

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
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No. _____

TESTIMONY ON SENATE BILL 2047
RELATING TO PUBLIC SAFETY

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, February 13, 2018; 2:05 p.m.
State Capitol, Conference Room 229

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

The Department of Public Safety (PSD) **opposes** Senate Bill (SB) 2047 and asks that it be deferred in lieu of other immediate prosecutorial and compliance oversight agency reviews.

The allegations raised by the originators of this bill, against myself and others identified in the bill, are serious in nature and deserving of criminal and administrative review immediately, rather than via the long timeline associated with the enactment of a statute, the eventual implementation of an audit, to be followed thereafter by the publication of the audit findings.

The bill's originators allege criminal behavior. Such criminal behavior should be immediately reported to the Office of the Attorney General (AG) and the Federal Bureau of Investigation (FBI).

The bill's originators allege Civil Rights Compliance violations. Such violations should be immediately reported to the AG's for criminal investigation and the State Civil Rights Compliance Officer for administrative investigation.

The bill's originators allege personnel management violations. Such violations should be immediately reported to the AG's for criminal investigation

and to the Department of Human Resources Development (DHRD) for administrative investigation.

The bill's originators allege fiscal and procurement violations. Such violations should be immediately reported to the AG's for criminal investigation and to the Department of Accounting and General Services (DAGS) as well as the State Procurement Officer (SPO) for administrative investigation.

The bill's originators allege gross ethical violations. Such violations should be turned over to the AG's for criminal investigation and to the State Ethics Commission for administrative investigation.

Overwhelmingly and as meticulously documented in PSD's annual Report to the Legislature, required by Act 144, Session laws of Hawai'i 2007, mental health services to inmates have been dramatically improved since programmatic failures in the provision of these services were identified in April/May of 2017.

Since the installation of new leadership in this program in June 2017, PSD has raised the number of mental health positions filled to a percentage and actual number higher than ever before in the history of the Department. More importantly, the Department has reestablished all the standards set when it was dismissed from Federal oversight on June 25, 2015. Standards in hours of mental health programming, discharge planning, suicide/safety watch monitoring, individual treatment plans, and community resource connectivity have all been firmly raised to the standards set while under DOJ supervision. All credit for those programmatic improvements goes to the new and innovative leadership team put in place in July 2017.

The Department does not and would not object or resist the Office of the Legislative Auditor being tasked with the kind of overall or targeted audit in which all departments regularly participate. Auditing is their duty, and the Auditor's Office is one of the oversight arms available to the Legislature.

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What we oppose, at this time, is the kind of weaponization of the Auditor's Office this bill represents.

It is for these reasons and others that PSD respectfully asks that this bill be deferred and that the underlying serious allegations be immediately assigned to law enforcement and compliance oversight agencies responsible for investigations of such allegations.

Thank you for the opportunity to present this testimony.

SB-2047

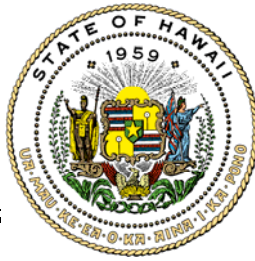
Submitted on: 2/12/2018 8:19:47 AM

Testimony for PSM on 2/13/2018 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Keiron Pratt	DPS	Support	Yes

Comments:

I support SB 2047. I have seen (including my own) complaints that are submitted to the department either always come back unfounded, lack of investigation and the cases squashed. There is favoritism shown to certain employees from the top leaders of this department. It is long overdue for an audit of this department. Thank you for listening and I look forward to this audit being conducted so that employees feel safe to air their grievances without fear of retaliation.



SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND
MILITARY AFFAIRS

The Honorable Clarence K. Nishihara, Chair
The Honorable Glenn Wakai, Vice Chair

S.B. NO. 2047, RELATING TO PUBLIC SAFETY

Hearing: Tuesday, February 13, 2018, 2:05 p.m.

The Office of the Auditor has **no position** regarding S.B. No. 2047, which requires us to conduct a performance audit of various offices and programs within the department of public safety. **However, we do have concerns about our ability to conduct work required by the bill.**

Some portions of the work called for by the bill may be beyond our expertise and require us to procure a consultant to assist us in performing the audit. We note and appreciate that the bill does include an appropriation, which can be used to retain an appropriate consultant.

However, the measure requires us to submit findings, recommendations, and, if appropriate, proposed legislation to the Legislature no later than twenty days prior to the convening of the Regular Session of 2019. Given the breadth and complexity of the subject matter, we are concerned about our ability to complete the audit (including procuring a consultant, if needed) in the time requested.

We request that the committee consider significantly narrowing the scope of the requested audit, both the offices and programs as well as the activities to be assessed, or consider extending the report deadline to twenty days prior to the Regular Session of 2020.

Thank you for considering our testimony on S.B. No. 2047.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
THE SENATE
Committee on Public Safety, Intergovernmental, and Military Affairs

Testimony by
Hawaii Government Employees Association

February 13, 2018

S.B. 2047 – RELATING TO
PUBLIC SAFETY

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 2047 which requires the Auditor to conduct a performance audit of certain offices and programs within the Department of Public Safety.

Employees within the Department of Public Safety have numerous concerns with certain divisions/sections within the department. More specifically, the hiring, staffing and supervisory policies and practices; perceived conflict of interest and favoritism that occurs; whether the department is in compliance with state and federal laws regarding contracting and procurement.

The department's mission statement is "To uphold justice and public safety by providing correctional and law enforcement services to Hawaii's communities with professionalism, integrity and fairness". It is necessary for the employees and the residents of the State of Hawaii to have confidence that the department upholds themselves to this standard.

Thank you for the opportunity to testify in support of S.B. 2047.

Respectfully submitted,

Randy Perreira
Executive Director

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

Sen. Clarence Nishihara, Chair

Sen. Glenn Wakai, Vice Chair

Tuesday, February 13, 2018

2:05 pm

Room 229

STRONG SUPPORT - SB 2047 - AUDIT OF DEPARTMENT OF PUBLIC SAFETY

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 more than two decades. This testimony is respectfully offered on behalf of the families of Ashley Grey, Daisy Kasitati, Joey O`Malley, Jessica Fortson and all the people who have died under the "care and custody" of the state as well as the approximately 5,500 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 1,600 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 Kanaka Maoli, far, far from their ancestral lands.

SB 2047 requires the Auditor to conduct a performance audit of the office of the director; civil rights compliance office; personnel management office; fiscal office; and health care services division's mental health services within the department of public safety and appropriates funds for this express purpose.

Community Alliance on Prisons respectfully asks the legislature that the **audit include**

- the **costs of incarceration** and that they be included in the budget with access for the public henceforth
- **"Inmate Accounts"** as we have been receiving information about discrepancies between receipts from commissary and the statements incarcerated persons receive from the department.

Community Alliance on Prisons is in strong support of this measure. The recent alleged suicides and other deaths that we know about at WCCC, Halawa, and MCCC have highlighted the need for a closer look at the operations of the Department of Public Safety. Not just what they show the legislature on

paper; what matters is how they implement those policies. A 2013 audit¹

“found the department has improved the accuracy of its incarceration data, employing a more systematic process that utilizes comparable costs and cost-accounting methodology. Additionally, the current department director told us that compliance with the State procurement rules, policies, and procedures is a top priority for him. However, the department and division still have not documented any formal policies or procedures related to the administration of contracts, the systematic and formal evaluation of its contractors, or the retention of contract-monitoring records. In addition, we found that department staff are participating in procurement activity without having appropriate training – in violation of procurement rules, policies, and procedures – and the director has yet to attend any procurement training. These significant deficiencies call into question the current director’s commitment to proper compliance and introduce the risk that the violations cited in our previous report can and will occur again.”

The 2010 audit of contract beds² concluded:

“The Legislature must hold the Department of Public Safety accountable for its inadequate cost reporting. Without clarified guidance by policymakers, the department has no incentive to perform better and will continue to evade accountability by providing unreliable and inaccurate reporting of incarceration costs. Moreover, the Legislature will continue to receive this insufficient cost information and be unable to address the larger problem of prison overcrowding. To address these issues, the department must first improve the methodology employed to calculate comparable inmate per day costs for the department’s use in decision making and reporting to the Legislature. In addition, management should be more diligent and improve the compilation of its incarceration costs data by utilizing available tools such as Offendertrak.”

The 2013 follow up audit³ on the implementation on recommendations made in the 2010 included this explanation from the department:

“When asked why the department no longer reports these numbers (the costs of incarceration) to the Legislature, the acting business-management officer replied there used to be a proviso in the budget that required the department to submit incarceration costs as part of its budget request. The proviso last

¹ Report on the Implementation of State Auditor’s 2010 Recommendations - Business, Economic Development & Tourism Budget and Finance Aloha Tower Development Corporation, State Procurement Office, pCard Program, Public Safety, Sheriff Division Public Safety, Prison Bed Contracting, Department of Taxation, Contracts - A Report to the Governor and the Legislature of the State of Hawai’i, THE AUDITOR STATE OF HAWAI’I, Report No. 13-03, April 2013, Chapter 7 - Mixed Results for Public Safety Department’s Efforts to Improve Oversight and Data Quality, page

² Management Audit of the Department of Public Safety’s Contracting for Prison Beds and Services, A Report to the Governor and the Legislature of the State of Hawai’i, The State Auditor, Report No. 10-10 December 2010.

³ See FN 1

Community Alliance on Prisons
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appeared in the department's 2010 budget documents, the last time it reported this information to the Legislature. In addition, the Legislature has not made any subsequent requests for such information. As a result, policymakers are still not provided sufficient or accurate information on incarceration costs for inmates in out-of-state and in-state facilities."

One of the things that the community has always asked for is that the same level of accountability be applied to the department that the state demands from people in their "care and custody". We fail to understand why a department that incurs incredible liability to taxpayers is allowed to be unaccountable. The department stands on its testimony in public hearings (and doesn't even say if it supports or opposes the measure) and is rarely questioned at hearings. Why is this?

Transparency and accountability are vital to a vibrant democracy. It is insulting to taxpayers when we testify on bills without knowing the position of the department beforehand and then at the hearing the department does not, and generally is not asked, to speak.

This audit will hopefully shed some independent light on this department that is responsible for the lives and health of the people in their "care and custody" as well as for those who work in their facilities.

Community Alliance on Prisons urges the committee to support this important audit that we hope will provide the information that legislators need in order to develop thoughtful and sound policies that serve the public interest.

Mahalo for hearing this bill and for the opportunity to testify.

*"Everything secret degenerates, even the administration of justice;
nothing is safe that does not show how it can bear discussion and publicity."*

Lord Acton

SB-2047

Submitted on: 2/11/2018 7:34:07 AM

Testimony for PSM on 2/13/2018 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
chelsea pang		Support	No

Comments:

We need to prevent the rampant suicides!

SB-2047

Submitted on: 2/11/2018 6:12:35 PM

Testimony for PSM on 2/13/2018 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk		Support	No

Comments:

I am in strong support of SB2047 that would require an audit of the Department of Public Safety. All departments should be audited regularly, and DPS has not been audited for about 8 years. Many questions have arisen about the handling of inmates, due to suicides, other deaths, lack of appropriate mental health treatment (coloring books?!!!), and excessive solitary confinement (verified by DPS as being not longer than 60 days--in other words, more than four times the amount of solitary confinement considered torture by international standards!), Since we taxpayers pay for DPS, it needs to be responsible to the public, yet most of what it does is hidden. An audit is an opportunity to identify problems and make recommendations on their solutions.

I urge you to pass SB2047

Barbara Polk

SB-2047

Submitted on: 2/12/2018 3:49:59 AM

Testimony for PSM on 2/13/2018 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans		Support	No

Comments:

I am submitting testimony in SUPPORT of SB2047 to PSM. Timely and regular audits are necessary of government departments. It is important when people's lives and health and wellness are at stake and huge sums of taxpayer funds are being spent.

Thank you-

Raelyn Reyno Yeomans

SB-2047

Submitted on: 2/12/2018 6:15:36 AM

Testimony for PSM on 2/13/2018 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Leanne Gillespie		Support	No

Comments:

I am testifying for support of SB2047. Favortism and hiring/promting incompetent people is pervasive in the department of Public Safety resulting in a general inability to get anything meaningful accomplished and low moral. Thank you for your consideration.

From: [E. Funakoshi](#)
To: [PSMTestimony](#)
Subject: SB2047 - RELATING TO PUBLIC SAFETY testimony
Date: Monday, February 12, 2018 6:28:02 AM

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS (PSM)

Senator Clarence K. Nishihara, Chair

Senator Glenn Wakai, Vice Chair

Tuesday, February 13, 2018

2:05 p.m., Room 229

SB 2047, RELATING TO PUBLIC SAFETY

STRONG SUPPORT

Aloha Chair Nishihara, Vice Chair Wakai, and Committee Members:

I am Elayne Ileina Funakoshi writing in strong support of SB 2047.

At the video visits at my church, I communicate with the families of inmates and some of the things I hear may be revealed as to whether the families have a misconception or these things are really going on within the department.

1. Their pay which was \$.50 per hour was reduced to \$.25 per hour due to state mandated furlough in 2009 but was not restored to \$.50 p/hr when furlough ended.
2. The commissary prices are higher than other prisons from same vendor (source: have family members in other prisons).
3. Funds previously earmarked so CCA had to provide receipt, but now, funds are provided for their use in lump sum so they have options to use some of it for CCA's own benefit. There are 120 inmates in a pod. There used to be 80 jobs within pod, now, usually around 28.
4. They do not receive their clothing allowances on time. Oftentimes it is delayed for 6 weeks. The quality of the items they receive is of poor quality so does not last that long.

They should not comingle mentally ill people with general population which causes confrontation, which, in turn, puts them in SEG and extends their sentence.

The type of lights installed and their placement hurts their eyes. Bathroom problems, i.e., lack of hot water, odor are not addressed. Lights are on all night and causes sleep problems.

They would like their loved ones return to Hawai`i so their children can see them. Many don't have funds to visit. Plane fare was \$752 round trip to AZ for one adult last year. Some families move to AZ.

Some families do admit that their child or loved one is a problem, but they can't seem to realize it, so upon release, there is no improvement.

My church will be hosting another video visit this weekend so if you have any questions, I will convey those to them. We have these video visits once a month and so does a few other churches. The families get to speak to their loved ones for 15 minutes. However, appointments are limited.

Thank you for the opportunity to submit my testimony in strong support of SB2047 for your consideration.

Mahalo and Aloha,
e. ileina funakoshi

SB-2047

Submitted on: 2/12/2018 11:48:46 AM

Testimony for PSM on 2/13/2018 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
jw	Individual	Support	No

Comments:

Aloha to Chair Nishihara & Vice Chair Wakai!

I strongly support SB2047.

Please audit my department as listed. Taxpayer's monies are mismanged through contracts, MOUs, MOAs, hiring of unqualified employees, etc.

Please don't hesitate to contact me for further info.

Joy W.

SB-2047

Submitted on: 2/12/2018 12:54:45 PM

Testimony for PSM on 2/13/2018 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Barry	Individual	Support	No

Comments:

SB-2047

Submitted on: 2/12/2018 1:30:46 PM

Testimony for PSM on 2/13/2018 2:05:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shelley	Individual	Support	No

Comments:

Please accept my testimony **in strong support** of S.B. 2047, which would require the auditor to conduct a performance audit within the Department of Public Safety. I believe the potential benefits for this bill will justify the funding request. Please contact me if you have any questions.