



**EXECUTIVE CHAMBERS**  
HONOLULU

**DAVID Y. IGE**  
GOVERNOR

January 31, 2017

**TO:** The Honorable Clarence K. Nishihara, Chair  
Senate Committee on Public Safety, Intergovernmental, and Military Affairs

**FROM:** Scott Morishige, MSW, Governor's Coordinator on Homelessness

**SUBJECT: SB 717 – RELATING TO REAL PROPERTY**

Hearing: Tuesday, January 31, 2017, 1:15 p.m.  
Conference Room 229, State Capitol

**POSITION:** The Governor's Coordinator on Homelessness appreciates the intent of this measure, as it addresses key aspects of the state's strategy to address homelessness and particularly issues related to unauthorized encampments on public land. The Coordinator notes that cleanup and enforcement efforts to address encampments must be coordinated with homeless outreach efforts that connect homeless persons to necessary services and housing. The Coordinator asks for the Legislature's support of the Governor's Executive Budget request, which includes \$1.5 million for homeless outreach, and \$2 million for a stored property program that addresses property abandoned on or seized from state lands. The Coordinator defers to other executive departments in regard to current statutory processes and issues related to implementation.

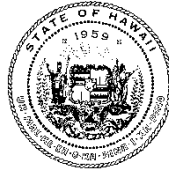
**PURPOSE:** The purpose of the bill is to establish a temporary program to clean up state real property after the departure of persons who were illegally camped or lodged on state real property. The bill requires the Governor to designate the state executive department responsible for the program, and establishes a temporary sheriff patrol program to enforce laws against illegally camping, trespassing, or being present on state real property. In addition, the bill makes appropriations to support the proposed activities.

The Legislature already provides a process for the disposition of abandoned property on state land for all individuals, including individuals who are homeless. Section 171-31.5, Hawaii Revised Statutes (HRS), requires a 30 day notice that property has been abandoned or seized, and provides a means for owners or abandoned or seized property to retrieve such property. Property could include government issued identification or other government records.

However, while section 171-31.5, HRS, describes a process to address abandoned or seized property, there is currently no consolidated staffing or resources to address this issue across multiple state departments and agencies. This is in contrast to the City and County of Honolulu, which has a designated team to address issues related to stored property across multiple city departments. The Stored Property Program included in the Governor's Executive Budget request would be modeled after the City and County of Honolulu program, and would consolidate efforts across state departments and agencies statewide.

In addition to directly addressing issues related to property, homeless outreach is critical to ensure that homeless persons have access to shelter, and are not simply displaced from one unsafe living area to another. The State's strategy to address homelessness includes a strong connection between homeless outreach and efforts to address unauthorized encampments on public land. For example, in Kakaako Makai, the role of homeless outreach played a key role in assisting over 290 of an estimated 300 homeless individuals to access shelter and permanent housing between August 2015 and present.

Thank you for the opportunity to testify on this bill.



**STATE OF HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**  
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY OF  
RODERICK K. BECKER, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL,  
AND MILITARY AFFAIRS  
ON  
TUESDAY, JANUARY 31, 2017  
1:15 P.M.  
CONFERENCE ROOM 229

S.B. 717

RELATING TO PUBLIC REAL PROPERTY.

Chair Nishihara, Vice Chair Wakai, and members of the Committee, thank you for the opportunity to submit testimony on Senate Bill 717 (S.B. 717).

The Department of Accounting and General Services (DAGS) appreciates the intent of this bill and offers the following comments for your consideration.

S.B. 717 establishes 1) a temporary program to cleanup state property after the departure of illegal campers, that will be housed in a department to be designated by the Governor; 2) a temporary sheriff's patrol program to enforce no trespassing, camping, and other violations on state property; and 3) appropriates funds to the departments of public safety, transportation, and land and natural resources, and the Hawaii Community Development Authority.

DAGS notes that the proposed cleanup and enforcement efforts on state land will not be the endeavor of a singular department, but must be conducted in conjunction with homeless outreach to provide appropriate social services and alternative housing; property transportation

and storage services; and appropriate law enforcement services to ensure public safety and security. In addition to these services, the cleanup and storage of personal property will need to allow property owners to reclaim their stored property from centralized storage sites. DAGS further notes that the program may not necessarily save money. Similar operations may need to be duplicated on the neighbor islands and there would need to be a high degree of coordination between affected departments.

DAGS is unable to further comment on the implementation of such a program at this time as these functions are unfamiliar to and beyond DAGS' scope of general services.

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



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2017**

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**ON THE FOLLOWING MEASURE:**

S.B. 717, RELATING TO PUBLIC REAL PROPERTY

**BEFORE THE:**

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND  
MILITARY AFFAIRS

**DATE:** Tuesday, January 31, 2017                      **TIME:** 1:15 p.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Laura Maeshiro, Deputy Attorney General

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Chair Nishihara and Members of the Committee:

The Department of the Attorney General (“Department”) supports the intent of this measure and offers the following:

The purpose of this bill is to establish a temporary program to clean up state real property after the departure of persons who have illegally camped or lodged on state real property; requires the Governor to designate the state executive department responsible for the program; and establishes a temporary sheriff patrol program to enforce laws against illegal camping, trespassing, or being present on state real property.

Subsection (c) of section 11 of the measure beginning on page 11, line 16, to page 12, line 2, mandates that the deputy sheriffs “shall cite or arrest the violator.” The action of citing or arresting a violator should not be automatic. Constitutional protections and other legal requirements may not allow for immediate arrest as directed by this language. We suggest allowing law enforcement to determine what the circumstances warrant on a case-by-case.

For example, in the case of a person who is trespassing, but who is homeless, case law states that the Fourth, Eighth, and Fourteenth Amendments are implicated. *Jones v. City of Los Angeles*, 444 F.3d 1118 (9th Cir. 2006), holds that it is cruel and unusual punishment, in violation of the Eighth Amendment to the U.S. Constitution, to arrest someone for trespass if that person has nowhere else to seek shelter; hence the

State's practice of notifying trespassers of shelters and giving them a reasonable time in which to move. *Lavan v. City of Los Angeles*, 693 F.3d 1022 (9th Cir. 2012) is a case that addresses the Fourth and Fourteenth Amendments of the U.S. Constitution regarding the need for due process in addressing property left behind by people who are homeless. In the case of someone who returns because he/she is looking for lost identification needed for the shelter, for employment opportunities, or looking for his/her child may constitute a necessity and negate the requisite intent needed to be cited or arrested.

The deputy sheriffs are in the best position to assess the situation. They should not be required to automatically issue a citation or effectuate an arrest if, in their assessment, the circumstances do not warrant it. As currently written, this measure leaves no discretion to the deputy sheriffs to investigate and determine whether a citation or arrest is appropriate.

Therefore, the Department suggests the following change to the measure in section 11, subsection (c), beginning on page 11, line 16, to page 12, line 2:

(c) To the extent possible, when observing or discovering a violation of a law or rule prohibiting trespassing, camping, or being present after closing hours on state real property, the deputy sheriffs shall take the appropriate steps necessary in accordance with the law.

Accordingly, the Department of the Attorney General respectfully requests that if this measure is passed, that it be passed with this amendment.

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**  
FIRST DEPUTY

**JEFFREY T. PEARSON, P.E.**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committee on  
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS**

**Tuesday, January 31, 2017  
1:15 PM  
Conference Room 229**

**In consideration of  
SENATE BILL 717  
RELATING TO PUBLIC REAL PROPERTY**

Senate Bill 717 (SB717) proposes to establish 1) a temporary program to clean up state property after the departure of illegal campers, to be housed in a department designated by the Governor, 2) a temporary sheriff's patrol program to enforce no trespassing, camping and other violations on state property, and appropriates funds to three departments. **The Department of Land and Natural Resources (Department) supports this bill on the basis that a coordinated approach to illegal camping on state property is an efficient way to address illegal camping. The Department also supports the appropriation of funds as long as it does not replace our priorities requested in the Executive Budget.**

Thank you for this opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

**Cathy Ross**  
Deputy Director  
Administration

**Jodie F. Maesaka-Hirata**  
Deputy Director  
Corrections

**Renee R. Sonobe Hong**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

**TESTIMONY ON SENATE BILL 717  
RELATING TO PUBLIC REAL PROPERTY**

by

**Nolan P. Espinda, Director**  
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair

Tuesday, January 31, 2017; 1:15 p.m.  
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Wakai, and Members of the Committee:

The Department of Public Safety (PSD) appreciates the intent Senate Bill (SB) 717, which would: 1) establish a temporary program for the removal of debris and litter from State real property after departure of persons known or suspected to have illegally or without permission camped or lodged on such lands; and 2) establish a temporary sheriff patrol program, and offers the following concerns.

First, PSD emphasizes that clean up and enforcement efforts must be coordinated with homeless outreach efforts that connect homeless persons to necessary services and housing. Any Sheriff patrol program to address violations of trespassing, camping, or park closure on State lands would still need to incorporate these outreach efforts and property storage, where appropriate. Specifically, on page 11, line 16 through page 12, line 2, SB 717 mandates that, "the deputy sheriffs first shall request the violator to leave the state real property. If the violator refuses to leave the state real property or leaves and then returns to the state real property in violation of law or rule, the deputy sheriffs shall cite or arrest the violator." The law enforcement decision to cite or arrest must be evaluated on a case-by-case basis, specific to the facts and circumstances surrounding



the incident. It would not be reasonable to eliminate law enforcement discretion's to determine whether a citation or arrest is warranted. For example, SB 717 would mandate that the deputy sheriff cite or arrest a homeless individual who refuses to leave because he is in need of medical attention and cannot walk. Equally importantly, a statute cannot circumvent any applicable legal requirements that would apply to homeless outreach efforts connecting homeless persons to necessary services and housing.

Second, SB 717 mandates that the temporary sheriff patrol program shall apply to State real property under the ownership, control, or management of any state agency and further states that any participating state agency shall not be charged by PSD for the cost of participation. The measure further defines "state agency" as including the Judiciary, but excluding the Office of Hawaiian Affairs. It is unclear whether "state agency" includes such semi-autonomous agencies as the University of Hawaii, the Department of Education, and the Stadium Authority.

Third, there is an appropriation for two (2) deputy sheriffs assigned to this program. SB 717 proposes to appropriate \$225,000 for the six months from January 1, 2018 until June 30, 2018, and \$450,000 for the fiscal year from July 1, 2018 until June 30, 2019 for two deputy sheriffs. For purposes of security, specifically for the deputy sheriffs themselves, the outreach workers, the property storage crew, the homeless, and the community in which they reside, two deputy sheriffs would not be sufficient. To calculate the amount which would be sufficient for an appropriation, PSD would need to know if the sheriff patrol program would be operational 8 hours a day for 7 days a week, 18 hours a day (2 shifts) for 7 days a week, or 24 hours a day (3 shifts) for 7 days a week. PSD would also note that park closure hours often include late night hours, which would entail at least two shifts for deputy sheriffs. For example, four (4) deputy sheriffs to work 8 hours a day for 7 days a week would cost \$364,000 for the period January 1, 2018 until June 30, 2018, and \$616,000 for the fiscal year period July 1,

2018 until June 30, 2019. If these deputy sheriffs are to cover all State lands across Oahu, they would need at least two vehicles (one for each pair of deputies). The cost of one patrol car is \$43,000.

Finally, PSD would request permanent full-time positions rather than temporary full-time positions because recruitment is difficult for temporary positions. Furthermore, PSD invests in a law enforcement recruit academy for each deputy sheriff which involves six months of extensive training.

Thank you for the opportunity to present this testimony.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [PSMTestimony](#)  
**Cc:** [jamesjtz@aol.com](mailto:jamesjtz@aol.com)  
**Subject:** Submitted testimony for SB717 on Jan 31, 2017 13:15PM  
**Date:** Friday, January 27, 2017 9:21:58 PM

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**SB717**

Submitted on: 1/27/2017

Testimony for PSM on Jan 31, 2017 13:15PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James Gauer	Individual	Support	No

Comments: Support the efficiency of the bill's appropriations and the enforcement of laws to deter criminal activity and to promote public safety. Suggest partnering with non profit organizations such as Sierra Club or other environmental, sustainable, organizations to maintain the site to keep it aesthetically and environmentally healthy, besides debris cleanup, there is a large pool of volunteers who would be willing to participate such as persons in 808cleanups.

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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