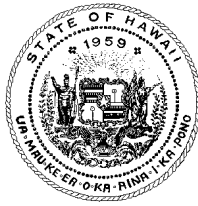


DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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No. _____

TESTIMONY ON SENATE BILL 2523
RELATING TO THE DEPARTMENT OF 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 11, 2020; 1:35 p.m.
State Capitol, Conference Room 229

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

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

SB 2523 seeks to amend Section 353C-8.5, Hawaii Revised Statutes, by conditioning the Department's discretion to withhold disclosure of the decedent's name by adding requirements in Subsection (d) for PSD to: 1) provide the citation of relevant state or federal laws prohibiting disclosure of information deemed private, and 2) if prohibited, provide the description of the circumstances and cause of death without information identifying the decedent.

SB 2523 would amend the language in Act 234, Session Laws of Hawaii 2019, that applies to protective prohibitions in the reporting of deaths in State correctional facilities, to the Governor and the Legislature's Senate President and House Speaker, that will result in little protection for the privacy of the deceased individuals and their families.

Testimony on SB 2523
Senate Committee on Public Safety,
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February 11, 2020
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Following the law's enactment in 2019, PSD's legal counsel, the Department of the Attorney General, cautioned that the Department is bound to protect the decedent's identity and the privacy of the individual's health care information, by the federal Health Insurance Portability and Accountability Act (HIPAA), which imposes safeguards against the disclosure of private health care information. SB 2523 appears to run counter to the Attorney General's determination in this matter, and for this reason, the Department of Public Safety respectfully requests that the bill be deferred.

Thank you for the opportunity present this testimony.

COMMUNITY ALLIANCE ON PRISONS

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL & MILITARY AFFAIRS

Sen. Clarence Nishihara, Chair

Sen. Glenn Wakai, Vice Chair

Tuesday, February 11, 2020

1:35 PM – Room 229

STRONG SUPPORT for SB 2523 – DEATH NOTIFICATION OF INCARCERATED PERSONS

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 **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.

Community Alliance on Prison supports notification of inmate deaths and wonders why the legislature is allowing the department to hide the name of the deceased. Newspapers report the arrests and convictions of individuals 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. 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 article¹ 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 begs the question: Why did Hawai'i stop reporting this information and why do other jurisdictions openly report this information?

¹ New Hawaii law shows information withheld in prison deaths, THE ASSOCIATED PRESS, JANUARY 06, 2020 10:16 AM. <https://www.miamiherald.com/news/politics-government/national-politics/article238996073.html>

The Arizona Department of Corrections has current information on their website listing the deaths of incarcerated persons from February 7, 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?

**ARIZONA DEPT OF CORRECTIONS
Inmate Death Notifications**

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

[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 | CAUCASIAN |
| 61010 | RANGLES, GARY | NORTHERN NEVADA CORRECTIONAL CENTER | 75 | 01/19/2019 | M | 04/02/1999 | WASHOE | CAUCASIAN |
| 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 | CAUCASIAN |

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

February 10, 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.

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 information. In the spirit of accountability and transparency, we humbly ask that you pass this measure.

Mahalo for this opportunity to testify.

"I have no doubt that the nation has suffered more from undue secrecy than from undue disclosure. The government takes good care of itself."

Daniel Schorr

SB-2523

Submitted on: 2/9/2020 10:31:16 PM

Testimony for PSM on 2/11/2020 1:35:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Alan Urasaki | Individual | Comments | No |

Comments:

The director should provide the legislature with all the facts of an inmate death.