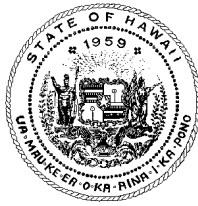


DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

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

TESTIMONY ON SENATE BILL 2523, SENATE DRAFT 1  
RELATING TO PUBLIC SAFETY.

by

Nolan P. Espinda, Director  
Department of Public Safety

House Committee on Public Safety, Veterans, and Military Affairs  
Representative Gregg Takayama, Chair  
Representative Cedric Asuega Gates, Vice Chair

Friday, March 13, 2020; 10:00 a.m.  
State Capitol, Conference Room 430

Chair Takayama, Vice Chair Gates, and Members of the Committee:

The Department of Public Safety (PSD) has reviewed Senate Bill (SB) 2523, Senate Draft (SD) 1 and offers the following comments.

The Office of the Attorney General has provided further advice on this matter, stating that the Department is free to disclose all of the information in reports to the Governor, President of the Senate, and Speaker of the House of Representatives, as required in Section 353C-8.5 (a), Hawaii Revised Statutes. Based on this advice, effectively immediately, PSD will be complying with the existing law, which would negate the need for the measure currently under consideration.

Thank you for the opportunity to present this testimony.

# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON PUBLIC SAFETY, VETERANS, & MILITARY AFFAIRS

Rep. Gregg Takayama, Chair

Rep. Cedric Gates, Vice Chair

Friday, March 13, 2020

10:00 AM - Room 430

### **STRONG SUPPORT for SB 2523 SD1 - DEATH NOTIFICATION**

Aloha Chair Takayama, Vice Chair Gates 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 **JAMES BORLING SALAS, ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE**, including the eleven (11) people that we know of, who have died in the last six (6) months. We also remind the committee of the approximately 5,200 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day, and we are always mindful that more than 1,200 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 2523 authorizes the Director of Public Safety to withhold certain information regarding deaths at correctional facilities or community correctional centers. Requires the director to include in the report regarding the death that is submitted to the governor a description of the circumstances and cause of death of the individual and ensure that the description does not contain any details that could identify the deceased individual. The SD1 requires the director of public safety to include the name of the decedent in the report.

Community Alliance on Prison is in strong support of notification of inmate deaths. Accountability and transparency are vital to democracy and we wonder why the legislature is allowing the department to violate existing law by withholding information?

**[\$353C-8.5] Correctional facility and community correctional center deaths; reporting.** (a) Within forty-eight hours, the director shall report to the governor, and the governor shall report to the legislature, the death of any:

- (1) Correctional facility or community correctional center employee who dies on the grounds of a correctional facility or community correctional center where Hawaii inmates reside or who sustains an injury on the grounds of a correctional facility or community correctional center where Hawaii inmates reside that causes the death of the employee; or
- (2) Hawaii inmate who is incarcerated in a state or contracted correctional facility.

(b) The report in subsection (a) shall include the following information:

- (1) The name of the decedent;
- (2) The gender and age of the decedent;

- (3) Whether the decedent was an inmate or an employee;
- (4) The location of the death or injury leading to the death;
- (5) The date and time of the death;
- (6) The cause of death; and
- (7) Any indication of sexual assault leading to the death;

provided that when the official cause of death has been determined, the director shall immediately report the official cause of death to the governor, and the governor shall immediately report the official cause of death to the legislature.

(c) Within thirty days of a death described in subsection (a), the director shall submit a report to the governor, and the governor shall submit the report to the legislature, of the clinical mortality review conducted in response to the death, including correctional actions to be taken.

(d) The director shall have the discretion to withhold disclosure of the decedent's name or any information protected from disclosure by state or federal laws. [L 2019, c 234, §1]

Why is the legislature giving this department a license to hide information about deaths in a PUBLIC INSTITUTION that is funded by PUBLIC TAXPAYER MONEY?

In fact, an article<sup>1</sup> about Act 234 in the Miami Herald quoted the special assistant to the Attorney General: *"Krishna Jayaram, special assistant to Attorney General Clare Connors, said much of the information called for in the new law is withheld because the public safety department is subject to the federal Health Insurance Portability and Accountability Act, which protects private health care information."*

This statement raises questions:

1. Is Hawai'i the only state that is subject to the Health Insurance Portability and Accountability Act?
2. Why did Hawai'i stop reporting this information? Arrests, escapes, and other incidents are reported. Why then is the public, whose hard-earned tax dollars fund these public institutions, not notified of deaths?
3. Why is this information hidden from the public now, when it used to be reported? What changed?

**# 1: If not (of course not, a federal law applies to all) then why do state Corrections Departments in Arizona and Nevada report information regarding deaths on their websites?**

The Arizona Department of Corrections has current information on their website listing the deaths of incarcerated persons from February 21, 2020 back to 2014 with the name, the date of death, the facility where the person was incarcerated.

The Nevada Department of Corrections lists the person's inmate number, name, location at time of death, date of death, gender, admit date, county, and ethnicity. Why can't Hawai'i be as transparent?

Following are pages from both the Arizona and Nevada Departments of Corrections' websites containing public information about deaths in their facilities.

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<sup>1</sup> New Hawaii law shows information withheld in prison deaths, THE ASSOCIATED PRESS, JANUARY 06, 2020. <https://www.miamiherald.com/news/politics-government/national-politics/article238996073.html>

## ARIZONA DEPT OF CORRECTIONS

### Inmate Death Notifications

<https://corrections.az.gov/inmate-death-notifications>

#### [Inmate Death Notification - Gene P. Beck](#)

02/21/2020

**FLORENCE** (Friday, February 21, 2020) – Inmate Gene P. Beck, 36, ADC #173474, died on Friday, February 21 from an apparent act of self-harm by hanging. Prison staff discovered him Friday morning unresponsive in his assigned medium-custody, dormitory housing location. Staff attempted life-saving measures until responding paramedics arrived on scene and pronounced him deceased at 6:38 a.m.

Beck came to ADC in 2003 after he was sentenced out of Maricopa County to serve life in prison for 1st degree murder.

His assigned housing location was ASPC-Eyman.

#### [Inmate Death Notification - Andy R. Ambler](#)

02/21/2020

[Read More](#)

#### [Inmate Death Notification - Philbert Lookingback](#)

02/19/2020

[Read More](#)

#### [Inmate Death Notification - Robert S. Reed](#)

02/19/2020

#### [Inmate Death Notification - William H. Culpepper](#)

02/07/2020

**FLORENCE** (Friday, February 7, 2020) – Inmate William H. Culpepper, 58, ADC #307068, died on February 5 at Mountain Vista Medical Center. He was transported to the hospital on January 28.

Culpepper was admitted to ADC in 2016 after he was sentenced out of Gila County on ten counts of sexual conduct with a minor, and other counts including molestation of a child, abuse, and public sexual indecency. His assigned housing location was ASPC-Florence.

All inmate deaths are investigated in consultation with the county medical examiner's office.

#### [Inmate Death Notification - Ruben Alvarez](#)

02/06/2020

[Read More](#)

#### [Inmate Death Notification - Ricky J. Gillin](#)

02/06/2020

[Read More](#)

#### [Inmate Death Notification - Lanny D. Gunter](#)

02/05/2020

[Read More](#)

#### [Inmate Death Notification - Marvin D. Jones](#)

01/29/2020

[Read More](#)

#### [Inmate Death Notification - Kenneth H. Black](#)

01/24/2020

**NEVADA DEPARTMENT OF CORRECTIONS  
2019 INMATE IN CUSTODY DEATHS**

[http://doc.nv.gov/About/Statistics/Inmate Mortality Statistica/2019 Inmate Deaths/](http://doc.nv.gov/About/Statistics/Inmate_Mortality_Statistica/2019_Inmate_Deaths/)

NDOC INMATE ID #	NAME	LOCATION @ TIME OF DEATH	AGE @ DEATH	DATE OF DEATH	GENDER	ADMIT DATE	COUNTY OF COMMIT	ETHNICITY
1011685	DOZIER, SCOTT RAYMOND	ELY STATE PRISON	48	01/05/2019	M	12/11/2007	CLARK	CAUCAS
61010	RANGLES, GARY	NORTHERN NEVADA CORRECTIONAL CENTER	75	01/19/2019	M	04/02/1999	WASHOE	CAUCAS
11978	ODOMS, JOHN	NORTHERN NEVADA CORRECTIONAL CENTER	72	01/28/2019	M	02/04/1982	CLARK	BLACK
83077	JARAMILLO, RICHARD	NORTHERN NEVADA CORRECTIONAL CENTER	57	01/26/2019	M	04/29/2013	CLARK	HISPANIC
96177	CASTLE, MICHAEL L.	NORTHERN NEVADA CORRECTIONAL CENTER	54	01/31/2019	M	04/11/2018	WASHOE	CAUCAS

Here is the press release on the first death listed – Mr. Dozier:



Nevada Department of Corrections

Public Information Office: 775-887-3309  
PIO Brooke Santina Cell: 775-350-0037

**PRESS RELEASE**

March 12, 2020  
For Immediate Release

The Nevada Department of Corrections (NDOC) is investigating an **apparent suicide** that occurred in the afternoon of January 5, 2019. Correctional officers found Inmate Scott Raymond Dozier, #1011685, hanging from a bed sheet tied to an air vent in his cell at Ely State prison in Ely, Nevada. Dozier was housed alone at the time. Responding staff made immediate notification to medical staff and attempted to provide emergency medical care until help arrived. Dozier was pronounced dead at approximately 4:35 PM by emergency medical staff at the scene.

Inmate Dozier, a 48 year old, male, was committed from Clark County on December 11, 2007 and was sentenced to Death for First Degree Murder. Investigators from the NDOC Inspector General’s Office, White Pine County Sheriff’s Office and the coroner responded. An autopsy is being scheduled per NRS 209.3815. Next of Kin have been notified.

*#2: Newspapers report the arrests, convictions, and the name of people who escape, so it is puzzling that the department, who used to report the names of people who died while in their 'care and custody' stopped reporting this information. The Legislature must demand transparency, accountability and access to information about deaths in taxpayer-funded public institutions.*

Community Alliance on Prisons implores the committee to ensure that deaths, suicides, and other incidents are reported to the public who pay for the safety and security of those who live and work in our correctional facilities.

Please don't let this administration get away with hiding this information that the taxpaying public has a right to know. In the spirit of accountability and transparency, we humbly ask that you pass SB 2523 SD1 and ensure that the department of public safety follows the law.

Mahalo for this opportunity to testify.

*"A government by secrecy benefits no one.  
It injures the people it seeks to serve; it damages its own integrity and operation.  
It breeds distrust, dampens the fervor of its citizens and mocks their loyalty."*

*Russell Long*

**SB-2523-SD-1**

Submitted on: 3/10/2020 9:44:12 PM

Testimony for PVM on 3/13/2020 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alan Urasaki	Individual	Support	No

Comments: