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**THE HONORABLE JOHN M. MIZUNO, CHAIR  
HOUSE COMMITTEE ON HUMAN SERVICES**

**TWENTY-FIFTH STATE LEGISLATURE  
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**February 17, 2011**

**RE: Informational Briefing on Human Trafficking**

Good morning Chair Mizuno, Vice Chair Jordan, and members of the Human Services Committee, the Department of Prosecuting Attorney would like to provide input specifically on the issue of sexual human trafficking since for the past several years, advocates have been pushing legislation that would amend existing law, as well as add new sections into the Hawaii Revised Statutes defining sexual human trafficking. Although the intent for such legislation is good, it is unnecessary because our existing laws can already address the concerns of the advocates.

We have a prostitution law under section 712-1200, Hawaii Revised Statutes (HRS) that prohibits persons from engaging in, or agreeing or offering to engage in sexual conduct with another person for a fee. This law applies to both the prostitutes and the customers of the prostitutes often referred to as "Johns". Prostitution is a petty misdemeanor.

There is also a "Habitual Solicitation of Prostitution" law pursuant to Act 192, Session Laws of Hawaii 2008, that penalizes a person who pays, agrees to pay, or offers to pay a fee to another person to engage in sexual conduct, and the person at the time of conduct for which the person is charged, had two or more convictions within ten years of the instant offense. This law is targeting "Johns" who are repeat offenders.

Further, there are statutes with petty misdemeanor penalties that prohibit a person to loiter for the purpose of engaging in or advancing prostitution, and prohibit a person who offers or agrees to engage in sexual conduct with another person in return for a fee within the boundaries of Waikiki.

We also have laws prohibiting the promotion of prostitution. Promoting prostitution in the first degree under section 712-1202, HRS is applied when a person knowingly advances prostitution by compelling a person by force, threat, or intimidation to engage in prostitution, or profits from such coercive conduct by another, or advances or profits from prostitution of a person less than eighteen years old. Promoting prostitution in the first degree is a class B felony.

This law targets individuals who use violent means to coerce females into prostitution, and target teens and children into prostitution.

Promoting prostitution in the second degree pursuant to section 712-1203, HRS is used on a person who knowingly advances or profits from prostitution by managing, supervising, controlling, or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostituted persons. Promoting prostitution in the second degree is a class C felony. This statute allows us to prosecute organized operations that promote prostitution.

Promoting prostitution in the third degree under section 712-1204, HRS is applied to a person who knowingly advances or profits from prostitution. This law can be used to prosecute the pimps who are less organized or starting out. It is also a law that can be applied if the additional criminal elements in promoting prostitution in the first degree and promoting prostitution in the second degree are not met.

Then, we have section 712-1208, HRS, that prohibits a person who knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be prostitution if occurring in the State. The penalty for this law is a class C felony.

As you can see, we have a number of laws addressing sexual human trafficking within the State of Hawaii. However, the Department of the Prosecuting Attorney, City and County of Honolulu, would like to further help address this important issue. We have introduced several bills that are in our 2011 Legislative Package that strengthens our laws to provide more tools for law enforcement and prosecuting attorney offices in addressing sexual human trafficking:

1. House Bill 240 and Senate Bill 1016 amends section 28-101, HRS, to give the "greatest priority" to cases involving promoting prostitution, when the attorney general is determining whether to fund or provide for witness security and protection. Many of the prostitutes are victims, therefore, with this legislation we want to protect them as witnesses. Further, their participation in the legal process as witnesses will help us in prosecuting sexual human trafficking cases.
2. House Bill 241 and Senate Bill 1017 increases the grade of offense for promoting prostitution in the first, second, and third degree to a class A, B, and C felony, respectively. Much of the mistreatment done to the women and girls are done by the pimps who verbally and physically abuse them, and control the amount of money they receive. Pimps also prey on vulnerable females with family problems, mental and emotional challenges, and/or addiction to substances. Therefore, we believe higher penalties are warranted on those who promote prostitution.
3. House Bill 242 and Senate Bill 1018 amend Act 192, Session Laws of Hawaii 2008, to make the offense of habitual solicitation of prostitution a class C felony rather than a misdemeanor. These bills intend to discourage the demand of prostitute services by making the penalty stiffer.

There is sexual human trafficking legislation currently moving in the legislature, which creates new offenses by combines existing laws together to create a new sexual human trafficking law. The legislation also establishes new definitions and criteria that are not tested in the courts. Such proposed language will not improve the policy of reducing sexual human trafficking. Rather it will complicate the legal process.

Last year, the legislature passed a sexual human trafficking bill that was vetoed by Governor Linda Lingle. Governor Lingle objected to the bill because the proposed new offenses

intended to prohibit conduct that is already under Hawaii law. Also, the proposed new offenses did not clearly define prohibited conduct in such a way that they can be enforced and prosecuted in court. The Governor further stated that the language was poorly drafted, overly broad, and inaccurate so as to make it virtually impossible to bring to trial and convict those who engage in sexual human trafficking.

The Department of the Prosecuting Attorney, City and County of Honolulu has prosecuted cases using the promoting prostitution laws and others such as money laundering and racketeering. Sexual Human Trafficking legislation that combines existing law is unnecessary because our department can prosecute individuals who promote prostitution and also violate other criminal laws.

Rather than creating new laws that are already covered with existing laws, our department, as mentioned, has proposed legislation strengthening existing laws. We appreciate the effort of all individuals who have worked on this important issue. We agree with your policy goal of reducing sexual human trafficking. However, in order to achieve that policy goal, we have to ensure the laws are effective. For the following reasons, we request the legislature to support out existing laws and consider our legislative bills that strengthen them. Thank you for this opportunity to testify.