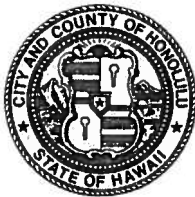


POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

LOUIS M. KEALOHA
CHIEF

CARY OKIMOTO
JERRY INOUYE
DEPUTY CHIEFS

OUR REFERENCE DN-DNK

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. 280, Relating to Firearms

I am David Nilsen, Acting Major of the Records and Identification Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 280, Relating to Firearms.

Currently, the Hawaii Revised Statutes articulates who may not own or possess a firearm. In this era of domestic terror and "lone wolf" terror attacks, keeping firearms out of the hands of those with ill intent is more important than ever. The Federal Bureau of Investigation has identified those individuals who are known or reasonably suspected of being involved in terrorist activities. Denying those persons access to an unlimited number of firearms is in the best interest of the State of Hawaii and the nation as a whole.

The HPD urges you to support Senate Bill No. 280, Relating to Firearms.

Thank you for the opportunity to testify.

APPROVED:

A handwritten signature in black ink, appearing to be "Cary Okimoto".

Cary Okimoto
Acting Chief of Police

Sincerely,

A handwritten signature in black ink, appearing to be "David P. Nilsen".
David P. Nilsen, Acting Major
Records and Identification Division



Institute for Rational and Evidence-based Legislation

P. O. Box 41

Mountain View, Hawaii 96771

January 31, 2017

COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS Chair,
Vice Chair, and Members,

Please vote NO on SB280.

I'm sure all the members of the committee have done their due diligence and carefully researched the multitude of problems with the "Terrorist Screening Database" which SB280 would use as the standard to deny law-abiding Hawaii citizens, without any due process whatsoever, of their fundamental individual natural/God-given enumerated Constitutionally-guaranteed civil right to keep and bear arms, but I am entering this into the public record not for the already well-informed committee members, but for the general public who may not be so well-educated about the numerous problems with the "Terrorist Screening Database", and might be puzzled by your votes against this bill, having the ill-informed and mistaken idea that legislators "want terrorists to have guns". We all know, of course, that nothing could be further from the truth. We need only look to all the other bills filed and working their way through the Hawaii legislature with broad support to clearly see that many Hawaii legislators want to remove access to firearms from a far wider group of citizens than merely "terrorists".

The problems with the "Terrorist Screening Database" are many, far too many to go into here, so I will simply briefly mention a few of the problems so the public knows that SB280 would not serve the citizens of Hawaii.

Firstly, no one knows if they are on the "Terrorist Screening Database" until they try to travel or engage in some other activity, such as attempting to purchase a firearm and undergoing a required background check, when they are "flagged". Senator Ted Kennedy (among other well-known public figures) was on the list (he was also on the much smaller "No Fly" list) and stopped numerous times from boarding airplanes. This was apparently because he had a name similar to a person who was a member of the Irish Republican Army who had blown his arms off while constructing an explosive device. I guess the "Terrorist Screening Database" forgot to mention "no arms" as part of it's description, or perhaps the database did include that descriptive information, but out of an abundance of caution Kennedy was prohibited from boarding on the possibility that "those could be prosthetic robotic arms". Who knows? What we do know is that Kennedy of course, over a period of many months managed to get his name off the "No Fly List"/"Terrorist Screening Database" eventually. Regular citizens are not so lucky. One person was on the list for TEN YEARS before finally getting the case into court where it was discovered that it was a clerical error that had placed them on the list, and then the lack of due process options that kept them on the list.

There is no due process by an independent outside means, such as a court (except after many years and spending tens of thousands of dollars), for redressing one's mistaken appearance on the "Terrorist Screening Database". There is a process, but it is inadequate, as addressed by several reports by the U.

S. Department of Justice Office of the Inspector General. “[T]he TSC’s [Terrorist Screening Center] redress activities identified a high rate of error in watchlist records. In addition, we believe the TSC needs to address the timeliness of redress complaint resolutions.”

How high is the error rate and how many people are so effected? From the same report by the Inspector General: “We examined 105 records subject to the routine quality assurance review and found that **38 percent** of the records we tested continued to contain errors or inconsistencies that were not identified through the TSC’s quality assurance efforts.” How many people does a 38% error rate become? “The watchlist database continues to increase by an average of over 20,000 records per month and contained over 700,000 records as of April 2007.”

The nine years since that publication until February 2016 would mean an increase of 2,120,000 names on the list, bringing it to a total of 2,820,000 names. At an error rate of 38%, that would mean that 805,600 of those named on the list are on the list in error. That is a significantly large number of people who would be denied their rights without due process, simply due to government incompetence.

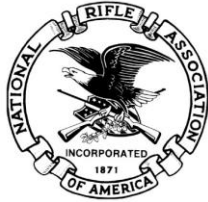
Now, what are the criteria for being placed upon the list in the first place, even if it weren't riddled with such a high degree of errors? “The TSC’s general criterion for including a record in the consolidated watchlist database is that the nominating agency must have provided evidence of a nexus to terrorism.” Please note that “nexus to terrorism” includes people who might be neighbors, co-workers, relatives, acquaintances, etc. of a person who may (or may not) have some legitimate “nexus” to actual real-world terrorist activity. This criterion is far too broad and vague and obviously, as the Inspector General notes: “[T]he database contains records for individuals that should not be watchlisted.”

There are at least one million names, maybe two million or more on the "Terrorist Screening Database". If you go to the FBI website where they address their process for redressing possible errors in the database, they assure us that they have “**AN** attorney on staff [emphasis added]” to address such issues. That's one busy attorney.

A recently discussed concern is that this being a “domestic” (not “international”) database is that the criteria for including (only) American citizens in this database may include perfectly legitimate and lawful First Amendment-protected political speech, and yet such activity results in placement on the "Terrorist Screening Database". There is much evidence that such is the case, and this raises concerns about government overreach and the “chilling effect” such terrorist designation has upon lawful activities protesting government actions. One has to wonder with such broad and vague criteria that perhaps even people submitting strongly-worded public testimony to government agencies opposing what such citizens view as tyrannical unconstitutional policies and laws, and perhaps using accusatory language regarding failure by politicians to uphold their oath of office to uphold the Constitution, might end up on such a list. Is that what the founders had in mind with the First Amendment?

There are many more problems with the "Terrorist Screening Database" and thus the idea that it should be used for denying law-abiding citizens of Hawaii their rights, but the above ought to be sufficient to allow previously uninformed citizens to see the wisdom of defeating SB280.

thank you,
George Pace



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STATE & LOCAL AFFAIRS DIVISION
DANIEL REID, HAWAII STATE LIAISON

February 1, 2017

The Honorable Clarence Nishihara
Chair, House Committee on Public Safety, Intergovernmental, and Military Affairs
Sent Via Email

Re: Senate Bill 280 – OPPOSE

Dear Chairman Nishihara:

On behalf of the Hawaii members of the National Rifle Association, we strongly oppose Senate Bill 280.

The NRA does not want terrorists or dangerous people to have firearms, any suggestion otherwise is offensive and wrong; however, the NRA is opposed to a secret government list, which a large number of Americans mistakenly end up on every year, being used to deny individuals their constitutional right without proper due process of the law.

This legislation would affect law-abiding individuals who mistakenly end up on the list for unbeknownst reasons. The terrorist watchlist is not public record; both the list of individuals and the criteria used to determine who is added to the list are secret. Additionally, there is no known process for being taken off of the list. Due process is a pillar of the American justice system, and a constitutionally protected right cannot, and should not, be taken away on the basis of a secretive or unsubstantiated accusation.

When utilizing the National Instant Check System (NICS), individuals on the terrorist watchlist are already queried and denied a firearm if they are found to be a prohibited person. Additionally, law enforcement is already notified every time a person on the terrorist watchlist attempts to purchase a firearm. Law enforcement is then able to make a case by case determination on the appropriate follow-up for each circumstance.

Thank you for your attention and I ask that you oppose this unnecessary and unconstitutional piece of legislation.

Cordially,

Daniel S. Reid
State Liaison

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 30, 2017 3:45 PM
To: PSMTestimony
Cc: bisaacso@hawaii.edu
Subject: Submitted testimony for SB280 on Feb 2, 2017 13:15PM

SB280

Submitted on: 1/30/2017

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

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Isaacson	Individual	Oppose	No

Comments: This unconstitutional measure would seek to legitimize a witch hunt. Those on the watch list don't know if they are on it, don't know how they got on it and have no legal recourse to get off it, regardless of the language of the current measure. Due process is still afforded any citizen. it is problematical that the Federal government would even release names on the watch list to Hawaii authorities. This bill should be deferred.

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: Tuesday, January 31, 2017 12:03 PM
To: PSMTestimony
Cc: djf991960@hotmail.com
Subject: Submitted testimony for SB280 on Feb 2, 2017 13:15PM

SB280

Submitted on: 1/31/2017

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

Submitted By	Organization	Testifier Position	Present at Hearing
David Fukuzawa	Individual	Oppose	No

Comments: I am opposed to this bill at this time. There has already been mistakes related to the federal terrorist list. Additionally, terrorists and criminals do not follow the laws. They get weapons illegally in most instances, so this only keeps the law abiding citizen from breaking laws who already abide with the law. We live in the most restrictive state in the Union when it comes to firearm restrictions, we don't need to add to the current statue.

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 1, 2017 10:49 AM
To: PSMTestimony
Cc: da808rock@yahoo.com
Subject: *Submitted testimony for SB280 on Feb 2, 2017 13:15PM*

SB280

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
Jake Hanawahine	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 1, 2017 10:04 AM
To: PSMTestimony
Cc: jonagustine_lim@yahoo.com
Subject: Submitted testimony for SB280 on Feb 2, 2017 13:15PM

SB280

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
Jonagustine Lim	Individual	Oppose	No

Comments: I strongly oppose this bill. The Terror screening database has a 40-50% error rate and would illegally confiscate the property of law-abiding citizens without recourse. SB898 would be a better starting point for removing access to firearms from those who Law Enforcement determine to pose a serious threat to others.

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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