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CITY AND COUNTY OF HONOLULU

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THE HONORABLE KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY
Thirty-first State Legislature
Regular Session of 2022
State of Hawai'i

February 24, 2022

RE: S.B. 2048; RELATING TO CHOP SHOP ACTIVITY.

Chair Rhoads, Vice-Chair Keohokalole and members of the Senate Committee on Judiciary, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following **comments, supporting the intent** of S.B. 2048.

The purpose of this bill is to create the new offense of “chop shop activity,” as that term is used to describe various types of unlawful dealings in stolen motor vehicles and/or motor vehicle parts. While the Department strongly agrees that such activity infringes upon public safety and welfare—and should be zealously prosecuted—we believe existing laws may already address such activity, and with lower thresholds for prosecution.

Currently, anyone convicted of Theft in the first degree (HRS §708-830.5), where the value of the stolen property or services is over \$20,000, is guilty of a class B felony, with lower penalties for lower property values.¹ By definition, “theft” includes multiple ways of obtaining or exerting unauthorized control over property, and includes intentionally receiving, retaining, or disposing of stolen property.²

¹ See HRS §708-831(1)(b), Theft in the second degree, which generally addresses property or services the value of which exceeds \$750, as a class C felony.

² In relevant part, HRS §708-830 states:

“A person commits theft if the person does any of the following:

- (1) Obtains or exerts unauthorized control over property. A person obtains or exerts unauthorized control over the property of another with intent to deprive the other of the property.
- (2) Property obtained or control exerted through deception. A person obtains, or exerts control over, the property of another by deception with intent to deprive the other of the property.
- (3) Appropriation of property. A person obtains, or exerts control over, the property of another that the person knows to have been lost or mislaid or to have been delivered under a mistake as to the nature or amount of the

In addition, if someone intentionally or knowingly drives or otherwise controls a stolen vehicle, that person would be subject to Unauthorized control of a propelled vehicle in the first degree (HRS §708-836), a class C felony. If the evidence establishes only a reckless or negligent state of mind, Unauthorized control of a propelled vehicle in the second degree (HRS §708-836.1), can still be charged as a misdemeanor. Notably, both of these offenses include “operating the propelled vehicle without the owner’s consent or...changing the identity of the propelled vehicle without the owner’s consent.”

Another example, Removal of identification marks (HRS §708-838), is currently a misdemeanor, and could arguably apply to motor vehicle parts as well. All of the offenses noted above involve less elements, require a significantly lower or no “value” threshold, and typically do not require undercover operations (which are relatively costly and time-consuming). If S.B. 2048 were to pass in its current form, proving the market value for stolen motor vehicles or motor vehicle parts—along with the requirements that we prove the defendant knew that each of those motor vehicles or motor vehicle parts were stolen, and their relationship to the chop shop—would present complicating factors in these cases, and it is uncertain whether any cases would ever reach the stated thresholds of \$100,000 or \$250,000.

If the Committee would like to utilize S.B. 2048 to expand any of the statutes currently used to address motor vehicle thefts, lower the requisite states of mind, increase or expand penalties, or seek other approaches to this type of activity, the Department would be happy to discuss the matter with the Committee and other stakeholders. The Department is grateful to the introducer of the bill, as well as the Committee, for its dedication to addressing this ongoing problem, and the opportunity to explore new ways to address is.

Thank for you the opportunity to testify on this matter.

property, the identity of the recipient, or other facts, and, with the intent to deprive the owner of the property, the person fails to take reasonable measures to discover and notify the owner.

* * *

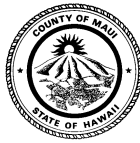
- (7) Receiving stolen property. A person intentionally receives, retains, or disposes of the property of another, knowing that it has been stolen, with intent to deprive the owner of the property. It is prima facie evidence that a person knows the property to have been stolen if, being a dealer in property of the sort received, the person acquires the property for a consideration that the person knows is far below its reasonable value.”

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Gabe Johnson
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Traci N. T. Fujita, Esq.

Deputy Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
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200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
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February 23, 2022

TO: Honorable Chair Karl Rhoads, Vice-Chair Jarrett Keohokalole, and members of the Senate Committee on Judiciary

FROM: Tamara Paltin
Maui County Councilmember

DATE: February 22, 2022

SUBJECT: **SUPPORT OF SB 2048, RELATING TO UNLAWFUL CHOP SHOP ACTIVITY**

Thank you for the opportunity to testify on this important measure. The purpose of this measure is to establish the criminal offenses of unlawful chop shop activity in the first and second degrees, and to provide for the forfeiture of property connected with chop shop activity.

I SUPPORT this measure for the following reasons:

1. Chop shop activity promotes an environment as described in the broken window theory. The broken windows theory states that if visible signs of crime or civil disorder goes untreated, citizens will withdraw from the community, causing a loss of informal social control and an increase in criminal activity for that area. Broken windows policing is the practice of regulating low-level crime to prevent widespread disorder from occurring by making neighborhoods appear to be more cared for.
2. According to the Department of Environmental Management, chop shop activity contributes significantly to the number of abandoned vehicles on the streets, which adds to the issues stated in the broken windows theory. This measure will help address the decline in morale and less than stellar appearance of our community.
3. Chop shop locations are known but are not being dealt with because low penalties make them low priority. Meanwhile, the damages caused by chop shop activity appear to be punitive and create severe hardship for the hardworking people who are just trying to survive.

February 23, 2022
Page 2

For the foregoing reasons, I SUPPORT this measure.

Respectfully Submitted,

A handwritten signature in black ink that reads "Tamara M. Paltin". The signature is written in a cursive style with a large initial 'T' and a distinct 'P'.

TAMARA PALTIN
Maui County Councilmember

LATE

Council Chair
Alice L. Lee



Director of Council Services
Traci N. T. Fujita, Esq.

Vice-Chair
Keani N.W. Rawlins-Fernandez

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February 23, 2022

TO: Honorable Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Alice L. Lee
Council Chair

DATE: February 23, 2022

SUBJECT: **SUPPORT FOR SB 2048, RELATING TO UNLAWFUL CHOP SHOP
ACTIVITY**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this measure is to establish the criminal offenses of unlawful chop shop activity in the first and second degrees, including providing for the forfeiture of property connected with related activity.

This measure is included in the Hawai'i State Association of Counties Legislative Package. Therefore, I offer this testimony on the Maui County Council's behalf.

The Maui County Council **SUPPORTS** this measure for the following reasons:

1. There is currently no state statute covering the criminal misconduct of chop shop activity, although numerous auto theft investigations have shown that chop shop activity was a central part of the criminal misconduct.
2. A "Crime in the U.S. 2019" report by the Federal Bureau of Investigation's Criminal Justice Information Services Division, Hawai'i had the third-highest motor vehicle theft rate in the nation.
3. In 2019 alone, the Maui Police Department reported 661 motor vehicle theft offenses and \$4,421,246 in stolen motor vehicle property.

For the foregoing reasons, the Maui County Council **SUPPORTS** this measure.