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LEGISLATIVE REFERENCE BUREAU
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State Capitol, Room 446
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Written Comments

SCR116 SD1

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO SUBMIT A REPORT TO THE LEGISLATURE ON ALL CURRENT STATE GUN CONTROL LAWS, HOW THEY COMPARE WITH CURRENT FEDERAL REGULATIONS, DATA ON FIREARM DISCHARGES, AND DATA ON GUN CRIME IN HAWAII

Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the House Committee on Judiciary

Friday, April 13, 2018, 2:00 p.m.
Conference Room 325

Chair Nishimoto and Members of the Committee:

Good afternoon Chair Nishimoto and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on S.C.R. No. 116, S.D. 1, Requesting the Legislative Reference Bureau to Submit a Report to the Legislature on all Current State Gun Control Laws, How They Compare With Current Federal Regulations Data on Firearm Discharges, and Data on Gun Crime in Hawaii.

The purpose of this measure is to request that the Bureau compile existing gun laws and firearm data for Hawaii, which is to include the following:

- (1) All statutes involving restrictions on:
 - (A) The ownership and use of certain types of firearms;
 - (B) Modifications to firearms; and

- (C) Accessories or ammunition for firearms, including statutes that address the caliber or rate of fire of a firearm or prohibited attachments or accessories for a firearm;
- (2) Statutory penalties for the illegal use or possession of a firearm;
- (3) The various processes that citizens of the State must complete with respect to obtaining different types of firearms, including pistols and rifles, and obtaining a license to carry a concealed weapon;
- (4) Circumstances in which an individual may be dispossessed of a firearm or lose the right to possess a firearm, including circumstances involving the individual's mental health, conviction for a felony offense, or arrest or conviction for domestic violence;
- (5) Data on the total number of instances of violent crime in the State over the past decade and, of that number, the number of instances involving a firearm, the number of deaths attributed to a firearm, and the number of firearms deaths caused by an accident or accidental discharge of a firearm;
- (6) With respect to the number of instances of violent crime in which a firearm was used, the number of individuals that had already been previously prohibited from owning or possessing a firearm, differentiated by the reason the individual was prohibited from owning or possessing a firearm, including reasons involving the individual's mental health, conviction for a felony offense, or arrest or conviction for domestic violence;
- (7) Aggregate data on the number of registered firearm owners in the State and the total number of legally permitted firearms; and
- (8) A comparison of state statutes, rules, and regulations to existing federal statutes, rules, and regulations where parallel comparisons are available.

The measure also requests that the following entities provide information to the Bureau, no later than August 1, 2018, any firearms-related information relevant to the substance of the report in order to assist the Bureau in its timely completion of the report:

- (1) The Honolulu Field Office of the United States Federal Bureau of Investigation;
- (2) The Honolulu Satellite Office of the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives;
- (3) The Judiciary of the State of Hawaii;
- (4) The Department of the Attorney General; and

- (5) The respective police departments of the City and County of Honolulu, County of Hawaii, County of Kauai, and County of Maui.

The measure also requests that the Bureau submit a report of its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the 2019 Regular Session.

The Bureau takes no position on the merits of this measure, but submits the following comments for your consideration.

The Bureau sees no obstacle in conducting this compilation; provided that the above-listed entities provide the necessary information by the August 1, 2018, submission deadline, and the Bureau's interim workload is not adversely impacted by too many other studies or additional responsibilities, such as conducting, writing, or finalizing other reports, drafting legislation, or both, for other state agencies, task forces, or working groups that may be requested or required under other legislative measures.

Thank you again for your consideration.

SCR-116-SD-1

Submitted on: 4/11/2018 2:18:58 PM

Testimony for JUD on 4/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Karin Nomura	Individual	Support	No

Comments:

SCR-116-SD-1

Submitted on: 4/12/2018 1:23:15 PM

Testimony for JUD on 4/13/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:



Institute for Rational and Evidence-based Legislation

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April 12, 2018

COMMITTEE ON JUDICIARY

Rep. Scott Y. Nishimoto, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Members:

Rep. Tom Brower

Rep. Gregg Takayama

Rep. Chris Lee

Rep. Bob McDermott

Rep. Dee Morikawa

Rep. Cynthia Thielen

Re: SCR 116, SD1

OPPOSE without changes.

Committee Chair, Vice Chair and Members,

There need to be at least three changes to SCR116 SD1.

The first regards the following quote from the resolution:

(3) The various processes that citizens of the State must complete with respect to obtaining different types of firearms, including pistols and rifles, and *obtaining a license to carry a concealed weapon;*

That phrase after the conjunction “and” should read “when attempting to obtain the hypothetical but de facto non-existent license to carry a concealed weapon;”

Since no one in the entire state currently has a license to carry a concealed weapon, we don't really know what the process to actually "obtain one" is.

And since no one in the state for the past 16 (sixteen) YEARS has obtained a license to carry a concealed weapon (with the exception of two people, just coincidentally, I'm sure, who happened to be government employees (a judge and an active-duty military member)) we have no way of knowing, at all, what the real criteria are for obtaining such a license (other than the *appearance* of being government employee).

It would be extremely informative if this resolution was capable of ferreting out what the actual concrete criteria are for obtaining a license to carry a concealed weapon, as all my efforts, including using the Uniform Information Practices Act seeking actual documents from police departments as to the actual criteria they use have proven useless. The police chiefs simply won't reveal what their criteria are, nor will they give examples of verbatim statements that if submitted by applicants would result in a license being issued. It's *almost* as if there actually is *no* criteria, much less a criteria that could be met (excepting by judges of course).

The second change would be to include research into how the state can still enforce a law banning the possession of electronic guns (stun guns, etc.) in light of the Caetano Supreme Court of the United States **unanimous** per curiam decision stating that bans on stun guns are unequivocally unconstitutional. Yet Hawaii lawmakers and law enforcers at all levels simply ignore the law violate the law to deny citizens the right to keep and bear arms already ruled by the SCOTUS to be lawful arms and NOT subject to being banned.

Third, this resolution needs a strong statement requiring investigation into how many citizens and residents of Hawaii have been victims of crime outside their homes, and especially how many of those citizens, disarmed by the de facto "no issue" of concealed carry licenses, and no issue of open carry licenses to non-security-company-employed personnel, would have been able to thwart the criminal, wholly or in part, had they been able to lawfully exercise their right to bear arms as guaranteed by both the United States Constitution and the constitution of the state of Hawaii (which ironically titles Article I, section 17 "Right to Bear Arms"... in a state where if one were to actually bear arms one would immediately be subject to arrest, prosecution, conviction, and imprisonment and/or fine...despite the state constitution claiming that "the right to bear arms shall not be infringed").

Again the police departments claim they have no statistics about such matters, even how many crimes are committed inside versus outside the home. Of course citizens here in Hawaii may "keep" some limited types of weapons in their homes and have a chance of altering the odds of being victims of crime in side their homes, but not so outside the home.

Since every person assaulted outside their home, and every woman raped outside her home, etc., by all natural law of self-preservation and self-defense ought to have had the ability to bear any weapon of their choosing, but were disarmed by the state, these people have been victimized twice: first by the state disarming them, and then by the criminal who knew that law-abiding people outside their home will be disarmed with the most effective tools for self-defense.

You should really include research in the resolution into how many people outside their homes defend themselves in almost all the rest of the United States, where bearing arms outside the home is recognized as a right. You can then use those figures to extrapolate approximately how many people were needlessly victimized, and continue to be victimized, by a state (Hawaii) that outlaws the exercise

of a constitutionally-guaranteed fundamental individual enumerated natural civil right. We all want to know that information, don't we?

As a start, you can look at Obama's executive ordered Centers for Disease Control study, "Priorities for Research to Reduce the Threat of Firearm-Related Violence," (http://www.nap.edu/openbook.php?record_id=18319&page=R1) that concluded, among other things:

1. Armed citizens are less likely to be injured by an attacker:

"Studies that directly assessed the effect of actual defensive uses of guns (i.e., incidents in which a gun was 'used' by the crime victim in the sense of attacking or threatening an offender) have found consistently lower injury rates among gun-using crime victims compared with victims who used other self-protective strategies."

2. Defensive uses of guns are common:

"Almost all national survey estimates indicate that defensive gun uses by victims are at least as common as offensive uses by criminals, with estimates of annual uses ranging from about 500,000 to more than 3 million per year...in the context of about 300,000 violent crimes involving firearms in 2008."

3. Mass shootings and accidental firearm deaths account for a small fraction of gun-related deaths, and both are declining:

"The number of public mass shootings of the type that occurred at Sandy Hook Elementary School accounted for a very small fraction of all firearm-related deaths. Since 1983 there have been 78 events in which 4 or more individuals were killed by a single perpetrator in 1 day in the United States, resulting in 547 victims and 476 injured persons." The report also notes, "Unintentional firearm-related deaths have steadily declined during the past century. The number of unintentional deaths due to firearm-related incidents accounted for less than 1 percent of all unintentional fatalities in 2010."

4. "Interventions" (i.e, gun control) such as background checks, so-called assault rifle bans and gun-free zones produce "mixed" results:

"Whether gun restrictions reduce firearm-related violence is an unresolved issue." The report could not conclude whether "passage of right-to-carry laws decrease or increase violence crime."

5. Gun buyback/turn-in programs are "ineffective" in reducing crime:

"There is empirical evidence that gun turn in programs are ineffective, as noted in the 2005 NRC study Firearms and Violence: A Critical Review. For example, in 2009, an estimated 310 million guns were available to civilians in the United States (Krouse, 2012), but gun buy-back programs typically recover less than 1,000 guns (NRC, 2005). On the local level, buy-backs may increase awareness of firearm violence. However, in Milwaukee, Wisconsin, for example, guns recovered in the buy-back were not the same guns as those most often used in homicides and suicides (Kuhn et al., 2002)."

6. Stolen guns and retail/gun show purchases account for very little crime:

"More recent prisoner surveys suggest that stolen guns account for only a small percentage of guns used by convicted criminals. ... According to a 1997 survey of inmates, approximately 70 percent of the guns used or possess by criminals at the time of their arrest came from family or friends, drug dealers, street purchases, or the underground market."

7. The vast majority of gun-related deaths are not homicides, but suicides:

"Between the years 2000-2010 firearm-related suicides significantly outnumbered homicides for all age groups, annually accounting for 61 percent of the more than 335,600 people who died from firearms related violence in the United States."

thank you,

George Pace

LATE

Marcella Alohalani Boido, M. A.
Hawaii Judiciary Certified Spanish Court Interpreter, Tier 4

Resident, Senate District 10, House District 21, Moili'ili, Honolulu, Hawai'i 96826

To: Rep. Scott Y. Nishimoto, Chair; Rep. Joy A. San Buenaventura, Vice-Chair;
Members, House Committee on Judiciary

Date: April 13, 2018, 2:00 p.m., Room 325

Re: **SCR 116, SUPPORT with comments**

Thank you for hearing this resolutions. Respectfully, I ask you to pass this resolution. My hope is that my comments will contribute to strengthening it. Please excuse me if I what I am sharing here is something that Committee members already know. Perhaps this testimony will be helpful both to the Committee, and to others who may read it.

This testimony is offered in my capacity as a private individual. It draws on my experience as a RCUH researcher.ⁱ My responsibilities included collecting data and interviewing the “data tenders,” as Dr. John M. Knox, Ph.D. (my boss) called them, regarding how they collected the data. Our indicators included ten (10) years of selected crime data.

Hawaii crime data originates at the county level, with the county police. It flows upwards to the Hawaii State Office of the Attorney General. That office then provides data to the FBI. So, I interviewed the police officers in each county who collected the indicators of interest to the project. Different counties may collect the data in different ways, and compile and share it in different ways.ⁱⁱ I also talked to Hawaii Data Book staff, the AG contact person, and attended Census workshops.ⁱⁱⁱ

Crime data is usually collected in accordance with the FBI’s Uniform Crime Reporting (UCR) requirements.^{iv} The FBI also has the National Incident-Based Reporting System (NIBRS).^v If Hawaii has been participating in NIBRS, then NIBRS may be the best source for some of the data that the Resolution envisions being collected. Among other data, NIBRS collects:

These arrest data include information about the age, sex, race, and ethnicity of arrestees ; arrest offense code; **weapon arrestee was armed with**; resident status of the arrestee; and disposition of the arrestee who was under age 18.^{(vi} Emphasis added.)

Census data is the basis for a lot of valuable population data. However, as Dr. Knox noted in our Technical Final Report for the project, Hawaii has two “special populations.” These are tourists, and the military—and it can be difficult to account for them.

In order to learn more about Hawaii's gun laws, I have already been talking to both current and retired federal and state law enforcement officers.^{vii} Naturally, when I saw this resolution, I was immediately heartened. This is the right direction.

With this in mind, here are my comments. All factual errors and misguided suggestions are my own responsibility.^{viii} These comments differ somewhat from my previous comments on SR 73.

- Guns in Hawaii are regulated under federal and state laws, and also, crucially, under county regulations.
- For data and statistics, my recommendation is to include at least two more sources of knowledge and sophistication: Our Hawaii State Economist, and the current AG staff responsible for collecting crime data.
- Long gun (rifles, shotguns) permits differ from other gun permits. **A single long gun permit can cover an unlimited number of long guns.** The guns may therefore be more difficult to track accurately.
- Long guns matter, because while they are generally considered guns for hunting, there are other, criminal uses.
 - A long gun can be used to kill or attempt to kill people, sometimes by members of the public, as happened this week on Oahu.^{ix} They can also be a weapon used by professional and/or politically-motivated killers.
 - A long gun can be cut down and made into a hand gun (for ex., a sawed off shotgun).
- **For the next legislative session, my suggestion is to have a “one permit, one gun” bill.**
- There will be multiple sources for gun counts: gun permits, gun sales, guns in gun events, NIBRS.
- If this type of data has not been collected already by our county police departments and sent up the line to NIBRS, then my guess is that it will not be readily available. When I was doing the interviews, the police departments collected data from paper reports. It is difficult to imagine that people are now going to go back through 10 years of paper reports looking for this information.

- For publication, my suggestion is to coordinate with both the Judiciary and the Hawaii State Data Book staff. It would be useful in future for the Data Book to publish the data. Hawaii may be able to show some leadership in this area.
- The Judiciary may want to publish some of it, but their annual report is not what most people would think to consult for this type of information. For lack of time to check, I do not know if the kind of data and statistics we are discussing are included in the National Center for State Courts “Court Statistics Project.”^x

This is a terrific resolution. My appreciation goes out to those who thought it up and who have contributed to it so far. Please do pass it. Thank you.

ⁱ Research Specialist, Social Indicators Study, Hawai’i Prevention Needs Assessment: Family of Studies (a National Institutes of Health grant), Social Science Research Institute, Research Corporation of the University of Hawai’i at Mānoa. Conducted extensive interviews with data tenders in both the public and private sectors, including interviews with county officials in all counties. Wrote up results, entered data, maintained records, junior author and final editor of the Technical Final Report. Attended Census workshops on using Census data. 2001.

ⁱⁱ This may have changed. Without doing the interviews, it’s hard to know.

ⁱⁱⁱ The report will need statistics as well as data. Some of those statistics will be in terms of ratios, such as how many gun threats, attacks, or homicides per unit of population, or by age group, gender, etc. That’s where the Census comes in.

^{iv} FBI: UCR. <https://ucr.fbi.gov/>. Accessed 4/12/18.

^v “UCR Publications,” <https://ucr.fbi.gov/ucr-publications>. Accessed. 4/12/18.

^{vi} “A Guide to Understanding NIBRS,” FBI, <https://ucr.fbi.gov/nibrs/2011/resources/a-guide-to-understanding-nibrs>. Accessed 4/12/18.

^{vii} I’m being deliberately vague about this. They discussed matters with me at some length, but not for attribution.

^{viii} The suggestions really are mine.

^{ix} “Man shoots at couple over mistaken identity,” by Rosemarie Bernardo, Honolulu Star-Advertiser, 4/12/2018. <http://www.staradvertiser.com/2018/04/12/hawaii-news/man-shoots-at-couple-over-mistaken-identity/>. Accessed 4/12/18.

^x <http://www.courtstatistics.org/>. Accessed 3/21/18.