

NEIL ABERCROMBIE
GOVERNOR



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No. _____

**TESTIMONY ON SENATE BILL 49 SD1 HD1
RELATING TO CORRECTIONAL FACILITIES**

by
Jodie F. Maesaka-Hirata, Director
Department of Public Safety

House Committee on Legislative Management
Representative Kyle T. Yamashita, Chair
Representative James Kunani Tokioka, Vice Chair

Friday, April 1, 2011; 2:00 PM
State Capitol, Conference Room 423

Chair Yamashita, Vice Chair Tokioka, and Members of the Committee:

The Department of Public Safety (PSD) strongly opposes Senate Bill 49 SD1 HD1, which seeks to require PSD to report any inmate and correctional facility employee deaths to the President of the Senate, Speaker of the House of Representatives, and the Legislature Public Safety Committee Chairs within 48 hours due to the confidentiality rights of the inmates and/or the employee.

At present, PSD already has in place, well-established policies and procedures regarding the internal reporting and investigations of such incidents in our correctional facilities, and those that may occur on the mainland. This includes notification to the Governor's Office, of all serious incidents involving staff, inmates, or visitors to our correctional facilities and those that house inmates from Hawaii on the mainland.

It should also be noted that all serious incidents including deaths are immediately reported to the appropriate authorities, including the police departments and medical examiners. Thorough internal investigations of these incidents are also completed, and may be impeded by unwarranted publicity.

PSD is also concerned with Health Insurance Portability and Accountability Act (HIPAA) violations, in reference to medical confidentiality. The specific cause of death is a Medical Record, and cannot be immediately released without specific written authorization by the next of kin.

PSD is also very concerned with the legal ramifications of the proposed reporting requirements.

Thank you for the opportunity to provide testimony on this matter.



SB49 SD1 HD1
RELATING TO CORRECTIONAL FACILITIES
House Committee on Legislative Management

April 1, 2011

2:00 p.m.

Room 423

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB49 SD1 HD1, which would require the Department of Public Safety (DPS) to report to the Legislature any inmate or correctional facility employee death within 24 hours.

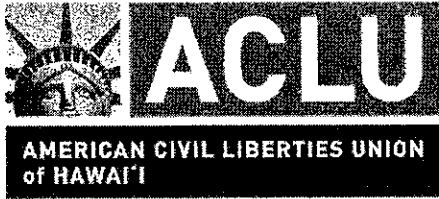
OHA was disturbed this year upon receiving news regarding the murders of Hawai'i residents Clifford Medina and Bronson Nunuha who were both incarcerated at the time of their deaths at the Saguaro prison facility in Eloy, Arizona. OHA is concerned for the health and welfare of the remaining Hawai'i prisoners incarcerated in privatized out of state prisons, given that a number of these prisoners are Native Hawaiian.

OHA's recent report, "The Disparate Treatment of Native Hawaiians in the Criminal Justice System," shows that Native Hawaiians constitute a disproportionate population in Hawai'i's prison system and represent approximately 40 percent of all inmates incarcerated in Hawai'i and in private facilities on the continent.

This bill creates an easy to implement administrative mechanism to require DPS to report deaths of inmates. Public oversight will assist in creating solutions to increase safety at these facilities.

OHA urges the committee to PASS SB 49SD1 HD1. Mahalo for the opportunity to testify on this important measure.

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Committee: Committee on Legislative Management
Hearing Date/Time: Friday, March 31, 2011, 2:00 p.m.
Place: Room 423
Re: Testimony of the ACLU of Hawaii in Support of S.B. 49, SD1, HD1,
Relating to Correctional Facilities

Dear Chair Yamashita and Members of the Committee on Legislative Management:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in strong support of S.B. 49, SD1, HD1, which seeks to require the Department of Public Safety (“PSD”) to report to the Legislature any inmate or correctional facility employee death within 24 hours.

The ACLU of Hawaii receives hundreds of requests for assistance from Hawaii inmates each year, and conducts numerous investigations into prison officials’ actions. It is imperative that the Legislature is immediately notified about the numerous injuries and deaths so that our lawmakers can consider ways to prevent them in the future. We have particular concerns about the private prisons on the mainland, because – given the distance – we cannot know whether an inmate’s death was due to the denial of medical care, assault, or natural causes. Furthermore, because private prisons are not yet subject to Hawaii’s open records laws, requests for information are frequently denied (on the basis that these policies and procedures are “proprietary”). These private prisons – and the entire PSD – are in dire need of the layer of accountability and transparency that this bill will add.

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

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