

SB 229

RELATING TO JUVENILE JUSTICE INFORMATION

Allows the dissemination of information from the juvenile justice information system to law enforcement agencies for purposes of the administration of law enforcement and law enforcement agency employment.

PSM, JDL



The Judiciary, State of Hawai'i

Testimony to the Senate Committee on Public Safety,
Intergovernmental and Military Affairs
Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair

Tuesday, February 3, 2015
1:15 p.m.
State Capitol, Conference Room 229

By
R. Mark Browning
Deputy Chief Judge, Senior Family Judge
Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 229, Relating to Juvenile Justice Information.

Purpose: Allows the dissemination of confidential juvenile justice information to law enforcement agencies for law enforcement and law enforcement employment.

Judiciary's Position:

The Judiciary respectfully submits this testimony in opposition to Senate Bill No. 229.

1. This bill does not have the endorsement of the Juvenile Justice Information Committee (JJIC) because it was never proffered to that Committee for such endorsement. From the inception of the Juvenile Justice Information System (JJIS), all of the creators (including then Chief of Honolulu Police Department Keala and then Senior Family Court Judge Vitousek, leaders of the JJIC for many years) understood that this system of sharing information could only have been created based on professional trust and a mutual respect of competing professional positions. This bill is inconsistent with those tenets. The phrase in the preamble of this bill, "clarify that law enforcement agencies may be

allowed to access the juvenile justice information system in the performance of their duties” also appears to be inconsistent with this premise and misunderstands the current statute, the purposes of the JJIS/JJIC, and the long and short term history of the Committee’s work. The current statute is clear about the uses and sharing of juvenile information. The purposes of the JJIS/JJIC include law enforcement but are not *exclusive* to it. Rehabilitation of youth is also an important purpose. Chief Keala and Senior Judge Vitousek understood this and, although aware that they represented different important community roles, they believed that their work could only be done well if done collaboratively and honestly. The long term history of the JJIC reflects the extreme importance of goodwill and trust. The short term history of the JJIC includes a *draft* of an opinion letter prepared by the Attorney General’s office that clearly speaks against this sort of bill (e.g., use of the information for adult charging). Although then Attorney General Mark Bennett was not able to sign the opinion letter before he left office, it was never repudiated. In fact, the JJIC was under the impression that the signing was forthcoming and imminent at that time.

2. The current statute and practices came about by hard work and collaboration among all the JJIC members, past and present, based on respect, trust, and good faith. This goodwill has been sorely tested throughout the years but, like a family who knows they need each other, the members keep collaborating as much as their professional roles allow. The Judiciary is concerned that this bill could damage this system.

Thank you for the opportunity to testify on this bill.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
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**THE HONORABLE WILL ESPERO, CHAIR
SENATE COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL AND MILITARY AFFAIRS
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawai'i**

February 3, 2015

RE: S.B. 229; RELATING TO JUVENILE JUSTICE INFORMATION.

Chair Espero, Vice-Chair Baker, and members of the Senate Committee on Public Safety, Intergovernmental and Military Affairs, the Department of the Prosecuting Attorney, City and County of Honolulu, submits the following testimony in support of Senate Bill 229.

The purpose of S.B. 229 is to allow law enforcement agencies to access the statewide juvenile justice information system ("JJIS") for the administration of law enforcement and law enforcement agency employment.

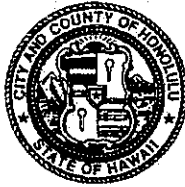
In order to properly screen and/or charge some cases for prosecution, the Department needs to know whether an individual has prior juvenile offenses related to the new offense. While we may be permitted to access our own internal records, regarding the individual's juvenile history, we do not have access to juvenile records from neighbor islands, other than through JJIS. However, the current language of HRS §846D-4 has been interpreted to mean that our adult divisions are not allowed to access JJIS (even though our juvenile offender division has such access). Moreover, it is our understanding that the county police departments have similar limitations under the current language of HRS §846D-4, even though they need this information for a number of purposes as well.

The language proposed in S.B. 229 would be narrow enough to permit the needed access for law enforcement agencies on all islands, while limiting this use strictly to " law enforcement agency employment and the administration of law enforcement."

For all of these reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports S.B. 229. Thank for you the opportunity to testify on this matter.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

DAVE M. KAJIHIRO
MARIE A. MCCAULEY
DEPUTY CHIEFS

OUR REFERENCE

RA-YZ

February 3, 2015

The Honorable Will Espero, Chair
and Members
Committee on Public Safety,
Intergovernmental and Military Affairs
State Senate
Hawaii State Capitol, Room 229
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Espero and Members:

Subject: Senate Bill No. 229, Relating to Juvenile Justice Information

I am Raymond Ancheta, Major of the Community Affairs Division, Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 229, Relating to Juvenile Justice Information. This bill will allow the HPD to conduct statewide juvenile background checks on police recruit and civilian applicants that may have committed crimes as a juvenile that would be deemed unsuitable for law enforcement employment as well as other administrative purposes.

The HPD urges you to support Senate Bill 229, Relating to Juvenile Justice Information.

Thank you for the opportunity to testify in support of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond Ancheta", is written over a horizontal line.

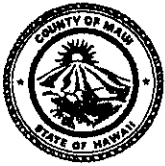
RAYMOND ANCHETA, Major
Community Affairs Division

APPROVED:

A handwritten signature in black ink, appearing to read "Louis M. Kealoaha", is written over a horizontal line.

LOUIS M. KEALOHA
Chief of Police

Serving and Protecting With Aloha



ALAN M. ARAKAWA
MAYOR

OUR REFERENCE

YOUR REFERENCE

POLICE DEPARTMENT
COUNTY OF MAUI

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TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

February 03, 2015

The Honorable Will Espero, Chair
and Members of the Committee on Public Safety,
Intergovernmental and Military Affairs
The Senate
State Capitol
Honolulu, HI 96813

Re: Senate Bill No. 229 – RELATING TO JUVENILE JUSTICE
INFORMATION

Dear Chair Espero and Members of the Committee:

The Maui Police Department is in support of SB No. 229.

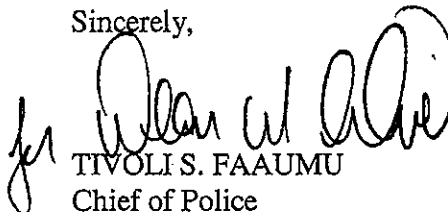
This bill allows the dissemination of information from the juvenile justice information system to law enforcement agencies for purposes of the administration of law enforcement and law enforcement agency employment.

The Maui Police Department is in support of this bill as it will assist law enforcement by allowing the sharing of JJIS information within the State of Hawaii. With more access we will be able to conduct more thorough checks in areas like firearms permits and pre-employment background checks for new job applicants. This will overall allow law enforcement agencies to make better employment decisions for personnel that will ultimately serve our community.

The Maui Police Department asks for your support for S.B. No. 229.

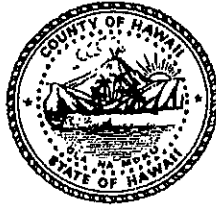
Thank you for the opportunity to testify.

Sincerely,


TIVOLI S. FAAUMU
Chief of Police

MITCHELL D. ROTH
PROSECUTING ATTORNEY

DALE A. ROSS
FIRST DEPUTY
PROSECUTING ATTORNEY



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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL 229

A BILL FOR AN ACT RELATING TO JUVENILE JUSTICE
INFORMATION

COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL AND MILITARY AFFAIRS

Sen. Will Espero, Chair
Sen. Rosalyn H. Baker, Vice Chair

Tuesday, February 3, 2015, 1:15 p.m.
State Capitol, Conference Room 229

Honorable Chair Espero, Vice-Chair Baker, and Members of the Committee on Public Safety, Intergovernmental and Military Affairs, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of Senate Bill No. 229.

This measure allows the dissemination of information from the juvenile justice information system to law enforcement agencies for purposes of the administration of law enforcement and law enforcement agency employment.

Under current law, law enforcement agencies may review their own records, but they are not permitted to use the Juvenile Justice Information System (JJIS) to review a person's statewide juvenile record. This hinders the efforts of law enforcement agencies to effectively apply the laws related to a person's juvenile history. As an example, the police in Hawai'i County would not know that a person has a juvenile record in Maui that would disqualify that person from owning a firearm.

JJIS was created to store information, and the law requires that the information be checked under certain circumstances; however, that very same stored information is currently deemed off limits. This situation has created a serious dilemma for prosecutors who are required by law to check a person's criminal history, including juvenile records, to make proper charging decisions and sentencing motions.

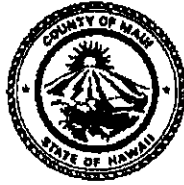
For these reasons, the Office of the Prosecuting Attorney, County of Hawai'i supports the passage of Senate Bill No. 229. Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "M. D. Roth", written in a cursive style.

Mitchell D. Roth
Prosecuting Attorney
County of Hawai'i

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Acting Prosecuting Attorney
ROBERT D. RIVERA
Acting First Deputy Prosecuting Attorney

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CONTACT: RICHARD K. MINATOYA
Deputy Prosecuting Attorney
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON
SB 229 - RELATING TO JUVENILE JUSTICE INFORMATION

February 3, 2015

The Honorable Will Espero
Chair
The Honorable Rosalyn H. Baker
Vice Chair
and Members
Senate Committee on Public Safety, Intergovernmental and Military Affairs

Chair Espero, Vice Chair Baker and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** SB 229, Relating to Juvenile Justice Information. SB 229 will allow the dissemination of information from the Juvenile Justice Information System (JJIS) to law enforcement agencies for purposes of administration of law enforcement and law enforcement agency employment.

The law currently requires prosecutors to check a person's criminal history, including juvenile records, to make proper charging decisions and sentencing motions. Also, police departments are required to check a person's juvenile records when the person applies for a firearms permit. Furthermore, both police and prosecutors conduct pre-employment background checks for their new job applicants as the normal course of business. These background checks are what the law or personnel policies require.

However, it was deemed that these agencies are precluded from using JJIS to conduct such research into a person's background. While these law enforcement agencies can conduct a search of their own records, they are unable to check a person's juvenile record for the rest of the state. For example, the police on Maui would not know that a person has a juvenile record on Kauai that would disqualify him or her from owning a firearm. Put simply, while JJIS was

created to store information, and the law requires that the information be checked under certain circumstances, the information stored is deemed off limits, creating a serious Catch-22.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, **STRONGLY SUPPORTS** the passage of this bill. We ask that the committee **PASS SB 229**.

Thank you very much for the opportunity to provide testimony on this bill.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Sen. Will Espero, Chair

Sen. Roz Baker, Vice Chair

Tuesday, February 3, 2015

1:15 p.m.

Room 229

OPPOSE SB 229 - SHARING JUVENILE JUSTICE INFORMATION

Aloha Chair Espero, Vice Chair Baker and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai'i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai'i individuals who 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.

SB 229 allows the dissemination of information from the juvenile justice information system to law enforcement agencies for purposes of the administration of law enforcement and law enforcement agency employment.

Community Alliance on Prisons OPPOSES this legislation.

JUSTICE INFORMATION SHARING AND THE ROLE OF THE GOVERNANCE STRUCTURE¹

Broadly defined, JIS is a process that enables the components of states' justice systems – including state and local law enforcement, courts, prosecutors, and corrections agencies – to share justice information easily and effectively. Information is shared both vertically (among different levels of government, such as state, local, tribal, and federal entities) and horizontally (across agencies and branches of government).¹ The types of information shared includes individuals' criminal history, parole and probation status, and court case data.

¹ NGA Center for Best Practices, Issue Brief, July 2009.

<http://www.nga.org/files/live/sites/NGA/files/pdf/0907JUSTICEINFOSHARING.PDF>

WHY JUVENILE RECORDS ARE SEALED

Juvenile justice information is sealed for a reason: The state made a decision that juvenile cases are to be heard in Family Court and that those records are sealed so that youthful indiscretions do not foreclose an individual's future.

THE SCIENCE OF BRAIN DEVELOPMENT

Scientists are now utilizing advances in magnetic resonance imaging (MRI) to create and study three-dimensional images of the brain without the use of radiation (as in an x-ray). This breakthrough allows scientists to safely scan children over many years, tracking the development of their brains.²

Researchers at Harvard Medical School, the National Institute of Mental Health, UCLA, and others, are collaborating to "map" the development of the brain from childhood to adulthood and examine its implications.

Jay Giedd, a researcher at the National Institute of Mental Health, explains that during adolescence the *"part of the brain that is helping organization, planning and strategizing is not done being built yet.... It's sort of unfair to expect [adolescents] to have adult levels of organizational skills or decision making before their brain is finished being built."*³

Ruben Gur, MD, PhD, Director, University of Pennsylvania Medical Center said: *"The evidence now is strong that the brain does not cease to mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable.... Indeed, age 21 or 22 would be closer to the 'biological' age of maturity."*

Deborah Yurgelun-Todd, PhD of the Brain Imaging Laboratory of McClean Hospital at Harvard University Medical School said, *"Just because they're physically mature, they may not appreciate the consequences or weigh information the same way as adults do. So, [although] somebody looks physically mature, their brain may in fact not be mature."*

Adolescence is a transitional period during which a child is becoming, but is not yet, an adult. An adolescent is at a crossroads of changes where emotions, hormones, judgment, identity and the physical body are so in flux that parents and even experts struggle to fully understand.

As a society, we recognize the limitations of adolescents and, therefore, restrict their privileges to vote, serve on a jury, consume alcohol, marry, enter into contracts, and even watch movies with mature content. Each year, the United States spends billions of dollars to promote drug use prevention and sex education to protect youth at this vulnerable stage of life.

² For an excellent overview, see Elkhonon Goldberg, *The Executive Brain: Frontal Lobes and the Civilized Mind*, Oxford University Press (2001).

³ PBS Frontline, *Inside the Teen Brain*. See Interview with Jay Giedd, online at www.pbs.org/wgbh/pages/frontline/shows/teenbrain/

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 02, 2015 8:41 AM
To: PSMTestimony
Cc: theede@hawaii.rr.com
Subject: *Submitted testimony for SB229 on Feb 3, 2015 13:15PM*

SB229

Submitted on: 2/2/2015

Testimony for PSM on Feb 3, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Teri Heede	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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To: PSMTestimony
Cc: director@dpfhi.org
Subject: Submitted testimony for SB229 on Feb 3, 2015 13:15PM

SB229

Submitted on: 2/2/2015

Testimony for PSM on Feb 3, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Rafael Kennedy	Individual	Oppose	No

Comments: Aloha Senators, Mahalo for taking testimony on this issue. This is a very dangerous bill, that is likely to do irreparable harm to our society and to our children if passed. The fact is that juvenile records are sealed for a reason. That reason is that, as we all know, children sometimes make mistakes or bad decisions when they are young and developing. Creating the infrastructure to allow our youth to be labeled permanently as criminals because of what they do in their childhood will be an enormous blow to our future as a state and as a society, and will accomplish nothing. Please recommend that this bill be deferred. Mahalo for your consideration. Rafael Kennedy

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Sent: Monday, February 02, 2015 2:13 PM
To: PSMTestimony
Cc: lorenn@hawaii.edu
Subject: Submitted testimony for SB229 on Feb 3, 2015 13:15PM

SB229

Submitted on: 2/2/2015

Testimony for PSM on Feb 3, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Lorenn Walker	Individual	Oppose	No

Comments: We strongly oppose this measure which threatens to weaken opportunities for youth law violators to rehabilitate and live law abiding lives.

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