



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2012**

---

**ON THE FOLLOWING MEASURE:**

H.C.R. NO. 99, REQUESTING THE DEPARTMENT OF THE ATTORNEY GENERAL TO CREATE AN EFFICIENT TRACKING METHOD FOR DEOXYRIBONUCLEIC ACID (DNA) RAPE KITS AND TO REDUCE THE TIME TO PROCESS THE RESULTS.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Monday, April 02, 2012 **TIME:** 2:15 p.m.  
**LOCATION:** State Capitol, Room 325  
**TESTIFIER(S):** David M. Louie, Attorney General, or  
Lance M. Goto, Deputy Attorney General

---

Chair Keith-Agaran and Members of the Committee:

Based on information we have received, it is the understanding of the Department of the Attorney General (the "Department") that there is no current backlog in processing deoxyribonucleic acid (DNA) rape kits, and therefore offers the following comments on this resolution.

The purpose of this resolution is to address the increasing backlog in processing DNA rape kits in Hawaii by requesting that the Attorney General and other law enforcement agencies create an efficient tracking method for DNA rape kits, work to reduce the time for processing the kits, and identify additional funding sources for the Honolulu Police Department Crime Laboratory.

The Department has conferred with the Honolulu Police Department (HPD) Crime Laboratory, the Hawaii County Police Department, and the Kauai County Police Department, and has been informed that they do not have a backlog of DNA rape kits awaiting laboratory analysis. At present, the HPD Crime Laboratory is working on the analysis of an estimated three DNA kits. It does not have any other DNA kit work requests pending analysis. The Crime Laboratory has indicated that it is usually able to complete the DNA analysis for a basic rape kit within three to four weeks.

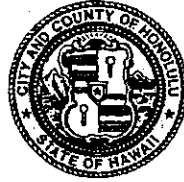
In Honolulu, when a person reports a sexual assault, the Sex Abuse Treatment Center and the Kapiolani Medical Center may utilize DNA rape kits to recover potential DNA samples from the victim. On Hawaii, Maui, or Kauai, Sexual Assault Response Teams may recover DNA

samples from victims. The kits are recovered by police crime scene specialists and placed into evidence. Police detectives or prosecuting attorneys may request the lab analysis of the recovered DNA samples. But they do not request the analysis of all of the recovered samples. Sometimes, an analysis may not be necessary if the identity of the perpetrator is not at issue.

Inasmuch as there is no current backlog of requests for DNA rape kit analysis, the time and resources that would be required to undertake the tasks required by the resolution are not warranted.

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

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



PETER B. CARLISLE  
MAYOR

LOUIS M. KEALOHA  
CHIEF

DAVE M. KAJIHIRO  
MARIE A. McCAULEY  
DEPUTY CHIEFS

OUR REFERENCE WK

April 2, 2012

The Honorable Gilbert S. C. Keith-Agaran, Chair  
and Members  
Committee on Judiciary  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

**Subject: House Concurrent Resolution No. 99, Requesting the Department of the Attorney General to Create an Efficient Tracking Method for Deoxyribonucleic Acid (DNA) Rape Kits and to Reduce the Time to Process the Results.**

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

The Honolulu Police Department opposes House Concurrent Resolution No. 99, Requesting the Department of the Attorney General to Create an Efficient Tracking Method for Deoxyribonucleic Acid (DNA) Rape Kits and to Reduce the Time to Process the Results. The perception that there is a considerable backlog of unfulfilled requests for the analysis of rape kits is erroneous.

The decision to request an analysis of a rape kit is strictly that of the case investigator and/or deputy prosecutor. The Crime Laboratory is primarily concerned with the timely completion of the requested analyses. To this end, the Crime Laboratory has maintained a manageable number of sex assault analysis requests which are assigned and scheduled for completion.

The Honolulu Police Department recognizes that forensic DNA analysis is a valuable tool for investigating criminal cases. To the extent that this resolution necessitates that all rape kits be analyzed, there will be a resulting need by the laboratory for additional sustained and targeted funding to address resulting analysis request backlogs, provide additional investigator training regarding DNA analysis, evidence processing, enhanced information management systems, and additional personnel.

The Honorable Gilbert S. C. Keith-Agaran, Chair  
and Members

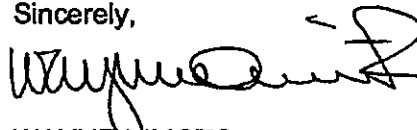
Page 2

April 2, 2012

The Honolulu Police Department urges you to oppose House Concurrent Resolution No. 99, Requesting the Department of the Attorney General to Create an Efficient Tracking Method for Deoxyribonucleic Acid (DNA) Rape Kits and to Reduce the Time to Process the Results.

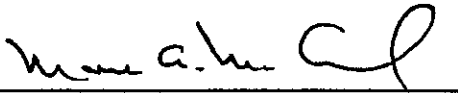
Thank you for the opportunity to testify.

Sincerely,



WAYNE KIMOTO  
Forensic Laboratory Director  
Scientific Investigation Section

APPROVED:

---

*for* LOUIS M. KEALOHA  
Chief of Police

# COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phone/E-Mail: (808) 533-3454 / [kat.caphi@gmail.com](mailto:kat.caphi@gmail.com)



## COMMITTEE ON JUDICIARY

Rep. Gil Keith-Agaran, Chair

Rep. Karl Rhoads, Vice Chair

Monday, April 2, 2012

2:15 p.m.

Room 325

## STRONG SUPPORT HCR 99- TRACKING DNA RAPE KITS

Aloha Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee!

My name is Kat Brady and I am the Coordinator Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered on behalf of the 6,000 Hawai'i individuals living behind bars, always mindful that almost 1,800 individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HCR 99 HCR 99 requests the Department of the Attorney General to create an efficient tracking method for DNA rape kits and reduce the time to process the results.

Community Alliance on Prisons is in strong support of this resolution.

Over the years there have been several bills asking for DNA from all arrestees. CAP has opposed these bills not only because one of the rights enshrined in our Constitution is 'innocent until proven guilty', also because of the incredible backlog in testing the DNA in unprocessed rape kits.

This resolution asks for the attorney general to work with the county police departments to coordinate with other states and federal law enforcement to create an efficient tracking methods for DNA rape kits to reduce the time to process the results. Mr. Jardine, the first person exonerated by the Hawai'i Innocence Project, after serving 20 years in prison for a crime he did not commit was released because there was still one piece of evidence with DNA that was not his (all the rest of the evidence was destroyed and it took 5 years to get the only piece of evidence left tested for DNA).

Coordinating with the counties and other jurisdictions to develop efficient methods for tracking is important so innocent people are not wrongfully convicted and imprisoned.

The Attorney General already is responsible for finding funding for projects, so this would not be an additional burden to that office. In the interest of justice, Hawai'i must do all it can to minimize mistakes and use existing evidence to convict those who have caused harm to others.

We urge passage of this resolution and thank the committee for this opportunity to testify.



# THE SEX ABUSE TREATMENT CENTER

*A Program of Kapi'olani Medical Center for Women & Children*

*Executive Director*  
Adriana Ramelli

DATE: April 2, 2012

*Advisory Board*

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Karl Rhoads, Vice Chair  
Committee on Judiciary

*President*  
Mimi Beams

*Vice President*  
Peter Van Zile

FROM: Adriana Ramelli, Executive Director  
The Sex Abuse Treatment Center

Joanne H. Arizumi

Mark J. Bennett

Andre Bisquera

RE: H.C.R. 99  
Relating to creating an efficient tracking method for deoxyribonucleic acid (DNA) rape kits and to reduce the time to process the results

Marilyn Carlsmith

*Senator*  
Suzanne Chun Oakland

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Good afternoon Chair Keith-Agaran, Vice Chair Rhoads and members of the Committee on Judiciary. My name is Adriana Ramelli and I am the Executive Director of the Sex Abuse Treatment Center (SATC), a program of the Kapi'olani Medical Center for Women & Children (KMCWC), an affiliate of Hawai'i Pacific Health.

*Senator*  
Carol Fukunaga

Frank Haas

David I. Haverly

Linda Jameson

Roland Lagareta

Michael P. Matsumoto

Phyllis Muraoka

Gidget Ruscetta

Over the past few years, the discovery of thousands of untested DNA rape kits in law enforcement agencies across the nation has been the topic of extensive media coverage and policy discussions. While these untested kits are often referred to as being part of a "backlog," according to a Summary of Proceedings on Eliminating the Rape Kit Backlog, nationwide there is no uniform definition of a backlog.<sup>1</sup> The National Institute of Justice refers to a backlog as evidence that has been submitted to a crime laboratory by a law enforcement agency and is awaiting DNA analysis.<sup>2</sup> While many of the rape kits transferred by the SATC to the Honolulu Police Department remain unanalyzed, the unanalyzed kits are reflective of those in which analysis was not requested.

Across the nation, victim advocates are at the forefront advocating for the analysis of all kits, in part, because of the potential value of forensic evidence in developing new leads in a criminal investigation. For example, forensic evidence can potentially identify a suspect in "no suspect" cases (cases where a suspect has not been identified), as DNA can identify a possible perpetrator through the Combined DNA Index System (CODIS), the national DNA database.

The issue of unanalyzed evidence in sexual assault cases is complex and not straightforward. There are many challenges and questions involved in addressing DNA kit analysis. For example, not all evidence collected in an alleged sexual assault is going to be probative. In cases where consent is an issue (the suspect admits sexual contact took place but states that it was consensual), there may be reason to believe that the kit does not add any value to the investigation. Evidence also may not be sent

for analysis because the suspect pled guilty or charges against the suspect were dropped.

Should the kits in such situations be tested anyway? There is much to be considered. SATC acknowledges the effort HCR No. 99 brings to the forefront and supports the idea of stakeholders being brought to the table to dialogue on this complex issue.

Many questions need to be answered. Should all kits be analyzed? Should there be a prioritization or triage process to determine which kits should be sent to the lab and when? How do we determine which approach would be best in solving the most crimes with the greatest efficiency, considering current fiscal realities?

The SATC supports convening forensic examiners, victim advocates, crime laboratory experts, law enforcement officers and, prosecuting attorneys statewide to focus on the issues, challenges and strategies regarding the testing of rape kits. It is recommended the resolution be written to support this multidisciplinary discussion, as only after such dialogue can the initiatives contained in this concurrent resolution be considered. The committee may also wish to consider some sources of funding either public or private, recognizing that State's fiscal status, to enable a working group to convene on this issue.

Thank you for the opportunity to testify.

1. Summary of the Proceedings Eliminating the Rape Kit Backlog: A Roundtable to Explore A Victim-Centered Approach. U.S. Department of Justice Office on Violence Against Women Washington, DC| May 11-12, 2010
2. Mark Nelson, Making Sense of the DNA Backlog: Myths and Realities, Washington DC: U.S. Department of Justice, National Institute of Justice, 2010, NCJ 23183.



Committee: Committee on Judiciary  
Hearing Date/Time: Monday, April 2, 2012, 2:15 p.m.  
Place: Conference Room 325  
Re: Testimony of the ACLU of Hawaii in Support of H.C.R. 99

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of H. C. R. 99.

There is no doubt that the backlog in processing rape kit evidence is hampering criminal investigations. For survivors of rape and sexual assault, justice is being delayed when evidence in these cases lies on shelves in state forensic laboratories. Resolving these unconscionable backlogs is the right thing to do.

One of the primary causes of these backlogs, however, has been the heedless expansion of the databases to ever increasing categories of individuals. We must not divert scarce resources from the existing work of our already underfunded and understaffed crime laboratories. DNA testing is an extraordinarily important tool that can and should be used for solving crime. But we must use this technology appropriately. This resolution would move us closer to realizing the potential reduction in the rape kit backlogs that hinder us from bringing criminals to justice and closure to victims.

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 45 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
T: 808.522-5900  
F: 808.522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)