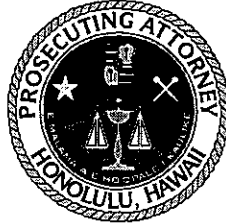


DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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THE HONORABLE MARCUS R. OSHIRO, CHAIR
HOUSE COMMITTEE ON FINANCE
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawai'i

February 28, 2011

**RE: H.B. 246; RELATING TO APPROPRIATIONS TO THE DEPARTMENT OF THE
PROSECUTING ATTORNEY OF THE CITY AND COUNTY OF HONOLULU.**

Chair Oshiro, Vice-Chair Lee and members of the House Committee on Finance, the Department of the Prosecuting Attorney submits the following testimony in support of H.B. 246.

Pursuant to legislation passed in 1979, and codified as Hawaii Revised Statutes sections 845-1, 845-2, and 845-3, the Career Criminal Prosecution program was created because it was determined that a disproportionate amount of serious crimes were being committed by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals. Research and experience suggest that focusing resources on prosecuting Career Criminals is particularly cost effective. Not only are many potential crimes avoided when Career Criminals are successfully prosecuted, but future victims and our communities are spared the multitude of costs and social impact of repetitive criminal behavior. The legislation directs the Attorney General to support each of the County Prosecuting Attorney's Offices with the funds and technical assistance necessary to support the program. The Department of the Prosecuting Attorney of the City and County of Honolulu created the Career Criminal Prosecution Unit, which the State has funded annually. Money spent on this unit is an effective use of resources, especially when we are trying to provide our citizens with swift and effective justice, and reduce heavy caseloads and long court delays. Current funding levels, however, are so depleted that the Unit is a mere shadow of its former self, with only a few clerical positions being underwritten by State funds. With your support, we can restore this Unit to its former prominent role in keeping Honolulu safe. For the Career Criminal Prosecution Unit, we are asking for \$734,973.

The Department of the Prosecuting Attorney is not only focused on incarcerating or fining individuals who violate our laws. We are also supportive of efforts to rehabilitate offenders who are supervised on probation or parole in the community. We actively participate in two programs with a record of effectiveness in converting criminals into productive and law-abiding citizens. Our deputy prosecuting attorneys assigned to the State's Drug Court Program and Hawaii's Opportunity Probation with Enforcement are dedicated and determined to do their part to reduce criminal recidivism, and to help offenders to turn their lives around. In the Judiciary's latest report to the Legislature on January 4, 2011, they reported that these programs had a recidivism rate as low as 3 percent and saved the state multi-millions of dollars.

Hawaii's Drug Court Program was incepted in 1996 on Oahu. Today, within the State of Hawaii, drug

court programs can be found on the islands of Hawaii, Kauai, Maui, Molokai and Oahu. A variety of drug court programs are available for those residing on those islands including adults within the criminal court system, and adults and juveniles in the Family Court system. These programs are unique and sensitive to the cultural population of each of the islands while also meeting the national standards for drug court programs. The design and structure of the drug court programs are developed at the local level, reflecting the unique strengths, circumstances and capacities of each community. According to the Judiciary's latest report to the Legislature on January 4, 2011, recidivism for offenders participating in the Drug Court Program currently range from 3 percent to 4 percent. The program also provides the State with significant savings, with Adult Drug Court costing about \$137/day in comparison to incarceration that costs seven times more, and Juvenile Drug Court costing \$227/day in comparison to incarceration that costs six times more.

Our deputy prosecuting attorneys for the Drug Court Program play an important role in ensuring that these programs are a success. They are aware that many individuals who chronically use drugs have backgrounds that include victimization such as domestic violence and sexual assault. The deputy prosecuting attorneys who are assigned to Drug Court are dedicated individuals who support offenders who are making sincere efforts to change their criminal behavior. When they are successful, it results in a measurable reduction of crime in our community. Therefore, we are requesting \$121,057 to insure our continued efforts to play a critical role in the success of Drug Court.

In the fall of 2004, the Judiciary started Hawaii's Opportunity Probation with Enforcement or HOPE. Judge Steven S. Alm has played the lead role in developing and implementing this program. In an article he wrote in "The Champion" for the August 2010 issue, he explained how some offenders are violent and dangerous and need to be in prison. However, many other offenders may not belong in prison and can be safely supervised in our community. HOPE targets high-risk offenders on probation and it has an impressive rate of success. According to an October 2007 - October 2008 study of felony probationers in Honolulu by Pepperdine University professor, Dr. Angela Hawkin, the probationers in the HOPE study group were:

- 55% less likely to be arrested for new crimes (21% vs. 47%);
- 72% less likely to use drugs (13% vs. 46%);
- 61% less likely to skip appointments with their probation officers (9% vs. 23%); and
- 53% less likely to have their probation revoked (7% vs. 15%).

The Department of the Prosecuting Attorney wants to continue its important role in this successful program. In order to effectively fulfill our responsibilities within the HOPE program, we are requesting \$86,888.

Since 1983, the Legislature has provided support for the Victim Witness Assistance Program. In 1986, the Legislature enacted Statute Section 28-111 (a copy of which we have attached) thus establishing the Victim Witness Assistance Program on a statewide basis. This statute establishes the Program in the Department of Attorney General, with the purpose of providing information, assistance, and support services to the victims and witnesses of crimes committed in Hawaii. The Attorney General is mandated to allocate and award funds to the Counties whose Victim Witness Assistance programs are in substantial compliance with policies and criteria established by the Attorney General in cooperation with the County Prosecutors.

The Honolulu Victim Witness Kokua Services, with the support of the Legislature, and even greater funding from the City and County of Honolulu, has developed into one of the finest services of its kind in the country. In 2010 alone, this Division helped over 4,000 crime victims.

Victims are usually the key witnesses in a case. Without their testimony, criminals cannot be held responsible for their actions and remain free to hurt others in the community. Victims need assistance to face testifying in court and they require help in recovering from the trauma criminal victimization. The Victim/Witness Kokua Services provides this support.

The mission of the Prosecuting Attorney is to seek justice. Justice must be equally available to both victims and defendants. Legislators had this in mind when they created Chapter 801D of the Hawaii Revised Statutes [H.R.S.], Rights of Victims and Witnesses in Criminal Proceedings. Those very rights established by law are significantly diminished when our funding based erodes, as it has in recent years. Crime victims' right to information, which is the very cornerstone of H.R.S. Chapter 801D, is severely jeopardized by the staffing vacancies (7) that have been the consequence of the continual budget cuts.

We note that the City & County of Honolulu now pays far more proportionately (over \$1,000,000) for its victim/assistance program than state law requires. H.R.S. 28-111, which created the State Victim/Witness Assistance Program, requires counties to match 25 percent of the program funding. Honolulu now provides the program almost forty times the matching requirement. By paying for the largest percentage of the program costs, Honolulu has already clearly proved its commitment to helping victims. While the County has been able to fill the gaps created by State funding reductions in the past, it is no longer able to do so. For example, four county funded positions also remain vacant due to the shortage of funds.

We have also been able to relieve the state from underwriting other victim assistance costs. For example, we were successful in getting the City and County to fully cover the cost of medical-legal examinations provided by the Sex Abuse Treatment Center. County funding has increased from \$50,000 to more than \$400,000. Our Office provides another \$336,000 annually in federal Victims of Crime Act funds to contract for additional services for victims who are immigrants or have limited English proficiency, victims of sexual assault, and survivors of victims of homicide and negligent homicide. Assuming administrative responsibility for these federal funds is both costly and time consuming. The federal VOCA program does not permit use of these funds for anything than direct services to crime victims. The City and County of Honolulu has had to assume virtually the entire administrative costs for administering these services in recent years, as State funding has precipitously fallen.

There is ample evidence to show that Honolulu already pays its fair share for victims' services. We ask that you restore the funding needed to demonstrate the Legislature's commitment to adequately providing the state's equitable share for this essential program. Our Department is requesting \$502,965 for the Victim Witness Kokua Services.

In conclusion, the Department of the Prosecuting Attorney strongly supports the passage of H.B. 246, which will give us the funding that will help us maximize our service to our community in the various fields of Career Criminal, Drug Court, HOPE, and Victim Witness Assistance. Thank you for this opportunity to testify.

[\$28-111] Victim-witness assistance program. (a) There is established a victim-witness assistance program in the department of the attorney general, whose purpose shall be to provide information, assistance, and support services to the victims of and witnesses to crimes committed in the State.

(b) The attorney general shall allocate and award appropriated funds to counties whose victim-witness assistance units are in substantial compliance with the policies and criteria established. The attorney general and the county prosecutors shall work together to establish victim-witness assistance program policies and criteria which shall not be subject to chapter 91. The county prosecutors shall implement the program in their respective counties.

(c) Any sums appropriated by the State for the victim-witness units in each of the respective counties shall be contingent upon the respective counties providing a minimum of twenty-five per cent of the sum appropriated to each county. [L 1986, c 204, §2]