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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF SENATE BILL 506

A BILL FOR AN ACT RELATING TO DOMESTIC VIOLENCE

COMMITTEE ON PUBLIC SAFETY,
INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Sen. Clarence K. Nishihara, Chair
Sen. Glenn Wakai, Vice Chair

Thursday, February 2, 2017, 1:15 P.M.
State Capitol, Conference Room 229

Honorable Chair Nishihara, Vice-Chair Wakai, 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. 506, with noted concerns and suggested modifications.

This measure requires annual reporting to the Legislature by the Department of the Attorney General, State of Hawaii (AG) of statistical data pertaining to the testing of sexual assault evidence collection kits. Provides certain rights to sexual assault survivors. Institutes mandatory testing requirements in accordance with AG guidelines. Requires AG to report to 2018 Legislature on the progress of implementing AG guidelines.

First, we appreciate the support of the Legislature to get sexual assault kits tested in the State of Hawai'i. We have some concerns regarding this Bill as it is currently drafted. Our primary concern relates to the 90 day deadline to submit the kit to an accredited lab. While we would all love for this to happen, we believe it is unrealistic at this time without funding to pay for these tests. In order for results to be uploaded to the Combined DNA Index System (CODIS), the laboratory must not only be accredited but also be approved by the state CODIS administrator. Grant funding and laboratory and police resources are currently focused on testing the identified sexual assault kits pursuant to Act 207 (2016). There is a need for further funding and resources to meet the 90 day deadline.

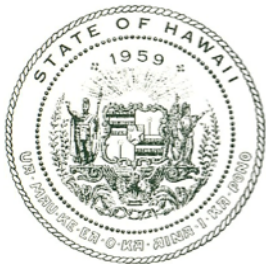
Our second concern relates to the sexual assault survivors' rights. We understand that the rights follow federal law, but given Hawai'i Supreme Court decisions expanding rights under Hawai'i law, we are concerned that any laws enacted here will not be applied retroactively to all survivors. Notification should be done in a victim-centered manner. The Malama Kakou project recommends that victims be notified only if test results are actionable. We believe that contacting victims may result in trauma if contact is only to inform them that kits are being

destroyed, or that there are no actionable results. The Malama Kakou public service announcements will give victims an opportunity to ask for information, thus providing victims with the opportunity to seek information, if they wish. We believe that this choice is very important for victims, as learned from other jurisdictions.

We urge the Legislature to modify the Bill's language so that it is clear that any rights are to be applied prospectively after agencies and police departments have had ample time to implement required procedures. We are also concerned about reference in Section 2 (4) regarding written "policies", which assumes policies already exist, creating liability for departments. It would be better if the law refers to existing laws relating to the preservation of DNA evidence.

The Office of the Prosecuting Attorney, County of Hawai'i supports the passage of Senate Bill No. 506. Thank you for the opportunity to testify on this matter.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



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February 1, 2017

To: Senator Clarence Nishihara, Chair
Senator Glenn Wakai, Vice Chair
Members of the Senate Committee on Public Safety, Intergovernmental
and Military Affairs

From: Cathy Betts, Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony in Support, SB 506, Relating to Sexual Assault

The Commission supports SB 506, which would codify the findings of the Attorney General's working group and subsequent language of Act 207, Session Laws of Hawaii 2016.

The Commission supports the ongoing work being done by the various service providers and law enforcement across the state through the Malama Kakou project. SB 506 provides a streamlined procedure for testing sexual assault evidence kits and ensures that all counties follow the policies and procedures created through the Malama Kakou project. Further, the Commission supports the language creating a survivor "bill of rights", which is necessary to ensure that all survivors are treated with the dignity and respect they deserve.

The Commission supports SB 506. Thank you for your commitment to this issue and for this opportunity to testify in support.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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MAYOR



LOUIS M. KEALOHA
CHIEF

CARY OKIMOTO
JERRY INOUE
DEPUTY CHIEFS

OUR REFERENCE WK-WK

February 2, 2017

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

Dear Chair Nishihara and Members:

SUBJECT: Senate Bill No. 506, Relating to Sexual Assault

I am Forensic Laboratory Director Wayne Kimoto of the Scientific Investigation Section of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD would like to submit the following comments regarding the intent of Senate Bill No. 506, Relating to Sexual Assault:

1. The HPD's crime laboratory is the only accredited deoxyribonucleic acid (DNA) testing laboratory in Hawaii and is housed in the main HPD facility on Alapai Street. The crime laboratory does not have the available floor space for the long term storage of kits;
2. The sexual assault kits recovered by the HPD are currently stored at the HPD facility but not in the crime laboratory; and
3. Hawaii, Maui, and Kauai do not have a forensic DNA testing laboratory to routinely submit their kits for testing. The HPD's crime laboratory may not be able to accept their kits for DNA testing due to a lack of laboratory capacity. Accredited laboratories nationwide, including private laboratories, are currently operating at capacity to address untested kits nationally and may not accept the additional neighbor island kits.

The Honorable Clarence K. Nishihara, Chair
and Members
Committee on Public Safety,
Intergovernmental, and Military Affairs
February 2, 2017
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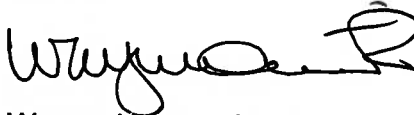
In lieu of submitting qualifying kits to the laboratory to initiate testing, we are recommending a written request for analysis be submitted. We recommend the following revisions to Senate Bill No. 506:

Section 3, page 8, lines 11 through 13:

~~“(b) For all All kits that meet testing guidelines, the law enforcement agency shall be submitted submit a request for testing to an accredited lab for testing within ninety days after receipt by a law enforcement agency.”~~

Thank you for the opportunity to submit comments.

Sincerely,



Wayne Kimoto, Director
Scientific Investigation Section

APPROVED:



Cary N. Okimoto
Acting Chief of Police



February 1, 2017

To: Hawaii State Senate Committee on Public Safety,
Intergovernmental, and Military Affairs, the Senate Committee on
Judiciary and Labor, and the Senate Committee on Ways and
Means
Hearing Date/Time: Thursday, February 2, 2017 (1:15 p.m.)
Place: Hawaii State Capitol, Rm. 229
Re: Testimony of American Association of University Women –
Hawaii in **support of S.B. 506**, relating to sexual assault

Dear Senator Clarence K. Nishihara (Chair), Senator Gilbert S.C. Keith-Agaran (Chair),
Senator Jill N. Tokuda (Chair), Senator Glen Wakai (Vice-Chair), Senator Karl Rhoads
(Vice Chair), Senator Donovan M. Dela Cruz (Vice Chair), and Members of the
Committees,

I am grateful for this opportunity to testify in **strong support of S.B. 506** relating
to sexual assault, specifically the rape collection kits.

My testimony is on behalf of the approximately 400 members of the American
Association of University Women (AAUW) in Hawaii, who list gender-based violence as
an important current concern. My testimony is informed by many years of work in the
field of domestic violence, and research conducted with survivors of intimate partner
violence (IPV). It should be noted that typically IPV survivors also experience sexual
assault. In addition, when I lived in New Zealand, I managed a 24-hour, 7-days/week
domestic violence hotline, and I also trained hotline Advocates to respond skillfully and
empathetically to survivors of violence. I provided extensive education to Advocates for
Women, and also worked with police, courts, and other service agencies on behalf of
survivors. In addition to working on the frontlines of gender-based violence in my
advocacy positions, I also supported many university students in my classes, who were
dealing with the after-effects of sexual assault.

Based on these experiences, I argue that passage of S.B. 506 is important.
Survivors of sexual assault need to know what has happened to their rape collection kits,
and need to be updated on how various agencies will deal with the backlog. Collection of
evidence is a horrible process for an individual, typically a woman, and she undergoes it
in the hope that a perpetrator may be stopped from attacking someone else. She does not
permit this procedure so that evidence can languish on the shelves of a storage unit.

In conclusion, passage of S.B. 506 is an important bill to pass now, since it
codifies, and requires reporting about the important legal changes in Hawaii.

Thank you for the opportunity to testify.

Sincerely
Susan J. Wurtzburg, Ph.D.
Policy Chair

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Sen. Clarence Nishihara, Chair

Sen. Glenn Wakai, Vice Chair

Thursday, February 2, 2017

1:15 p.m.

Room 229

SUPPORT FOR SB 506

Aloha Chair Nishihara, Vice Chair Wakai 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 in Hawai`i for two decades. This testimony is respectfully offered on behalf of the approximately 6,000 Hawai`i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that approximately 1,400 of Hawai`i's imprisoned people 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.

Community Alliance on Prisons supports SB 506 that requires annual reporting to the legislature by the AG of statistical data pertaining to the testing of sexual assault evidence collection kits; provides certain rights to sexual assault survivors; institutes mandatory testing requirements in accordance with AG guidelines and requires the AG to report to 2018 legislature on the progress of the implementation of the guidelines.

The testing and preservation of evidence is crucial in ensuring that we are protecting the innocent and pursuing the guilty. We were shocked a few sessions ago when we learned that only certain people decide which kits to test. This "discretion" could lead to arbitrary and capricious decisions by these people and that is not justice.

We support the rights of sex assault survivors to be informed as that is only just and fair. We also support the annual reporting to the legislature and hope the AG puts this information on the department website.

We urge the committee to pass this important measure.

Mahalo for this opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 1, 2017 1:35 PM
To: PSMTestimony
Cc: annsfreed@gmail.com
Subject: Submitted testimony for SB506 on Feb 2, 2017 13:15PM

SB506

Submitted on: 2/1/2017

Testimony for PSM on Feb 2, 2017 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawaii Women's Coalition	Support	No

Comments: Aloha Chair Nishihara and members, As this bill would codify the results of the AGs report on rape kits the Coalition stands in support of this bill and our coalition community members who work with victims. Ann S. Freed, Co-Chair, Hawaii Women's Coalition

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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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 1, 2017 9:37 AM
To: PSMTestimony
Cc: laurie.field@ppvnh.org
Subject: *Submitted testimony for SB506 on Feb 2, 2017 13:15PM*

SB506

Submitted on: 2/1/2017

Testimony for PSM on Feb 2, 2017 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	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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