



**SB1077 SD1 HD1**  
RELATING TO HAWAII STATE AND CONTRACTED CORRECTIONAL FACILITIES  
House Committee on Judiciary

March 21, 2019

2:05 p.m.

Room 325

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB1077 SD1 HD1, which would improve transparency and urgency in procedures surrounding the deaths and sexual assaults of inmates, by requiring the Department of Public Safety (PSD) to expediently report inmate and correctional employee deaths to the Governor and Legislature, provide an annual report on sexual assaults of inmates to the Legislature, and collect evidence to investigate possible sexual assaults preceding inmate deaths.

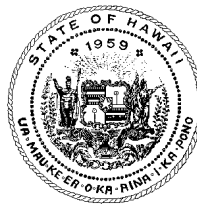
Inmate deaths have become too common an occurrence in our criminal justice system, and information about these deaths is sparsely disclosed. In recent years, a rash of violent deaths and apparent suicides among young, mostly Native Hawaiian inmates held in local and out-of-state facilities has prompted public outrage, especially in the Hawaiian community. Not surprisingly, the public has grown increasingly distrustful of our criminal justice system and concerned about the safety of family and community members held in the “custody and care” of PSD. PSD’s lack of transparency about its violent incident procedures, the circumstances surrounding specific violent events and inmate deaths, and the parameters and findings of PSD investigations on these matters, has only further deepened this public distrust.

Sexual assaults of inmates has also become an issue of concern for justice advocates and families of pa‘ahao. Testimony offered on this measure in previous hearings has highlighted the public’s concern for the safety of inmates who may be exposed to sexual violence, as well the lack of public information about sexual assault incidents in correctional facilities. Some have suggested that sexual violence may be among the circumstances surrounding inmate deaths; these weighty concerns warrant a serious response with the highest degree of scrutiny. PSD should take every measure to investigate sexual assault against inmates in its care, and ensure the integrity of future investigations related to possible sexual assault preceding and potentially contributing to inmate deaths.

By requiring immediate reporting on inmate deaths, periodic reporting on sexual assaults against inmates, and the collection of biological samples to support future investigations related to sexual assault that may be correlated with inmate deaths, SB1077 SD1 HD1 would improve transparency and provide an appropriate level of urgency in addressing the safety of those in our State’s care. Ideally, this information (anonymized as

appropriate to protect individuals and families) should also be disseminated to the public, pending notification of families, and an external system of oversight should be established to independently investigate violent incidents and PSD procedures. Although such a system is not provided for here, this Legislature is currently seriously considering such a structure in other measures this session. OHA nonetheless supports this measure's reporting requirement as a critical first step toward helping the public and the Legislature better understand potential systemic shortcomings, that may continue to make our criminal justice system unsafe for our pa'ahao. Such increased transparency will also help to remediate public trust and strengthen public safety overall.

Therefore, OHA urges the Committee to **PASS** SB1077 SD1 HD1. Mahalo for the opportunity to testify on this measure.



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
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No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1077, SENATE DRAFT 1, HOUSE DRAFT 1  
RELATING TO HAWAII STATE AND CONTRACTED  
CORRECTIONAL FACILITIES.

by

Nolan P. Espinda, Director  
Department of Public Safety

House Committee on Judiciary  
Representative Chris Lee, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Thursday, March 21, 2019; 2:05 p.m.  
State Capitol, Conference Room 325

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Public Safety Department (PSD) supports the intent of Senate Bill (SB) 1077, Senate Draft (SD) 1, House Draft (HD) 1, as the Department is committed to transparency as it relates to the sensitive and important issue covered in this measure, the deaths of staff and inmates in our facilities.

PSD has some concern about the bill's requirement to collect and preserve human biological specimens as evidence that may be used in a police investigation and any subsequent prosecution if there is any indication of sexual assault leading to the death of any individuals specified in (1) and (2). The Department wishes to clarify that collection and preservation of human biological specimens as evidence for use in a prosecution requires special equipment and training in forensic evidence collection such as those employed by county police departments, the medical coroner, and the Sex Abuse Treatment Center (SATC). PSD does not employ trained staff who are Sexual Assault Nurse Examiners (SANE) or Sexual Assault Forensic Examiners (SAFE). If there is an allegation

of sexual assault, PSD transports the inmate to the SATC for its contracted staff in each county to conduct a SANE/SAFE examination.

This measure also conflicts with the duties of the county coroner as outlined in HRS Section 841-3: Duties, which specifically cover management of the death of any person in a prison. Also, HRS Section 841-14: Autopsies and further investigation identify, who, in the interest of public safety or welfare may cause an autopsy by the coroner's physician. To ensure compliance with the duties of the county coroner, PSD recommends the following amendment:

“(c) The department of public safety shall preserve any forensic evidence consisting of human biological specimens for collection by the relevant criminal investigation entity or coroner, if there is any indication of sexual assault leading to the death of any:”

PSD's recommendations will ensure compliance with state and/or federal laws and will not negatively impact the forensic collection of evidence being considered by this measure.

Thank you for the opportunity to present this testimony.

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON JUDICIARY

Rep. Chris Lee, Chair

Rep. Joy San Buenaventura, Vice Chair

Thursday, March 21, 2019

2:05 pm

Room 325

## STRONG SUPPORT- SB 1077 SD1 HD1 - DEATHS IN CORRECTIONAL FACILITIES

Aloha Chair Lee, Vice Chair SanBuenaventura 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 more than 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.

Community Alliance on Prisons is in strong support of this measure. We respectfully request that death notifications be made PUBLIC – not just to the governor and the legislature. These are publicly funded and publicly operated facilities. **The community must be included in notifications of deaths in these facilities where our families and friends live and work.** In fact, the committee should request from the department for a list of facility deaths in the last 5 years in Hawai'i or other facilities contracted by the state. We are deeply concerned about this because of a suspicious death that occurred in January 2018 that the department classified as a suicide. The woman's body was washed before the family could request a rape evidence kit be taken. This bill requires collection of sexual assault evidence if there is an indication of sexual assault, counseling within 24 hours of a sexual assault, and establishes policies and standards of transparency to achieve a zero-tolerance for sexual assault.

We know that a correctional officer died at OCCC because no one had a key to enter his station. There have been far too many deaths as well as deaths from suicides at various facilities in Hawai'i or contracted by Hawai'i. We know of several recent deaths at Saguaro where a man with no health problems man died in the last few weeks because there was no defibrillator there. Shortly after this death another one occurred at the same facility. Who is watching out for the people incarcerated by Hawai'i serving their sentences far, far away? The community needs transparency and accountability, not just the bill for us to pay for this dysfunctional department's misdeeds.

Community Alliance on Prisons urges the committee to pass this important bill. Demanding transparency and accountability from one of Hawai'i's most secretive and unaccountable agencies is long overdue. Mahalo for the opportunity to testify. PLEASE VOTE FOR TRANSPARENCY!

*"Power corrupts, and there is nothing more corrupting than power exercised in secret."*

*Daniel Schorr*

**SB-1077-HD-1**

Submitted on: 3/20/2019 3:08:33 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Will Caron	Young Progressives Demanding Action	Support	Yes

Comments:

Aloha Chair Lee,

YPDA strongly supports passage of this bill. As an added amendment to the bill, we would request that findings of wrongdoing be made open to the public, and not just government officials. This is a solid bill that promotes badly needed transparency and accountability in one of the most secretive and troubled government agencies. Establishing counseling services within 24 hours of a sex assault and establishing policies & standards of transparency to achieve a zero-tolerance policy for sex assault are both extremely important additions. Mahalo for your consideration.

**LATE**

Executive Director  
Adriana Ramelli

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**Date:** March 21, 2019

**To:** The Honorable Chris Lee, Chair  
The Honorable Joy A. San Buenaventura, Vice Chair  
House Committee on Judiciary

**From:** Justin Murakami, Manager, Prevention Education and Public Policy  
The Sex Abuse Treatment Center  
A Program of Kapi'olani Medical Center for Women & Children

**RE:** Testimony Supporting the Intent of S.B. 1077 S.D. 1 H.D. 1 with  
Amendments  
Relating to Hawai'i State and Contracted Correctional Facilities

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Good afternoon Chair Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary:

The Sex Abuse Treatment Center (SATC) supports the intent of S.B. 1077 S.D. 1 H.D. 1, but ask that the Committee please amend the measure to correct the following issue.

We note that the collection of forensic evidence in cases of sexual assault-related homicides is the responsibility of the county police departments, sexual assault medical-forensic examination providers, and medical coroners, and not the Department of Public Safety.

It would not be appropriate for the Department to collect forensic evidence, as it could compromise the evidence and crime scene(s), present a conflict of interest where the Department or its staff may be liable for a sexual assault or death, and be non-compliant with the requirements of the federal Prison Rape Elimination Act concerning jurisdiction in criminal cases.

We therefore ask that page 4 lines 12 – 16 please be amended to read:

“(c) The department of public safety shall preserve possible crime scenes and any forensic evidence, including but not limited to human biological specimens, for the relevant criminal investigation entity or coroner, if there is any indication of sexual assault leading to the death of any:”

SATC appreciates the opportunity to testify on this measure.

**LATE**

**SB-1077-HD-1**

Submitted on: 3/21/2019 12:58:06 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

Comments:



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March 20, 2019

TO: Committee on Judiciary  
RE: SB 1077, SD1, HD1  
HEARING DATE: Thursday, March 21, 2019  
TIME: 2:05 pm  
CONF. ROOM: 325  
POSITION: **SUPPORT**

Dear Chair Lee, Vice Chair Buenaventura, and Members of the Committee:

I support SB 1077, SD 1, HD 1 and urge its passage because it promotes both transparency and accountability with respect to deaths in prison.

Thank you for allowing me to testify on this measure.

**SB-1077-HD-1**

Submitted on: 3/19/2019 7:15:25 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Diana Bethel	Individual	Support	No

Comments:

SB 1077 SD1 is a bill that is desperately needed to bring transparency to the Department of Public Safety.

The Department of Public Safety is charged with caring for the people in its facilities. It seems like it would be common sense to report a death in a correctional facility.

Every death must be investigated and the cause of death determined. The report should also be made public. The public has a right to know that our correctional facilities are being operated in a way that ensures the health and safety of the incarcerated.

The bill is improved by the inclusion of the responsibility to address sexual assaults by offering counseling services within 24 hours of a sexual assault and by establishing a zero-tolerance policy and standards of transparency for sexual assault.

Please pass this sorely needed bill.

**SB-1077-HD-1**

Submitted on: 3/20/2019 7:42:08 AM

Testimony for JUD on 3/21/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cathy Tilley	Individual	Support	No

Comments:

there must be transparency regarding all deaths and rapes in our prisons. We need to have a clear understanding of what has happened in all deaths and Rapes should no longer be buried

**SB-1077-HD-1**

Submitted on: 3/20/2019 2:12:47 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Christine Weger	Individual	Support	No

Comments:

This bill will shed much needed light on the subject of recent deaths of incarcerated people in Hawaii. Where little information is released the public may assume, rightly or wrongly, that DPS is somehow at fault. The reporting requirements will serve the families of victims and also restore public confidence in our criminal justice system.

Sexual assault in prison is often a subject of humor in our current pop culture. Will the Legislature take the problem seriously or turn a blind eye? How can legislators NOT support a system that aims at zero tolerance, collects rape kits, and provides counseling for victims?? The State of Hawaii has a responsibility to our incarcerated folks-- to provide them with at least the same safeguards and care as people receive on the outside.

Mahalo,

Christine Weger, Attorney at Law

**LATE**

**SB-1077-HD-1**

Submitted on: 3/20/2019 9:19:31 PM  
Testimony for JUD on 3/21/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John Bickel	Individual	Support	No

Comments:

I like that this bill is requesting that notifications of death also include the public (not just gov and legislature); it promotes transparency in one of the most secretive agencies; it establishes counseling services within 24 hours of a sex assault; finally that it establishes policies & standards of transparency to achieve a zero-tolerance policy for sex assault.

**LATE**

**SB-1077-HD-1**

Submitted on: 3/20/2019 10:53:30 PM

Testimony for JUD on 3/21/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Erica Scott	Individual	Support	No

Comments:

**SB-1077-HD-1**

Submitted on: 3/21/2019 8:27:19 AM

Testimony for JUD on 3/21/2019 2:05:00 PM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carla Allison	Individual	Support	No

Comments:

I strongly support SB1077.

This bill promotes transparency where there currently is none, establishes counseling services within 24 hours of a sex assault, and establishes policies and standards of transparency to achieve a zero-tolerance policy for sex assault.

Please move this bill forward.

March 20, 2019

**Testimony in Support of SB 1077 SD1**

TO: Chair Chris Lee, Vice Chair Joy San Buenaventura and  
Members of the House Committee on the Judiciary

FROM: Barbara Polk

**I support SB 1077 SD1** because it increases transparency in the cases of deaths of incarcerated individuals or staff within the State's jails and prisons. I urge you to amend the bill to also inform the public on a timely basis. We pay for DPS to protect us, but they are also responsible for protecting staff and inmates. When they do not do so effectively, the public needs to be aware of the problem.

I am glad to see that the bill now includes retention of any evidence of sexual assault.

**I encourage you to pass SB 1077** and consider ways that it can be amended to include public notification.

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