers as well as the public. This in turn has led to a reduction in Departmental liability. The Maui Police Department began its pilot program in October of 2004. Since its inception, the M.P.D. has observed "a consistent drop in injuries to their Officers as well as suspects".

Our Officers are often required to work in remote areas under challenging conditions. The use of force options available to DOCARE Officers are their hands, pepper spray, the baton and the firearm. The taser is classified at the same level of force as pepper spray. However it has proven to be safer and more effective at controlling aggressive subjects than pepper spray, the baton and in many instances the firearm.

Therefore, I strongly urge this committee to pass HB 3016-HB3 as it will increase our Officers ability to safely neutralize combative situations without having to use force options that could incur further injuries and/or death. In addition, the Maui Police Department not only supports this Bill, they have also offered to provide training as well.

Mahalo for allowing me the opportunity to testify in favor of HB 3016-HD3.

To: **Senator Will Espero, Chair**  
**Senator Clarence Nishihara, Vice-Chair**  
**Members Public Safety Committee**

From: Brooks Tamaye, CREO III, Maui Branch, DLNR-DOCARE  
P.O. Box 2266, Wailuku, HI 96793  
244-5751

RE: **Hearing on HB 3016---Relating to Law Enforcement**

Thursday, March 13, 2008 at 2:45 p.m.

Conference Room 225, State Capitol

**Testimony in Support of HB 3016 HD3**

Dear Chair Espero, Vice-Chair Nishihara and members:

Thank you for allowing me to submit testimony in favor of HB 3016 HD3.

I am a Maui Enforcement Officer with the DLNR, Division of Conservation and Resources Enforcement (DOCARE).

DOCARE officers routinely work alone in rugged and remote areas where it may take more than an hour for a back up officer to arrive. During the course of patrols officers encounter persons conducting a variety of activities some of which are legal and others illegal. Many of these people have in their possession weapons or potential weapons (e.g. firearms, machetes, knives, needles, etc.). The temperament of subjects encountered can also vary greatly, from totally cooperative to combative and even suicidal.

Tasers will give officers another less than deadly force option to quickly, effectively and safely control a subject that is actively aggressive toward, or assaults an officer or another person. This will allow the officer to bring the situation under control with minimal injury to all persons involved.

The people and situations that DOCARE officers and all law enforcement encounter today have changed from earlier times. The potential and frequency of encounters with weapons being involved or confrontations ensuing, are increasing and can be attributed to a number of socioeconomic factors. To deal with a changing world we need to look at new techniques and technologies as they become available. Given the opportunity, Maui Branch officers are willing to evaluate this technology in a pilot program. I humbly ask for your support.

Sincerely,  
Brooks Tamaye

Testimony of The Nature Conservancy of Hawai'i  
Supporting H.B. 3016 HD 3 Relating to Law Enforcement  
Senate Committee on Public Safety  
Senate Committee on Water and Land  
Thursday, March 13, 2008, 2:45PM, Room 225

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*The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on O'ahu, Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.*

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The Nature Conservancy of Hawaii supports H.B. 3016 HD 3 Relating to Law Enforcement.

Many who care about the state's natural resources have long called for more enforcement of regulations to protect those resources. A 2006 State Auditor's report concludes that the state's environmental enforcement officers are spread too thin, inadequately trained, and lack the equipment they need to do their jobs. To address the auditor's concerns, the Legislature has supported a dramatic increase in the number of trained enforcement officers.

In addition to funding and manpower, DLNR conservation and resource enforcement officers need the proper equipment to allow them to be effective. Last year, the Legislature authorized DLNR conservation officers to use blue and red lights on their vehicles to serve several important purposes such as a deterrent to unlawful behavior, identification to those in need of assistance, and allowing enforcement officers to quickly and safely get through traffic in emergency situations.

With conservation officers often carrying out their duties in remote locations and during a variety of hours of the day and night, this bill would provide an appropriate pilot demonstration project for a protection device for the officers.

BOARD OF TRUSTEES

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# Hawaii Rifle Association

State Affiliate of the National Rifle Association  
Founded in 1857

March 9, 2008

Testimony on HB3016 HD3, in **SUPPORT**  
Before the **Committee on Public Safety**  
Senator Clayton Hee, Chair  
Senator Russell Kokubun, Vice Chair  
And the **Committee on Water and Land**  
Senator Will Espero, Chair  
Senator Clarence Nishihara, Vice Chair  
Thursday, March 13, 2008, 2:45pm  
Senate Conference Room 225  
[testimony@capitol.hawaii.gov](mailto:testimony@capitol.hawaii.gov)

Honorable Chairs, Vice Chairs, and Members;

The Hawaii Rifle Association is in favor of this bill.

The HRA feels that DLNR Enforcement Officers should have access to Tasers as “less than lethal” options in controlling potentially life-threatening situations.

Albeit there has been publicity of incidents regarding deaths as a result of deployment of these devices, the fact is that it is less deadly than responding with a firearm.

Thank you for the opportunity to testify **IN SUPPORT** of this bill.

Sincerely,

Mr. Mark Plischke  
Legislative Co-Chair  
Hawaii Rifle Association  
478-9393

**testimony**

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**From:** Shannon Wood [swood@hoku.com]  
**Sent:** Wednesday, March 12, 2008 4:15 PM  
**To:** testimony  
**Subject:** HB3016 - RELATING TO LAW ENFORCEMENT

**Submitted by:**

**Shannon Wood**  
**P.O. Box 1013**  
**Kailua, HI 96734**  
**Cell Phone: 224-4496**

**COMMITTEE ON PUBLIC SAFETY**  
*Sen. Will Espero, Chair*  
*Sen. Clarence Nishihara, Vice Chair*

**COMMITTEE ON WATER & LAND**  
*Sen. Clayton Hee, Chair*  
*Sen. Russell Kokubun, Vice Chair*

**PUBLIC HEARING**  
**2:45 pm**  
**Thursday, March 13, 2008**  
**Conference Room 225**

**HB3016 HD3 - RELATING TO LAW ENFORCEMENT**  
**STRONGLY OPPOSE**

**TO THE COMMITTEES ON PUBLIC SAFETY AND WATER & LAND:**

My name is Shannon Wood, a Kailua, O`ahu resident, speaking only as an individual on my own behalf and not representing any group or organization.

I strongly oppose **HB3016 HD3 - RELATING TO LAW ENFORCEMENT** for the following reasons.

Even in the hands of "trained" personnel, electric guns, more commonly called **tasers**, can cause serious physical harm and even death even though their marketing advocates say that they are less harmful than real guns. Officers who would think twice before shooting someone are far more likely to use a **taser** even though the incident would not be one in which a gun would be used such as calming down a belligerent drunk or mentally ill person.

Everyone knows that bullets can kill, but few people - including police officers - understand the long-standing physical damage to the heart which can be triggered by a so-called harmless zap. Tasing someone with undiagnosed heart disease can cause serious physical damage and even death.

Furthermore, **tasers** have been used during non-violent protests wherein participants refuse to disband. The most recent one was in Brattleboro, Vermont, during a protest demonstration by a group

of environmental activists on July 24, 2007.

Suppose that it had been *Honolulu International Airport* rather than *Vancouver International Airport* when a non-English-speaking passenger who was **tasered** to death last October by police who suspected that the man might be a terrorist because he did not respond to their questions.

There's even another bill, **HB3355 HD1 - RELATING TO ELECTRIC GUNS**, which would allow county liquor inspectors to use them waiting to be heard by *Senator Inouye's Committee on Intergovernmental and Military Affairs*. What's next? Arming school crossing guards with **tasers** to keep the kids under control?

Therefore, I strongly urge that **HB3016 HD3 - RELATING TO LAW ENFORCEMENT** be held and that the *Legislative Auditor's Office* in conjunction with researchers from the *University of Hawai`i* - including participants from the **School of Medicine** - initiate a study of the long-term effects of **tasers** before expanding their use.

Mahalo for the opportunity to present this testimony.

**HB 2009**

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

CLAYTON A. FRANK  
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DAVID F. FESTERLING  
Deputy Director  
Administration

TOMMY JOHNSON  
Deputy Director  
Corrections

JAMES L. PROPOTNICK  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 2009  
RELATING TO CORRECTIONS

by  
Clayton A. Frank, Director  
Department of Public Safety

Senate Committee on Public Safety  
Senator Will Espero, Chair  
Senator Clarence K. Nishihara, Vice Chair

Thursday, March 13, 2008, 2:45 p.m.  
State Capitol, Conference Room 225

Senator Espero, Senator Nishihara, and Members of the Committee:

The Department of Public Safety strongly supports House Bill 2009, requesting the repeal of §353-33, Hawaii Revised Statutes, regarding the Correctional Program Revolving Fund.

In a report (No. 07-07) drafted by the State of Hawaii's Legislative Auditor, dated October 2007, a recommendation for "a legislative reassessment of the need for, or repeal of, this section" was reiterated. The fund, which was established to offset the cost of inmate programs through revenues derived from fees charged to committed or detained persons participating in correctional programs, was closed in 1996 due to inactivity.

The Department feels that the repeal of §353-33, Hawaii Revised Statutes, is warranted and strongly supports the passage of House Bill 2009.

Thank you for the opportunity to testify.



HB 2685 HD1

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

CLAYTON A. FRANK  
DIRECTOR

DAVID F. FESTERLING  
Deputy Director  
Administration

TOMMY JOHNSON  
Deputy Director  
Corrections

JAMES L. PROPOTNICK  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 2685 HD1  
RELATING TO PUBLIC SAFETY

by

Clayton A. Frank, Director  
Department of Public Safety

Senate Committee on Public Safety  
Senator Will Espero, Chair  
Senator Clarence K. Nishihara, Vice Chair

Thursday, March 13, 2008, 2:45 p.m.  
State Capitol, Conference Room 225

Senator Espero, Senator Nishihara, and Members of the Committee:

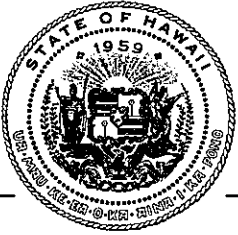
The Department of Public Safety (Department) has serious concerns in regards to House Bill 2685 HD1, which requires the Department to plan, design and find a site for a new minimum security facility.

The present day cost of the Federal Detention Center is estimated to be a minimum of approximately \$122.8 million in FY 2008, nearly double its original \$63.0 million cost to construct in the late 1990's. In addition, while a high rise detention facility close to the courthouses would significantly enhance the security and ease of operation, the cost of high rise construction is substantially more than that of low rise construction.

House Bill 2685 HD 1  
March 13, 2008  
Page 2

As a result, the Department is concerned that this measure would have a negative impact on the Governor's Executive Budget as well as the Department's other planned projects and expenses.

Thank you for the opportunity to testify on this bill.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE  
GOVERNOR  
THEODORE E. LIU  
DIRECTOR  
MARK K. ANDERSON  
DEPUTY DIRECTOR  
ABBEY SETH MAYER  
INTERIM DIRECTOR  
OFFICE OF PLANNING

**OFFICE OF PLANNING**

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846  
Fax: (808) 587-2824

Statement of  
**ABBEY SETH MAYER**  
Interim Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON PUBLIC SAFETY**  
Thursday, March 13, 2008  
2:45 PM  
State Capitol, Conference Room 225

in consideration of  
**HB 2685, HD1**  
**RELATING TO PUBLIC SAFETY.**

Chair Espero, Vice Chair Nishihara, and Members of the Senate Committee on Public Safety.

HB 2685, HD1, Relating to Public Safety, directs the Department of Public Safety and the Office of Planning (OP) to plan and design the construction and operation of a new minimum security correctional facility at the 16-acre site of the existing Oahu Community Correctional Center.

OP defers to the Department of Public Safety regarding efforts to construct a minimum security facility similar to the Federal Bureau of Prisons Detention Center situated at 351 Elliot Street, on the west side of the Honolulu International Airport, with a capacity of 670 beds on five levels of a seven-floor, 325,000 square foot facility.

OP previously testified that it does not have the appropriate personnel with expertise to plan, design, construct, and operate such a facility, and therefore our office should not be designated in this bill.

Thank you for the opportunity to testify.

# COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Suite 203, Honolulu, Hawai'i 96817  
Phone/E-mail: (808) 533-3454/communityallianceonprisons@hotmail.com



## COMMITTEE ON PUBLIC SAFETY

Sen. Will Espero, Chair  
Sen. Clarence Nishihara, Vice Chair  
Thursday, March 13, 2008  
2:45 PM  
Room 225

### OPPOSITION TO HB 2685 HD1 - NEW MINIMUM SECURITY FACILITY ON O`AHU

Aloha Chair Espero, Vice Chair Nishihara and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on prison reform and criminal justice issues in Hawai'i for a decade. I respectfully offer our testimony, always being mindful that Hawai'i has more than 6,000 people behind bars with more than 2,000 individuals serving their sentences abroad, thousands of miles away from their homes and their loved ones.

HB 2685 HD1 directs the Department of Public Safety and the Office of Planning to plan and design the construction and operation of a new minimum-security facility at a site with appropriate access to courts, public transportation, and other support services, and plan for additional community-custody beds at Oahu Community Correctional Center.

Community Alliance on Prisons opposes this measure because the department is currently undergoing a re-classification of all inmates, which consultant Camille Camp of Criminal Justice Institute reported would be completed by the end of the year.

In a presentation before the House and Senate Public Safety Committees last month Ms. Camp reported that in the 2400 files (of 6,010 inmates) they reviewed, it is clear that Hawai'i is over-classifying individuals and holding them at higher custody levels than recommended by best correctional practices. She reported that there would be more individuals classified as Minimum or Community Custody.

Currently, 62.4% of the women are classified as Minimum (there is no Community Custody in Otter Creek CC), and the consultants project that 20.3% of the women would be classified as Minimum and 53.4% would be classified as Community Custody. As of 10.31.07, there were 171 women at OCCC, meaning approximately 91 women could be Community Custody.

As of 10.31.07 there were 1,292 men at OCCC. Currently, 64.5% of the men are classified as Minimum and the consultants project that 25.2% of the men would be classified as Minimum and 38.7% would be classified as Community Custody (approximately 500 men). A recent

Honolulu Advertiser news article said that 150 Hawai'i individuals currently on the U.S. continent are Community Custody, as well.

Community Alliance on Prisons, therefore, asserts that before we consider more bricks and mortar, we should wait until the re-classification of all Hawai'i inmates is done to determine what is needed. If, indeed, we have 1,000 individuals incarcerated, who are classified as Community Custody, we should NOT be planning hard beds for these folks. Hawai'i should instead be funding community reentry programs to help these individuals successfully reenter the community, find meaningful work, and reunite with their families, where appropriate.

Before the state invests good money on hard beds, let's see who actually should be incarcerated and who would be better served in a community program that directly affects his/her pathway to crime. Hawai'i needs to look at who is incarcerated, and why, and work on better interventions - intermediate sanctions - for misdemeanants, people who can't make bail, and low level offenders. Incarceration is the most expensive sanction and not always the best practice. We shouldn't be planning anything until we know who we are planning for.

The Criminal Justice Institute's presentation to the legislature included a slide that said, "**Classification Improves Facility Planning and Construction Programs**

Planners will be able to:

- Demonstrate the required beds and/or programs with updated projected custody and needs distributions;
- Identify space for beds and programs; and
- Present facility development strategies to decision-makers for addressing space needs."

When we know who we are building for, we will be able to determine the best option(s) to pursue.

Preliminary results project that

- 53.4% of jailed females should be classified as Community Custody
- 39% of jailed males should be classified as Community Custody

New system identifies low-risk prison inmates for non-residential programming:

- 50% nonviolent women;
- 27% nonviolent men.

This indicates need for community programs such as house arrest and low cost non residential programs for low-risk populations

New system indicates that

- 39 (22%) of our women in Otter Creek, KY are Community Custody; nearly one third are Minimum Custody
- 109 (5.7%) of our men in Arizona are Community Custody; over half of our men in Arizona are Minimum Custody

(Source: Classification - Systematic Approach to Sound Correctional Management-Criminal Justice Institute)

Community Alliance on Prisons suggests instead of a minimum security prison we...

- adequately fund an array of nonprofit programs in the community to help individuals transition from institutional to community life.
- help build strong and vibrant communities by assisting individuals exiting incarceration and
- provide the necessary assistance to help individuals rebuild their lives, restore their families, and revitalize their communities

We can reduce our prison population AND reduce recidivism by building the infrastructure in the community to help individuals successfully transition from incarceration to community life.

Community Alliance on Prisons asks that you consider the re-classification study currently being undertaken and projected to be completed by the end of 2008 and defer this bill until we have the data to appropriately plan and design what is needed.

Please bear in mind that more than 95% of our incarcerated people will come home one day - let's plan for their successful transition to the community. We believe that our meager resources would be better spent by funding a network of reentry/reintegration programs on all islands instead.

Invest in social capital - fund community programs to strengthen families!

Mahalo for this opportunity to testify.

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO  
Gentry Pacific Design Center, Suite 215A  
560 N. Nimitz Highway, #50  
Honolulu, Hawaii 96817  
(808) 524-2249 - FAX (808) 524-6893

March 12, 2008

Honorable Senator Will Espero, Chair  
Honorable Senator Clarence K. Nishihara, Vice Chair  
Members of the Senate Committee on Public Safety  
Hawaii State Capital  
415 South Beretania Street  
Honolulu, HI 96813

RE: IN SUPPORT OF HB2685, HD1  
RELATING TO PUBLIC SAFETY  
Hearing: Thursday, March 13, 2008, 2:45 p.m.

Dear Chair Espero, Vice Chair Nishihara and the Senate Committee on Public Safety:

For the Record my name is Buzz Hong the Executive Director for the Hawaii Building & Construction Trades Council, AFL-CIO. Our Council is comprised of 16-construction unions and a membership of 26,000 statewide.

The Council supports the passage of HB2685, HD1, which directs the Department of Public Safety and the Office of Planning to plan and design the construction and operation of a new minimum-security facility at a site with appropriate access to courts, public transportation, and other support services, and plan for additional community-custody beds at Oahu Community Correctional Center.

Thank you for the opportunity to submit this testimony in support of HB2685, HD1.

Sincerely,

William "Buzz" Hong  
Executive Director

WBH/dg



**COMMITTEE ON PUBLIC SAFETY**

Sen. Will Espero, Chair

Sen. Clarence Nishihara, Vice Chair

Thursday, March 13, 2008

2:45 PM in Room 225

**OPPOSE: HB 2685 HD1 RELATING TO THE PUBLIC SAFETY  
Design & Construct New Minimum Prison at OCCC**

Aloha Chair Espero, Vice Chair Nishihara and Members of the Committee:

My name is Carrie Ann Shirota, and I am writing in opposition to HB 2685 HD 1. My experience as a former Public Defender and Civil Rights Enforcement Attorney, and current staff member of a reentry program on Maui have shaped my advocacy efforts to promote accountability and transparency within our correctional system, and improve rehabilitation opportunities for individuals to better prepare for their successful transition into the community. I oppose HB 2685 HD1 for the following reasons:

- ***Prison expansion is not prison reform, nor is it the answer to overcrowding.*** Reducing the number of people locked up is the key to reform, and this bill does not address the current sentencing laws and parole revocation rates in Hawai'i that have contributed to the growth of the prison population. See *The State of Sentencing 2007: Developments in Policy and Practice*. The Report highlights state legislative efforts to "address prison overcrowding, reform parole and probation supervision, expand drug sentencing diversion and establish reentry assistance" and most effectively allocate resources to maximum public safety.
- ***History teaches us that "if we build them, we will fill them."*** Increasing the number of prison beds will only increase the number of people in prison. This has happened throughout the U.S.
- Expansion fails to address the rising number of people in prisons, conditions, public safety and the lack of effective programming, treatment and medical care. ***History has shown us that pennies will be slated for construction but not effective corrections programming.***
- According to PSD Classification Report relating to the new Classification System, females are projected to comprise 44% of the community custody designation, and males are projected to comprise 30.1% community custody. ***We should look to place individuals in community based programs as a step towards transitioning into the community. For those that pose little risk, individuals should receive early discharge as part of efforts to reduce prison overcrowding.***

Instead of investing in prisons, a costly system that has failed to provide effective public safety, we must reform our sentencing laws, reduce the number of men and women in prisons through reforms to parole, medical release, and EMF and providing more long term care at residential substance abuse treatment centers. Funds saved from new prison constructions should be reapportioned to community based programs that help individuals address factors that contributed to their crimes, and better prepare individuals to successfully reintegrate into the community.

Mahalo for this opportunity to submit testimony in opposition to HB 2685 HD1.

Sincerely,  
Carrie Ann Shirota, Esq.  
Kahului, Hawai`i  
(808) 269-3858

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LORENN WALKER, J.D., M.P.H.

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COMMITTEE ON JUDICIARY AND LABOR

Honorable Senator Will Espero, Chair and Senator Clarence Nishihara, Vice Chair  
Thursday • March 13, 2008 • 2:45 PM • Room 225

Testimony Regarding HB 2685, HD1 RELATING TO NEW MINIMUM SECURITY  
FACILITY

I STRONGLY OPPOSE this measure to build another prison in Hawai'i.

Building a new prison is the same bad answer to crime that has not worked for the last 30 years, except to support a massive corrections industry, which is quickly gaining on higher education and now sadly imprisons one out of every 100 Americans.

Our dismal recidivism rate, with about 50% of all the people our state incarcerates returning to prison only two years later, is striking evidence that prison does not prevent criminal behavior.

Most people who commit crimes naturally desist from it eventually. Today it is acknowledged by criminal justice researchers that most people simply quit committing crimes regardless of prison. This is known as the phenomenon of *desistance*. Knowledgeable corrections professionals know that the most important factor that influences desistance is relationships with law abiding people.

Instead of building a new prison, the state should be supporting programs that promote desistance and assist incarcerated people in developing relationships with conventional people. Senate Bill 932, which provides for *Restorative Circles* for incarcerated people and their loved ones, and other positive reentry measures, was passed last summer over the Governor's veto. Restorative Circles effectively promote good relationships and desistance.

While our state has failed to implement SB 932, the Restorative Circle program is getting a lot of international attention:

Belgium is piloting it; Professor Shadd Maruna from Queen's University, Belfast, Ireland, and author of *Making Good: How Ex-Convicts Reform and Rebuild Their Lives*, says that Restorative Circles and *Modified Restorative Circles* (the later of which our prison system administrators do not want) promote desistance and are "based on a very solid foundation of empirical and theoretical work in psychology and criminology;" finally, Professor Gabrielle Maxwell, a highly respected psychologist and criminologist from Victoria University, Wellington, Aotearoa, New Zealand, has invited me to present on the Circles there next month.

I am willing to work with anyone in state who wants to adopt proactive, solution-focused and restorative approaches to disciplinary, crime and corrections problems.

Please vote against this bill to stop the cycle of creating more criminals and furthering our faulty prison system, which risks the community's safety, wastes scarce resources, and damages people's lives.

Andy Botts  
Poi Dog Publishers  
1920 Ala Moana Blvd. #1104  
Honolulu, Hawaii 96815  
March 13, 2008

COMMITTEE ON PUBLIC SAFETY

Senator Will Espero, Chair  
Senator Clarence K. Nishihara, Vice Chair  
Thursday, March 13, 2008  
2:45 p.m.  
Conference Room 225  
Hawaii State Capitol  
HB 2685, HD1  
Relating to Public Safety

My name is Andy Botts, author of *Nightmare In Bangkok*. Part of my story reveals an unusual insight into the history of OCCC, where I spent time when it opened in 1980, and the problems that incurred there.

Building new prisons doesn't and hasn't alleviated overcrowding in the past, so I oppose building another maximum security facility, under the guise of a minimum facility, anywhere. However, I support the plan for additional community-custody beds at OCCC. In fact, I strongly support a plan to turn OCCC into a Community Correctional Center, as was the original intention when the Legislature funded the construction of that facility over 30 years ago. It would be advantageous in regards to costs, as it's cheaper to keep inmates on furlough. In fact, most inmates in furlough programs (state and federal) pay 25% of their gross (not net) wages earned, and still pay taxes like the rest of us. As a taxpayer, I'd like to see a pay-off in my investment somehow, instead of reading about how much is thrown away on studies, new facilities, and exportation of over \$50 million dollars a year of my investment to out-of state coffers.

Additionally, this approach could be implemented immediately; as the facility is presently designed to be a work furlough center (Modules 13 and 19 have exit/entrance doors that lead directly to the street). This would complement and satisfy the requirements of the re-entry bill, and immediately provide badly needed bed space for those with community status. The benefits are too numerous to mention, but the time to act is long overdue, and building new facilities is not the answer.

Aloha, Andy Botts

## testimony

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**From:** Joe Allen [joseph.allen@chaminade.edu]  
**Sent:** Saturday, March 08, 2008 2:34 PM  
**To:** testimony  
**Subject:** Testimony: HB 2685, HD1

Chair Espero, Vice-Chair Nishihara, and Committee Members:

Thank you for taking the time to consider my testimony on HB 2685, HD1 – NEW MINIMUM SECURITY FACILITY.

I am **OPPOSED** to this proposed legislation primarily for the following reason(s):

1. I believe that we need more research on our projected corrections needs (in terms of populations) before committing to building this facility.
2. In terms of facility investment, the building of a minimum security facility may be 'overkill' and unnecessary. Through increased resources directed at ramping up community supervision resources, we may be able to accomplish the same result, but at a markedly decreased price tag. This then would allow the State to explore possible, more pressing corrections needs (e.g., higher security level facilities).

If you have any questions about my testimony, please feel free to contact me.

Thank you very much,

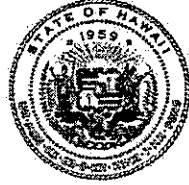
Joe Allen

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Joe Allen, Ph.D.  
Asst. Professor  
Department of Criminology & Criminal Justice  
Chaminade University  
Behavioral Sciences Building, #109  
3140 Waialae Avenue  
Honolulu, Hawaii 96816-1578  
ph: 808.735.4879 fx: 808.739.4614  
e-mail: [joseph.allen@chaminade.edu](mailto:joseph.allen@chaminade.edu)

3/10/2008

**HB 2436 HD2**



**STATE OF HAWAII**  
**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
**State Fire Council**  
830 Punchbowl Street  
Honolulu, Hawaii 96813

March 11, 2008

The Honorable Will Espero, Chair  
Committee on Public Safety  
The State Senate  
State Capitol, Room 207  
Honolulu, Hawaii 96813

Dear Chair Espero:

Subject: H.B. 2436, H.D. 2 Relating to Fireworks

I am Kenneth Silva, Chair of the State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support H.B. 2436, H.D. 2, which amends the definition and language under general prohibitions and clarifies the minimum age to sell fireworks. The SFC and the HFD recommend the following revisions to Section 132D-5 General prohibitions:

“(a) It shall be unlawful for any person without a permit issued under section 132D-10 by a county fire department to:

- (3) Set off, ignite, discharge, or otherwise cause to explode any fireworks:
  - (A) Above the first floor of any building;
  - (B) In any vehicle;
  - (C) At any time not within the periods for use prescribed in section 132D-3[, unless permitted pursuant to section 132D-10];
  - (D) Within one thousand feet of any operating hospital, licensed convalescent home, licensed home for the elderly, zoo, licensed animal shelter, or licensed animal hospital;

The Honorable Will Espero, Chair  
Page 2  
March 11, 2008

- (E) In any school building, or on any school grounds and yards without first obtaining authorization from appropriate school officials;
- (F) On any highway, alley, street, sidewalk, or other public way; in any park; on any public beach; in any officially designated forests or wildlife preserves; within fifty feet of a canefield; or within one thousand feet of any building used for public worship during the periods when services are held; [except as may be permitted pursuant to section 132D-10;] and
- (G) Within five hundred feet of any hotel."

The SFC and the HFD believe that the reference to Section 132D-10 is generally stated in paragraph (a) and does not need to be repeated in paragraphs (C) and (F).

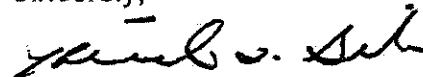
The revision in Section 132D-10 is necessary to add a permit for consumer fireworks at times other than the three designated holiday periods because individuals who want to ignite consumer fireworks, which should include paperless firecrackers or any other type of novelty fireworks and firecrackers, would need to obtain a permit from the fire department. The present language is not clear on this issue and indicates that only firecrackers require a permit during the other 362 days of the year.

H.B. 2436, H.D. 2, as revised, would greatly assist in the enforcement and regulation of the fireworks control law.

The SFC and the HFD request your committee's support on the passage of H.B. 2436, H.D. 2 with the recommended revisions.

Should you have any questions, please call SFC Legislative Liaison Lloyd Rogers at 723-7171.

Sincerely,



KENNETH G. SILVA  
Chair

KGS/LR:cn

**CHARMAINE TAVARES**  
MAYOR



**NEAL A. BAL**  
Interim Chief

**COUNTY OF MAUI**  
**DEPARTMENT OF FIRE AND PUBLIC SAFETY**

200 DAIRY ROAD  
KAHULUI, MAUI, HAWAII 96732  
(808) 270-7561  
FAX (808) 270-7919

March 11, 2008

The Honorable Will Espero, Chair  
Committee on Public Safety  
The State Senate  
State Capitol, Room 207  
Honolulu, Hawaii 96813

Dear Chair Espero:

Subject: H.B. 2436, H.D. 2 Relating to Fireworks

I am Neal A. Bal, Fire Chief of the County of Maui, Department of Fire and Public Safety and a member of the State Fire Council (SFC). Our Department and the SFC support H.B. 2436, H.D. 2, which corrects definitions, correct language under general prohibitions, and clarifies the minimum age to sell fireworks. The SFC recommends the following revisions to clarify the general prohibition section:

"Section 132D-5 General prohibitions.

(a) It shall be unlawful for any person without a permit issued under 132D-10 by a county fire department to:

- (3) Set off, ignite, discharge, or otherwise cause to explode any fireworks:
  - (A) Above the first floor of any building;
  - (B) In any vehicle;
  - (C) At any time not within the periods for use prescribed in section 132D-3[, unless permitted pursuant to section 132D-10]
  - (D) Within one thousand feet of any operating hospital, licensed convalescent home, licensed home for the elderly, zoo, licensed animal shelter, or licensed animal hospital;
  - (E) In any school building, or on any school grounds and yards without first obtaining authorization from appropriate school officials;



The Honorable Will Espero, Chair  
Page 2  
March 11, 2008

- (F) On any highway, alley, street, sidewalk, or other public way; in any park; on any public beach; in any officially designated forests or wildlife preserves; within fifty feet of a canefield; or within one thousand feet of any building used for public worship during the periods when services are held; [except as may be permitted pursuant to section 132D-10;] and
- (G) Within five hundred feet of any hotel."

The SFC believes this is generally stated in (a) and does not need to be repeated in (C) and (F).

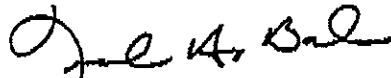
The revision in Section 132D-10 is necessary to add a permit for all consumer fireworks at times other than the three designated holiday periods because individuals who want to set off consumer fireworks, which should include paperless firecrackers or any other type of novelty fireworks, as well as firecrackers, would need to obtain a permit from the fire department. The present language is not clear on this issue and indicates that only firecrackers require a permit on the other 362 days of the year.

H.B. 2436, H.D. 2, as revised would greatly assist in the enforcement and regulation of the fireworks control law.

Our Department and the SFC request your committee's support on the passage of H.B. 2436, H.D. 2 with the recommended revisions.

Should you have any questions, please call SFC Legislative Liaison Lloyd Rogers at 723-7171.

Sincerely,



NEAL A. BAL  
Fire Chief

NAB:rgkm



**LEGISLATIVE INFORMATION SERVICES OF HAWAII**

820 Miliiani St., Suite 810

HONOLULU, HI 96813

PH: 533-6750 FAX: 599-2606 [www.lish.info](http://www.lish.info) [lishawaii@aol.com](mailto:lishawaii@aol.com)

March 13, 2008

To: Senate Committee on Public Safety  
Senator Will Espero, Chair / Senator Clarence K. Nishihara, Vice Chair

By: Richard C. Botti, President or Lauren Zirbel, Gov't Relations

Re: HB 2436 HD2 RELATING TO FIREWORKS.

We support HB 2436, HD2 as the result of collaborative discussions and agreements through our meetings with the State Fire Council in efforts to tighten logical and common sense restrictions on the use of consumer fireworks.

**March 10, 2008**

**TO: Senator Will Espero, Chairman  
And members of the Public Safety and Water and Land Committee**

**FROM: Cherie Heu**

**RE: HB 2436 HD 2 Relating to Fireworks**

**Chairman Espero and members of the Public Safety and Water and Land Committee, my name is Cherie Heu and I am a student at Honolulu Community College. I am a concerned citizen, testifying in SUPPORT of HB 2436 HD 2 Relating to Fireworks.**

**HB 2436 HD 2 explains the safety regulations that ought to be enforced. I believe that by enforcing these laws, the number of injuries involving fireworks will be lowered on the holidays that fireworks are permitted. The regulations may also help to prevent from creating more air pollution and excess trash for the environment. Innocent lives such as tourists, children, seniors and so forth may be protected by the regulations to help people live in a safer environment.**

**In the Honolulu Advertiser on January 3, 2008 an article called "Fireworks Law Needs Help From Community," talked about how fireworks have such an impact on people. A man was arrested after the police raided his home and found nearly 4,500 pounds of banned aerals that they confiscated. The newspaper stated that the amount of fireworks the police confiscated could have endangered the entire neighborhood. Innocent lives were put in danger for something that could have been prevented. By enforcing the safety laws in HB 2436 HD 2 there would be regulations to limit the amount of fireworks a person can purchase. Limiting the amount of fireworks, I believe will help to improve with monitoring the amount of fireworks sold, the amount of permits sold and to whom the permits are sold to.**

**According to statistics, in 2008 the number of injuries reported from firework incidents on New Years had increased from last year by 14 percent. A total of 105 injuries were reported this year compared to last year a total of 92 injuries were reported. Health clinics reported that patients who were cared for suffered with burns on all parts of the body but most commonly on hands and fingers.**

**Without enforcing safety laws, deaths can occur and the percentage of injury reports may continue to increase dramatically. Fireworks may continue to be a problem in Hawaii if laws are not enforced to help and control the safety of every individual.**

**I urge you to support the HB 2436 HD 2. Thank you for the opportunity to testify on HB 2436 HD 2.**

**Cherie Heu  
P.O. Box 29203  
Honolulu, HI 96820**