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**SENATE COMMITTEES ON  
 TRANSPORTATION, INTERNATIONAL, & INTERGOVERNMENTAL AFFAIRS  
 COMMERCE & CONSUMER PROTECTION  
 FEBRUARY 11, 2009 – 1:15 P.M. HEARING**

**TESTIMONY OF  
 KAUA'I COUNTY COUNCILMEMBER DEREK S.K. KAWAKAMI,  
 HAWAII STATE ASSOCIATION OF COUNTIES VICE-PRESIDENT**

**ON SENATE BILL NO. 101,  
 RELATING TO CRIMINAL HISTORY RECORD CHECKS**

Dear Chair English and Chair Baker and Members:

Thank you for the opportunity to submit testimony as an individual member of the Kaua'i County Council and as the Vice-President of the Hawai'i State Association of Counties (HSAC) in support of SB 101, relating to criminal history record checks by counties, which is included in the HSAC Legislative Package. I understand that HSAC President Nestor Garcia has submitted testimony on behalf of HSAC in support of this measure and I concur with his testimony.

The intent of conducting criminal history record checks is to protect vulnerable members of the public, especially children and the elderly. The taxicab industry exists in all four counties and services all members of the public. This measure would authorize the counties to conduct criminal history record checks on taxicab drivers and applicants for taxicab driver's certificates, which would increase the level of protection from potential risks for the public.

In light of the above, your favorable consideration is requested.

Sincerely,

**DEREK S.K. KAWAKAMI,**  
 Hawai'i State Association of Counties Vice-President

LP

February 10, 2009

Late

Honorable Chairmen & Members  
Committee on Transportation, International and Intergovernmental Affairs (TIA)  
Senators J. Kalani English, Mike Gabbard,  
Will Espero, Clarence K. Nishihara, Sam Slom  
Committee on Consumer Protection (CPN)  
Senators Rosalyn H. Baker, David Y. Ige,  
Will Espero, Josh Green, Les Ihara  
Norman Sakamoto, Fred Hemmings  
Email: [testimony@capitol.hawaii.gov](mailto:testimony@capitol.hawaii.gov)

Testimony of CHARLEY'S TAXI in support of SB101  
By Dale Evans, President & General Manager

Re SB101 RELATING TO CRIMINAL HISTORY RECORD CHECKS BY COUNTIES  
Hearing Wed., 11 February 2009, 1:15 pm, Conference Rm. 224

Honorable Senators:

We strongly urge your vote in support of this measure, to allow for the counties to review and consider the criminal history of taxi driver new applicants and renewals.

Currently, Honolulu county only considers the last two (2) years even though it apparently receives a ten (10) year background check.

Please consider that the taxicab passenger assumes that the licensing process has weeded out undesirables, particularly as to repeat offenders with a long history of felony convictions such as DUI, sexual assault.

**Abraham Nguyen Martin**, (7 months for DMV to revoke taxi driver's license)  
Convicted in U.S. district court for 24 counts of bank fraud, 11 counts of credit card fraud, one count of money laundering, one count of copyright infringement. Personal information was stolen from victims' mailboxers, homes and cars. Information was used to (1) withdraw funds from bank account(s), (2) open new credit accounts in their names, (3) make internet purchases, (4) opened bank accounts using victims' names. (Ed Kubo, US Attorney's Press Release 12/5/2005)

Comment: **Are any of these convictions listed in the rules?**

**Adrian Cohen**, charged with sexual assault of passenger

Reportedly has 9 prior convictions including felony car theft and drugs charges. Misdemeanor convictions for prostitution, harassment and driving under the influence. (KITV-4 report Aug 8, 2006)

Comment: **Is sexual harassment listed in the rules? Did the two-year cap let him qualify despite the 9 prior convictions including felony car theft and drugs?**

**Guillermo Fernandez**, convicted of attempted murder.

Former Cab Driver Sentenced to Life In Prison, KGMB9 News, 9.03.08

[http://kgmb9.com/main/index.php?option=com\\_content&task=view&id=9500&Itemid=40](http://kgmb9.com/main/index.php?option=com_content&task=view&id=9500&Itemid=40)

Hawaii Criminal Justice Data Center records show 3 separate occasions for driving under the influence of liquor, convicted of third degree assault.

Comment. **Did the 2-year cap let him qualify despite 20 convictions for various offenses? Why is not recividous conduct for DUI reasonable to disqualify?**

City Council considers stricter criminal checks for cab drivers

<http://www.thehawaiichannel.com/news/13908816/detail.html>

This bill is necessary to protect taxicab passenger, including but not limited to women, the elderly and children who are most vulnerable to predators when they ride alone with a taxicab drivers who may pose a security threat.

We have become very concerned in recent years that some bad apples are ruining the image and reputation of Honolulu's law-abiding taxi drivers.

Thank you for your consideration,  
Dale Evans

February 10, 2009

Honorable Chairmen & Members  
Committee on Transportation, International and Intergovernmental Affairs (TIA)  
Senators J. Kalani English, Mike Gabbard,  
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And [tiatestimony@capitol.hawaii.gov](mailto:tiatestimony@capitol.hawaii.gov)

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Honorable Senators:

Attachments to Testimony

U.S. attorney Office, District of Hawaii, Press Release, 12/05/05 re  
ABRAHAM NGUYEN MARTIN

Former Cab Driver Sentenced to Life in Prison, KGMB News, 9/03/08  
GUILLERMO FERNANDEZ

Measure Would Look Into Driver's Background for 10 Years, KITV4, 8/16/07  
ADRIAN COHEN, GUILLERMO FERNANDEZ

The United States Attorney's Office  
**District of Hawaii**

## **Press Release**

**U.S. Department of Justice**  
*United States Attorney*  
*District of Hawaii*

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PJKK Federal Building (808) 541-2850  
300 Ala Moana Blvd., Room 6-100 FAX (808) 541-  
2958  
Honolulu, Hawaii 96850

December 5, 2005

For Immediate Release

### **P R E S S   R E L E A S E**

United States Attorney Ed Kubo announced that ABRAHAM NGUYEN MARTIN, 62, of Honolulu, was sentenced today to 71 months in federal prison, after being convicted on 24 counts of bank fraud, 11 counts of credit card fraud, one count of money laundering, and one count of copyright infringement. He was sentenced by U.S. District Judge David Alan Ezra.

MARTIN pled guilty on March 18, 2005, to committing numerous frauds using the identification, banking, and credit information of victims who were either residents of Hawaii or tourists. These victims included newlyweds who came to Hawaii for their honeymoon, local business people and professionals, educators and school administrators, and even a 93 year old senior citizen who was relying on a care giver to handle her financial affairs.

Kubo said that MARTIN used personal information that was stolen from the victims' mailboxes, homes and cars. He then used the victim's information to (1) withdraw funds from the victim's bank accounts; or (2) open new credit accounts in their names; or (3) make internet purchases. Additionally, MARTIN opened a series of bank accounts in California, Texas, and Alabama, and deposited stolen credit card "access" checks into those accounts. MARTIN even used these victims' money to even pay off his car loan and the business debts for his wife.

Kubo said that MARTIN's conduct was so egregious that this warranted a long prison sentence despite his age. "He victimized so many people without regard to their age or circumstance, and this type of conduct towards our citizens in Hawaii will always call out for serious punishment," Kubo said.

MARTIN was also convicted for conducting a video piracy operation from his home. Agents found 177 VCRs and thousands of blank videocassettes in MARTIN's residence where he was illegally copying copyrighted Asian language movies and soap operas for rental and sale at Tan Tien Video, a business operated by MARTIN.

Kubo expressed great satisfaction with the stiff sentence imposed by Judge Ezra. "We are committed to vigorously prosecute crimes involving identity theft. It is cases such as this, that lead to the recent creation of the HAWAII IDENTITY THEFT AND FRAUD TASK FORCE ("HIT Fraud"). We will not tolerate the exploitation by criminals of our fellow citizens, especially our seniors, or people who come to Hawaii to enjoy the unique environment we have to offer."

The case was investigated by the United States Secret Service and the Internal Revenue Service, Criminal Investigation, and was prosecuted by Assistant United States Attorney William L. Shipley.

# # #

# Former Cab Driver Sentenced to Life in Prison



Written by KGMB9 News - news@kgmb9.com  
September 03, 2008 07:24 PM



His violent reaction to a \$2 tip has now sent a former cab driver to prison for life. Guillermo Fernandez and his family sobbed in circuit court this morning as the judge read his sentence, which comes with the possibility of parole.

Last June, 52-year old Fernandez got into an argument with passenger Ryan Foth on a road in Kakaako. Fernandez then sideswiped Foth with his cab and tried to run him down four times.

He was found guilty of attempted murder in this case earlier this year. Fernandez also had 29 prior arrests and 8 convictions for contempt.

"Negligence belongs to the state, negligence belongs to The Cab, they should have done background checks more

thoroughly. But today, justice has been served today," said Ryan Foth, victim.

"I'm sorry what happened that day, of June 29 that year. I'm sorry to my family and Mr. Foth, I hope he can forgive me for what I've done, I'm sorry," said Guillermo Fernandez.

The Hawaii Paroling Authority will determine the minimum number of years Fernandez must serve behind bars before eligible for parole.



Last Updated ( September 03, 2008 07:24 PM )

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## KITV.com

### City Considers Stricter Criminal Checks For Cab Drivers

## Measure Would Look Into Driver's Background For 10 Years

POSTED: 8:20 am HST August 16, 2007

UPDATED: 9:15 am HST August 16, 2007

**HONOLULU** -- The Honolulu City Council is considering a measure to look more extensively at the criminal backgrounds of taxi drivers.

Last year, cab driver Adrian Cohen was arraigned on charges of sexually assaulting a woman passenger. Cohen has nine prior criminal convictions

In June, cab driver Guillermo Fernandez was charged with attempted murder after police said he ran over his passenger multiple times. State court records show Fernandez has prior DUIs, one as recent as last September.

"If somebody has three DUIs, I mean this is unacceptable for the taxi industry, which is often the designated driver," Charley's Taxi Company Chief Executive Officer Dale Evans said.

Evans said he wants the city to review cab drivers' criminal records for longer than the current two years.

The bill before the Honolulu City Council would require a taxi driver to submit proof of a clean criminal record for 10 years. It also allow the city to suspend or revoke a cab driver's certificate for convictions of DUI, sexual assault, sexual harassment, theft or identify theft.

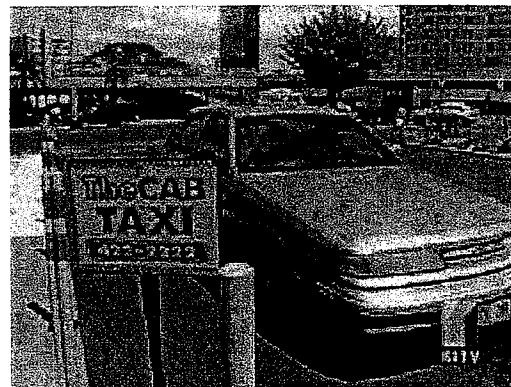
The city has constitutional concerns about the bill, saying it may be illegal to deny a cab driver the right to work if that driver already has served time for a criminal conviction.

Cab driver Leonardo Fronda favors stricter criminal checks.

"Some people that have got out of jail, a few months later they do the same kind of offenses again, so I think 10 years is good," Fronda said.

Taxi rider Le Roy Kemp said he also wants stricter checks.

Related To Story



**Video: Proposed Rules Focus On Taxi Driver Criminal Backgrounds**



"Nowadays, a criminal background is a must, especially for cab drivers," Kemp said.

Council members have given first-round approval to the taxi safety bill.

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