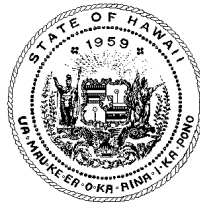


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**TESTIMONY ON SENATE BILL 2777, SENATE DRAFT 1
RELATING TO SEARCHES OF FEMALE INMATES.**

by

Max N. Otani, Director
Department of Public Safety

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Tuesday, March 1, 2022; 9:30 a.m.
State Capitol, Via Video Conference

Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee:

Senate Bill (SB) 2777, Senate Draft (SD) 1 seeks to require pat downs and searches of female inmates be conducted by female correctional facility employees unless the inmate presents a risk of immediate harm to herself or others or risk of escape. This measure also seeks to prohibit male correctional facility employees from entering areas where female inmates may be in a state of undress, including, but not limited to, restrooms, shower areas, or medical treatment areas, again, with the exceptions of an inmate presenting a risk of immediate harm to herself or others or risk of escape.

The Department of Public Safety (PSD) offers the following comments on SB 2777, SD 1. The Department has, in place, stringent policies to address these issues. PSD strongly adheres to Departmental Policy (COR.08.31 – Searches of Inmates) and the federal Prison Rape Elimination Act (PREA), which specifically address gender-related issues with respect to pat downs and searches of female inmates. Moreover, facilities' post assignments address male correctional officers' restricted access to areas in which female inmates may be

in a state of undress, including, but not limited to, restrooms, shower areas, medical treatment areas, etc. The Department also notes that, as written, certain terminology, such as, “Area”, “medical emergency,” and “medical treatment areas” are not clearly defined, which will cause confusion in the implementation of any policies and procedures.

As is well-known, PSD has long suffered staffing shortages at all facilities. There are several reasons for the shortages, among them the lengthy process of recruitment and fulfillment. The Department affirms, however, that it has been diligently recruiting to fill all correctional officer positions, both male and female. PSD cannot and does not discriminate on the basis of gender. At present, two classes are being run simultaneously at the Training Academy in an effort to reduce the vacancy rate of staffing shortages for male and female Correctional Officers.

The Department believes this measure is unnecessary and respectfully requests that it be held.

Thank you for the opportunity submit testimony on SB 2777, SD 1.

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COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Tuesday, March 1, 2022

9:30 AM

SB 2777 SD1 - STRONG SUPPORT FOR THE SD1 PREA COMPLIANCE

Aloha Chair Rhoads, Vice Chair Keohokalole, 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 more than 4,052 Hawai`i individuals living behind bars under the “care and custody” of the Department of Public Safety on any given day. We are always mindful that 1,111 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 SB 2777 about searches/pat downs of incarcerated women and the SD1 that requires the Department of Public Safety

- to increase its recruitment and training of female adult corrections officers to satisfy the requirements of female gender specific posts,
- to make every effort within the law to address the concerns of the advocates, requirements of the Prison Rape Elimination Act, and staffing shortages of female gender specific posts, as well as the hiring and training of female adult corrections officers, and
- to submit a report of its efforts in recruiting, hiring, and training female adult corrections officers to the Legislature no later than twenty days prior to the convening of the Regular Session of 2023.

One might believe that since PREA – the Prison Rape Elimination Act became law in 2003, that everything is fine. Well, it took until 2012 for the Department of Justice to issue prison and jail standards¹ and publish it in the federal register a month later.

¹ PRISON PRISONS AND JAIL STANDARDS, United States Department of Justice Final Rule, National Standards to Prevent, Detect, and Respond to Prison Rape Under the Prison Rape Elimination Act (PREA), 28 C.F.R. Part 115, Docket No. OAG-131 RIN 1105-AB34, May 17, 2012 RAPE ELIMINATION ACT.

In just about every PREA audit, Hawai`i has met the basic standards with policies and procedures. One of the main problems with this is that an agency can wave their policies and procedures when challenged, but it is WHAT THEY DO THAT MATTERS.

The department may say they follow up on every report, however, one must look further if the numbers are very low. That leads to the question of why people in prison do not report sexual assault or harassment incidents. It's the imbalance of power in jails and prisons. One thing people learn very quickly when incarcerated is that retaliation is real. This we know to be true from our contact with people inside and their families.

Hawai`i should have learned this lesson when the former AG told the Hawai`i Supreme Court in August 2020 that the state was "caught off guard" and the Department of Public Safety could not comply with the Pandemic Response Plan they were flaunting as their compliance with COVID protocols while the virus was blowing up OCCC.

Policies and Procedures are good, but how they are incorporated into the daily work of the people who work in jails and prisons matters. Policies and Procedures are only good if they are enforced, and reinforced, and re-reinforced. The committee might want to ask how the department handles changes in Policies and Procedures with their workforce.

The department did hire more women Adult Correction Officers yet there is still a staffing problem at gender responsive posts statewide.

Several women have reported sexual harassment and assault during pat downs and are afraid of retaliation, therefore, most incidents go unreported

The bottom line is that state has the responsibility to protect the imprisoned person's health and safety. This is precisely why the Hawai`i Systems Correctional Oversight Commission was formed - to investigate these reports and other incidents in jails and prisons holding our people.

Community Alliance on Prisons mahalos the committee for scheduling this bill and reviewing our testimony. We urge the committee to pass this measure.

Mahalo for this opportunity to testify.

SB-2777-SD-1

Submitted on: 2/25/2022 8:59:21 AM

Testimony for JDC on 3/1/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Alan Urasaki	Individual	Oppose	No

Comments:

As a former correctional worker, I oppose this measure as there already policies and procedures that address this issue of cross gender searches, and does nothing to improve the safety and security of the prison. I would like to see DPS and community groups come together to discuss and collaborate in a more effective manner for the good of all inmates.

SB-2777-SD-1

Submitted on: 2/27/2022 10:57:12 PM

Testimony for JDC on 3/1/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Carolyn Eaton	Individual	Support	No

Comments:

Aloha Chair Rhoads, Vice Chair Keohokalole and members of the Committee. My name is Carolyn Eaton and I support this bill. The State has the responsibility for the health and safety of our imprisoned women. There should be no tolerance for failure to have the female staff required to search any female inmate. Who is accountable for this condition you as legislators have sought to remedy in sessions past? I am grateful you are addressing the problem today. Mahalo for allowing me to suggest you center the humanity of our women in jails and prisons.

LATE

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair
Committee on judiciary

Rie Doi-Stewart

Tuesday, March 1, 2022

Support for SB2777 SD 1 Relating to Searches of Female Inmates

I, Rie Doi-Stewart is Master of Social Work & Public Health Program, Thompson School in University of Hawaii at Manoa and individuals committed to protect female inmates' rights and protecting harm to female inmates by male correctional facility employees in the State of Hawaii. I support S.B. No. 2777, S.D. 1, Relating to Searches of Female Inmates which is for the following reasons.

Female Inmates are often already traumatized for sexual abuse, and rape and abuse by male correctional facility employees not only cause a further psychological damage but also lead to distrust of society. Even if women in prison are infringed on human rights by male correctional facility employees, it is difficult to report the damage due to various difficulties such as fear of reporting the actual situation of abuse and deterioration of treatment in the prison.

A male correctional facility employee cannot enter into an area of the institution where female inmates may be in a state of undress or be in an area where they can view females undress, including to restrooms, shower areas, or medical treatment areas. The hiring and training of female adult corrections officers to effectuate the purposes of this Act.

However, except the female inmates presents a risk of immediate harm to herself or others or risk of escape and a female employee is not available to conduct the search.

For these and other reasons, the state of California enacted legislation in 2018 prohibiting males from searching incarcerated females except under specific circumstances as SB2777 also provides. To protect the safety and rights of female prisoners in Hawaii detention centers, we should take action to protect them by law, as in California.

I urge the committee to pass S.B. No. 2777, S.D. 1. Thank you for this opportunity to testify.