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LATE TESTIMONY

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TESTIMONY
ON
SB 764 - RELATING TO HAWAII RULES OF EVIDENCE

February 18, 2015

The Honorable Gilbert S. C. Keith-Agaran
Chair
The Honorable Maile S. L. Shimabukuro
Vice Chair
and Members
Senate Committee on Judiciary and Labor

Chair Keith-Agaran, Vice Chair Shimabukuro and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, **STRONGLY OPPOSES** SB 764 - Relating to Hawaii Rules of Evidence. The bill would allow courts to instruct juries that the jury shall consider the prosecution's failure to disclose information or materials as required by the Hawaii Rules of Penal Procedure as relevant in its deliberations to determine whether or not there is reasonable doubt.

While we agree that relevant information and materials must be disclosed to the defense in a criminal case, we believe that this bill is unnecessary. The courts can already impose sanctions, exclude evidence and dismiss cases if it finds that the prosecution intentionally or knowingly failed to disclose information or materials. This bill is not only unnecessary, but will encourage juries to make decisions that are not based on the evidence (or lack of evidence), and inferences drawn from the evidence, that are presented at trial. Juries may then decide cases simply on extraneous information.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, **STRONGLY OPPOSES** SB 764. Please **HOLD** this bill in committee.

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