



## *The Judiciary, State of Hawaii*

### **Testimony to the House Committee on Judiciary**

The Honorable Jon Riki Karamatsu, Chair

The Honorable Ken Ito, Vice Chair

Tuesday, February 10, 2009, 2:00 p.m.

State Capitol, Conference Room 325

by

Janice Yamada

Probation Administrator, Adult Client Services Branch

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**Bill No. and Title:** House Bill No. 299, Relating to the Penal Code.

**Purpose:** Establishes the payment priority of the DNA analysis fee over other fees and fines assessed against a defendant by the court.

### **Judiciary's Position:**

The Judiciary strongly supports House Bill No. 299, Relating to the Penal Code. The bill is a Judiciary package bill which seeks to clarify the payment priority of the DNA analysis fee over other fees and fines assessed against a defendant by the court. Hawaii Revised Statutes Section 706-603(1), (DNA analysis monetary assessment; DNA registry special fund) states that every defendant convicted of a felony offense, shall be ordered to pay a monetary assessment of \$500 or the actual cost of the DNA analysis.

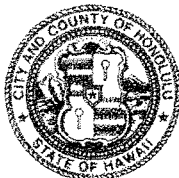
In 2008, the Judiciary's Adult Client Services Branch staff began collection of the DNA sample and monetary assessment. However, in reviewing the DNA statute, it was not clear as to the payment priority of the DNA analysis fee over other fees and fines assessed against a defendant by the court. Section 706-603 (1) includes the provision that the court shall order the defendant to pay an assessment that the defendant will be able to pay within five years so it appears that the DNA fee should have some priority over other fees. Also, Section 706-603 (4) indicates that restitution to the victim of a sexual assault or violent crime shall be made before payment of the monetary assessment. As Sections 706-605 (6), 706-648, and 706-650 do not list the DNA fee in the priority of payment of fees, this amendment will clarify this issue and specify that the DNA analysis fee be paid after both restitution and the crime victim compensation fee.

Thank you for the opportunity to testify on House Bill No. 299.

POLICE DEPARTMENT  
CITY AND COUNTY OF HONOLULU

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

MUFI HANNEMANN  
MAYOR



BOISSE P. CORREA  
CHIEF

PAUL D. PUTZULU  
KARL A. GODSEY  
DEPUTY CHIEFS

OUR REFERENCE WK

February 10, 2009

The Honorable Jon Riki Karamatsu, Chair  
and Members  
Committee on Judiciary  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Karamatsu and Members:

Subject: House Bill No. 299, Relating to the Penal Code

I am Wayne Kimoto, Acting Forensic Laboratory Director, Scientific Investigation Section, Honolulu Police Department.

The Honolulu Police Department supports House Bill No. 299, Relating to the Penal Code, with some reservations. Therefore, we recommend the following amendment.

On page 1, line 6, we recommend adding "convicted of a criminal offense pursuant to section 351-62.6 or upon any person subject to collection of specimens or samples under section 844D, part III;". We believe broadening the language will help defray the costs of deoxyribonucleic acid (DNA) analysis associated with expansion of the database.


The Honolulu Police Department recognizes DNA information as a valuable tool for investigating criminal cases. Without the necessary funding to help defray the costs of analysis, it would be difficult for the laboratory to continue to analyze samples collected under the current statute. Passage of this bill will help to ensure continued success of the DNA registry.

Thank you for the opportunity to testify.

APPROVED:

Sincerely,

for:   
BOISSE P. CORREA  
Chief of Police

  
WAYNE KIMOTO  
Acting Forensic Laboratory Director  
Scientific Investigation Section