

SCR 55 / SR 32

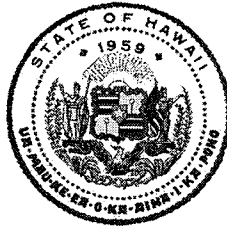
Measure Title:

REQUESTING STATE AND LOCAL LAW ENFORCEMENT
OFFICERS TO ABIDE BY STATE LAWS RELATING TO THE
MEDICAL USE OF MARIJUANA.

Report Title:

Medical Marijuana

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Blvd. 4th Floor
Honolulu, Hawaii 96813

CLAYTON A. FRANK
DIRECTOR

DAVID F. FESTERLING
Deputy Director of
Administration

TOMMY JOHNSON
Deputy Director
Corrections

JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON
SENATE CONCURRENT RESOLUTION 55
AND SENATE RESOLUTION 32
REQUESTING STATE AND LOCAL LAW ENFORCEMENT OFFICERS TO ABIDE BY STATE
LAWS RELATING TO THE MEDICAL USE OF MARIJUANA.

Clayton A. Frank, Director
Department of Public Safety

Committee on Public Safety and Military Affairs
Senator Will Espero, Chair
Senator Robert Bunda, Vice Chair

Tuesday, April 7, 2009, 1:30 PM
State Capitol, Room 229

Chair Espero, Vice Chair Bunda, and Members of the Committees:

The Department of Public Safety (PSD) does not support Senate Concurrent Resolution 55 and Senate Resolution 32 that insinuate that State and County law enforcement officers do not follow State law relating to Hawaii's Medical Use of Marijuana program delineated under Chapter 329, Part IX, Hawaii Revised Statutes.

The Department's Narcotics Enforcement Division (NED) has worked very closely with State and County law enforcement officers in conducting verification of medical use of marijuana permits for the officer on the street since the inception of Hawaii's Medical Use of Marijuana program in 2000. During FY 2008 NED conducted 271 medical use of marijuana verification checks for County and State law enforcement. In FY 2009 NED has already done 198 medical use of marijuana verification checks for law enforcement. Of these 198, law enforcement

verification checks, NED has only received 11 case referrals relating to patients or caregivers arrested for violating the program by possessing over the authorized number of marijuana plants or processed marijuana. NED has received numerous verification calls resulting in an individual being released without arrest or seizure of their plants due to the ability of law enforcement officers to contact NED 24 hours a day, 7 days a week to verify a patient or caregiver's medical use of marijuana certificate status.

PSD believes that Senate Concurrent Resolution 55 and Senate Resolution 32 are not necessary and are offensive in nature to Hawaii's hard working law enforcement officers. These resolutions do not specify any violation by law enforcement officers, but simply state an inaccurate and overly general statement. Further, if the Legislature is aware of any specific violations by law enforcement officers, the violation should be reported to the proper authorities and properly investigated because any violation of law by a government official is a serious offense.

For these reasons PSD cannot support Senate Concurrent Resolution 55 and Senate Resolution 32 and respectfully ask that they be held.

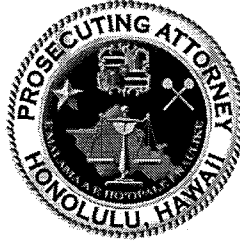
Thank you for the opportunity to testify on this matter.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515

PETER B. CARLISLE
PROSECUTING ATTORNEY

Douglas S. Chin
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE WILL ESPERO, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY
AND MILITARY AFFAIRS
Twenty-fifth State Legislature
Regular Session of 2009
State of Hawai'i**

April 7, 2009

**RE: S.C.R. 55/S.R. 32; REQUESTING STATE AND LOCAL LAW ENFORCEMENT
OFFICERS TO ABIDE BY STATE LAWS RELATING TO THE
MEDICAL USE OF MARIJUANA.**

Chair Espero and members of the Senate Committee on Public Safety and Military Affairs, the Department of the Prosecuting Attorney submits the following testimony in opposition to S.C.R. 55 and S.R. 32.

The purpose of these resolutions is to urge that state and local law enforcement officers be requested to abide by state laws regarding the medicinal use of marijuana.

Since its inception, the state's medical marijuana program has been operated with verification component where the department of public safety permits local and state law enforcement officers twenty-four hour access to the medical marijuana registry information so that officers may substantiate claims that persons possessing or cultivating marijuana are legally entitled to do so. Given this feature, Honolulu police have been able to obtain timely information on the medical marijuana status of persons and take action in accordance with the information. We have not heard of any problems with enforcement actions taken with respect to medical marijuana on Oahu, so we believe these resolutions are unnecessary as it relates to enforcement in the City and County of Honolulu.

Thank you for this opportunity to testify.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
TELEPHONE: (808) 529-3111 · INTERNET: www.honolulu.police.org

MUFI HANNEMANN
MAYOR



BOISSE P. CORREA
CHIEF

PAUL D. PUTZULU
KARL A. GODSEY
DEPUTY CHIEFS

OUR REFERENCE LK-TA

April 7, 2009

The Honorable Will Espero, Chair
and Members
Committee on Public Safety and Military Affairs
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Espero and Members:

Subject: Senate Concurrent Resolution No. 55, Requesting State and Local Law Enforcement Officers to Abide by State Laws Relating to the Medical Use of Marijuana

I am Louis Kealoha, captain of the Narcotics/Vice division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department opposes Senate Concurrent Resolution No. 55, Requesting State and Local Law Enforcement Officers to Abide by State Laws Relating to the Medical Use of Marijuana.

The purpose of this resolution is to remind state and local law enforcement officers about our duty to obey the medical marijuana laws. The medical marijuana law was enacted to discourage people from exploiting Hawaii's medical marijuana program for their own benefit. We are well aware of the medical marijuana law of this state and do not need a resolution to remind us of our obligation to obey the law.

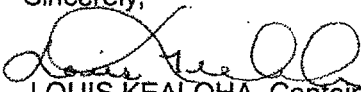
The Honolulu Police Department urges you to oppose Senate Concurrent Resolution No. 55, Requesting State and Local Law Enforcement Officers to Abide by State Laws Relating to the Medical Use of Marijuana.

Thank you for the opportunity to testify.

APPROVED:

for: 
BOISSE P. CORREA
Chief of Police

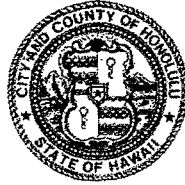
Sincerely,


LOUIS KEALOHA, Captain
Narcotics/Vice Division

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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MUFI HANNEMANN
MAYOR



BOISSE P. CORREA
CHIEF

PAUL D. PUTZULU
KARL A. GODSEY
DEPUTY CHIEFS

OUR REFERENCE LK-TA

April 7, 2009

The Honorable Will Espero, Chair
and Members
Committee on Public Safety and Military Affairs
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Espero and Members:

Subject: Senate Resolution No. 32, Requesting State and Local Law Enforcement
Officers to Abide by State Laws Relating to the Medical Use of Marijuana

I am Louis Kealoha, captain of the Narcotics/Vice Division of the Honolulu Police
Department, City and County of Honolulu.

The Honolulu Police Department opposes Senate Resolution No. 32, Requesting State
and Local Law Enforcement Officers to Abide by State Laws Relating to the Medical Use of
Marijuana.

The purpose of this resolution is to remind state and local law enforcement officers about
our duty to obey the medical marijuana laws. The medical marijuana law was enacted to
discourage people from exploiting Hawaii's medical marijuana program for their own benefit.
We are well aware of the medical marijuana law of this state and do not need a resolution to
remind us of our obligation to obey the law.

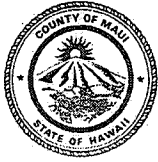
The Honolulu Police Department urges you to oppose Senate Resolution No. 32,
Requesting State and Local Law Enforcement Officers to Abide by State Laws Relating to the
Medical Use of Marijuana.

Thank you for the opportunity to testify.

Sincerely,

Paul Putzulu
for: BOISSE P. CORREA
Chief of Police

Louis Kealoha
LOUIS KEALOHA, Captain
Narcotics/Vice Division



CHARMAINE TAVARES
MAYOR

OUR REFERENCE
YOUR REFERENCE

POLICE DEPARTMENT COUNTY OF MAUI

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
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THOMAS M. PHILLIPS
CHIEF OF POLICE

GARY A. YABUTA
DEPUTY CHIEF OF POLICE

April 3, 2009

The Honorable Will Espero, Chair
and Members of the Committee on Public Safety
and Military Affairs
The Senate
State Capitol
Honolulu, HI 96813

Dear Chair Will Espero and Members of the Committee:

SUBJECT: Senate Concurrent Resolution Nos. 55 and No. 32, Requesting State and Local Law Enforcement Officers to Abide by State Laws Relating to the Medical Use of Marijuana.

Senate Concurrent Resolution Nos. 55 and No. 32, request that State and Local Law Enforcement Officers abide by State Laws relating to the medical use of marijuana, thus issuing a direct accusation to all Law Enforcement Officers in the State of Hawaii that they are violating the Laws that they swore to protect.

All searches and seizures of qualified patients in the jurisdiction of Maui County were done because they failed to follow State laws regarding the medical use of marijuana. Patients were selling marijuana for profit and growing or possessing more marijuana plants than allowed by this very law. This resolution failed to indicate this point.

In all of my years of police service, I have never seen our State's Legislature accuse its law enforcement officers of violating the laws they swore to protect. This action that you are taking is outrageous, disrespectful, and shameful to all those who have served this State honorably.

This lopsided resolution sends a loud and clear message to all law enforcement officers in the State of Hawaii - that you don't have trust or belief in them and are calling them criminals! And, that you would make a statement such as this without looking at all the facts and circumstances of each search, seizure and arrest of patients, who were in violation of the very law, made to help them.

The Honorable Will Espero, Chair
Committee on Public Safety and Military Affairs
April 3, 2009
Page 2

I am disgusted with this resolution, and ashamed of all of you who would support such an untruthful and biased act. I hope you realize the accusations you make are wrong.

Thank you for the opportunity to testify.

Sincerely,


THOMAS M. PHILLIPS
Chief of Police

**KAT BRADY
P.O. BOX 37313
HONOLULU, HAWAII 96817**

COMMITTEE ON PUBLIC SAFETY AND MILITARY AFFAIRS

Sen. Will Espero, Chair
Sen. Robert Bunda, Vice Chair
Tuesday, April 7, 2009
1:30 PM
Room 229

STRONG SUPPORT

SCR 55/SR 32 – Local Law Enforcement to Abide by Medical Marijuana Law
PBSTestimony@capitol.hawaii.gov

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

My name is Kat Brady and I am speaking today in my personal capacity as Vice President of Drug Policy Forum of Hawaii in strong support of both these resolutions.

Our Executive Director receives numerous calls about Hawaii's medical marijuana program from patients who are registered to use the medicine. Anyone who has either been through chemotherapy or was a caregiver to a person who has undergone this treatment knows that the properties in smoked medical cannabis directly relieve nausea and many other symptoms.

I was so proud of Hawaii as the first Legislature in the nation to pass this compassionate law (Act 228) since I had seen first-hand the effects of medical marijuana as a member of the caregiver team for my friend Adam Baran.

It saddens me when I hear stories of law enforcement gunships buzzing the homes of patients who are registered to grow medical cannabis. Imagine withstanding almost constant pain and then having to fear that you will be arrested, despite your certification to grow the medicine.

This administration has made clear that they will do the bare minimum to keep the program running because it is the law, but their attitude has certainly had a chilling effect on patients who want to register and doctors who want to recommend medical cannabis to relieve the suffering of their patients.

The release of the identities of individuals registered in Hawaii's Medical Marijuana Program by the Department of Public Safety to a Hilo newspaper was also a great to patients, who then have to worry about their medicine being stolen.

This resolution emphasizes that the Medical Marijuana Program is the LAW and urges law enforcement by the state law enacted in 2000.

I hope that President Obama follows through and makes medical marijuana /cannabis legal at the federal level to stop this nonsense.

Mahalo for the opportunity to support these great resolutions!



TO: SENATE COMMITTEE ON PUBLIC SAFETY & MILITARY AFFAIRS
FROM: PAMELA LICHTY, MPH, PRESIDENT
HEARING DATE & TIME: APRIL 7, 2009, 1:30 p.m. , room 229
RE: SCR 55/SR 32 REQUESTING STATE AND LOCAL LAW ENFORCEMENT OFFICERS TO ABIDE BY STATE LAWS RELATING TO THE MEDICAL USE OF MARIJUANA– IN SUPPORT

Chair Espero and members of the Committee, the Drug Policy Action Group strongly supports this resolution which requests state and local law enforcement officers to abide by state laws regarding medical use of marijuana.

This is a resolution which by all rights should not be necessary. The state's law permitting the medical use of cannabis has been in place since 2000. Yet there are still law enforcement officers at the state and local level who do not abide by either the letter or spirit of the law. This may be because they disagree with the law, as has been explicitly stated for example, in public legislative testimony by Maui County Police Chief Phillips. Nonetheless, these officers are sworn to uphold state law - even if they do not agree with it.

There have been many instances of raids on registered patients where their supplies of permitted amounts of medical marijuana have been seized and often not returned.

This body saw fit to pass this compassionate law nine years ago. The time is past due when law enforcement officials should accept this fact and adhere to the law of the land. We urge this committee to pass this resolution out preferably with stronger language (as the House has done in the HR 67, HD1). At the very least we ask you to replace "request" with "urge."

At a time when the Federal stance towards medical marijuana is changing rapidly as evinced by Attorney General Holder's recent comments that the feds would avoid interfering in state laws on this issue, it is ironic indeed that our in-state law enforcement officials must be reminded to adhere to their own laws. Thank you for hearing this reso and for allowing me to present testimony in its support.

Drug Policy Action Group · P.O. Box 61233 · Honolulu, HI 96839
phone/fax: 808 988 4386 email: Plichty@hawaii.rr.com



the
**Drug Policy
Forum**

April 7, 2009

To: Senator Wil Espero, Chair
Senator Robert Bunda, Vice Chair and
Members of the Committee on Public Safety and Military Affairs

From: Jeanne Ohta, Executive Director

RE: Strong Support of SCR 55
Requesting State and Local Law Enforcement Officers to Abide by State
Laws Relating to the Medical Use of Marijuana
Hearing: April 7, 2009, 1:30 p.m., Room 229

Board of Directors

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I am Jeanne Ohta, Executive Director of the Drug Policy Forum of Hawai'i. Thank you for this opportunity to testify in strong support of SCR 55. This resolution merely asks that local state and county law enforcement officers abide by the state law on medical marijuana which permits patients participating in Hawaii's medical marijuana program to possess a certain specified amount of marijuana.

In December 2008, the U.S. Supreme Court refused to review a California appellate court decision from November 28, 2007 which found "it is not the job of the local police to enforce the federal drug laws." (*California Fourth Appellate District Court, City of Garden Grove v. Kha*)

Better adherence to Hawaii's medical marijuana laws by local police will result in fewer needless arrests and seizures. Local law enforcement officers cannot arrest medical marijuana patients or seize their medicine simply because they prefer the contrary federal law or because they disagree with the medical marijuana program.

We have been made aware that local law enforcement officers have arrested medical marijuana patients with valid certificates. They must now hire an attorney, or use the services of the public defenders' office and go to court asking for a dismissal of the charges. This is an unnecessary waste of taxpayer money.

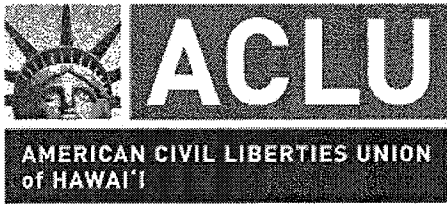
It has become very apparent that various law enforcement officials in Hawaii do not support the medical marijuana program. However, Hawaii's medical marijuana program was established out of compassion for seriously ill patients. Regardless of their personal views, it is the duty of state and county law enforcement to uphold state law which protects patients.

For these reasons, DPFH urges the committee to pass SCR 55.

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Via E-mail: PSMTestimony@Capitol.hawaii.gov
Committee: Committees on Public Safety and Military Affairs
Hearing Date/Time: Tuesday, April 7, 2009, 1:30 p.m.
Place: Room 229
Re: Testimony of the ACLU of Hawaii in Support of S.C.R. 55

Dear Chair Espero and Members of the Committees on Public Safety and Military Affairs:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) supports S.C.R. 55, which requests that state and local law enforcement officers abide by state laws relating to the medical use of marijuana.

The Hawaii state legislature, in its wisdom, passed Act 228 to ensure that seriously ill people were not penalized by the State for their medical use of marijuana after carefully considering the benefits the drug provides for people who suffer from uncontrollable pain, and weighing those benefits against the way federal law considers cannabis. With their actions against medical marijuana users, state and local law enforcement officers have attempted to thwart the Legislature and that sensible law. Joined with the recent decision by the Department of Justice to refrain from targeting medical marijuana patients who are in compliance with state law, S.C.R. 55 will serve to clear the way for Hawaii to run its sensible, conservative medical marijuana program by removing the threat of arrest by state and local law enforcement that currently hangs over participants in the program.

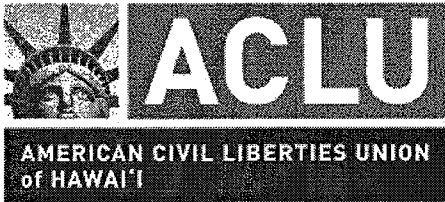
The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawaii
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E: office@acluhawaii.org
www.acluhawaii.org



Via E-mail: PSMTestimony@Capitol.hawaii.gov
Committee: Committees on Public Safety and Military Affairs
Hearing Date/Time: Tuesday, April 7, 2009, 1:30 p.m.
Place: Room 229
Re: Testimony of the ACLU of Hawaii in Support of S.R. 32

Dear Chair Espero and Members of the Committees on Public Safety and Military Affairs:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) supports S.R. 32, which requests that state and local law enforcement officers abide by state laws relating to the medical use of marijuana.

The Hawaii state legislature, in its wisdom, passed Act 228 to ensure that seriously ill people were not penalized by the State for their medical use of marijuana after carefully considering the benefits the drug provides for people who suffer from uncontrollable pain, and weighing those benefits against the way federal law considers cannabis. With their actions against medical marijuana users, state and local law enforcement officers have attempted to thwart the Legislature and that sensible law. Joined with the recent decision by the Department of Justice to refrain from targeting medical marijuana patients who are in compliance with state law, S.R. 32 will serve to clear the way for Hawaii to run its sensible, conservative medical marijuana program by removing the threat of arrest by state and local law enforcement that currently hangs over participants in the program.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawai'i
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