



The Judiciary, State of Hawaii

Testimony to the Thirty-Second State Legislature 2024 Regular Session

House Committee on Judiciary and Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair

Wednesday, March 13, 2024, 2:00 p.m.
Conference Room 325 & Via Videoconference

by
Tim Kozak
Special Assistant to the Administrative Director of the Courts for Judiciary Security

Bill No. and Title: Senate Bill No. 3009, Senate Draft 2, Relating to the Department of Law Enforcement.

Purpose: Specifies the statutory duty of the Department of Law Enforcement's (DLE) Sheriff Division to protect legislative and judicial personnel and facilities of the State of Hawaii. Requires the Sheriff Division to obtain national accreditation. Requires representatives from DLE, the Judiciary, and the Legislature to meet annually to determine staffing levels, priorities, and allocation of resources for legislative and judicial security programs.

Judiciary's Position:

The Judiciary strongly supports this measure, which would ensure that the Sheriff Division's official functions and priorities under the newly established DLE specifically include the protection of legislative and judicial personnel and facilities.

This measure addresses an escalating problem of threats and safety risks faced by public agencies and their employees from some members of the public who have negative reactions to government decisions or actions. Some of the most recent examples include:

- The number of threats and other inappropriate communications made towards Hawaii State Judiciary employees increased from 7 in 2017 to 60 in 2023.



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- In 2023, security checkpoints with metal detectors were installed at various entrances into the Hawaii State Capitol due to growing security concerns.
- On January 3, 2024, the Hawaii State Capitol was evacuated in response to a mass email claiming that explosives had been placed in state capitol buildings across the country. On January 4, 2024, state courthouses in Honolulu, Kapolei, and Lihue were evacuated in response to bomb threats included in a similar mass email sent to courthouses in multiple states. The bomb threats, which prompted the evacuation of government buildings nationwide on consecutive days, were later found to be false, but in each case sheriff deputies were called upon to search Hawaii facilities to confirm there was no threat.

In the face of these growing threats to public employees and facilities, this measure promotes the continuity of government by statutorily requiring a coordinated effort between the executive, legislative, and judicial branches to provide the security resources necessary to ensure that governance and essential functions continue to be performed in the event of an emergency. The provisions of this measure are consistent with national best practices for law enforcement agencies that provide protection to other government branches. On a broader level, the best practices included in this measure will facilitate any modern policing initiative that the DLE may develop in the future as part of a statewide strategy to address targeted violence against government entities.

As the Sheriff Division begins a new era under the direction of the DLE, this measure will provide the Division with a clearly defined role and duty to protect legislative and judicial resources that face growing security threats. This provision is critical to the Judiciary's operations because the Sheriff Division's role in providing judicial security is not specifically defined by statute. That means the DLE currently exercises broad discretion in allocating resources for the Judiciary's security needs, which are at risk of being deprioritized as the new department assumes expanded responsibilities. As detailed below, a similar concern was raised in 2010 when the State Auditor found that the Sheriff Division's struggles to meet expanded law enforcement duties were largely attributable to broad statutory authority that failed to specify focus areas to meet the State's growing law enforcement needs. While the Judiciary has been in continuous communication with the DLE to ensure that the Sheriff Division's transition over to the new department does not negatively impact judicial safety, the best way to ensure that the Division continues to prioritize judicial and legislative security is to specifically define this duty in statute, as this measure provides.

This measure also fulfills the recommendations the State Auditor made in 2010 to improve the Sheriff Division's ability to carry out its functions. In the 2010 report,¹ the State Auditor found that since its transfer to the former Department of Public Safety (DPS) in 1989, the Sheriff Division, because of its ill-defined role and a lack of mission clarity, was struggling to meet its

¹ Audit of the Department of Public Safety, Sheriff Division, Hawaii State Auditor Report No. 10-06, June 2010.



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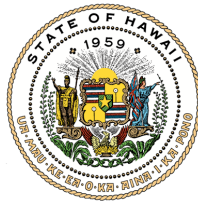
expanded law enforcement duties and responsibilities. The report noted that as the State's law enforcement needs expanded, confusion over the extent of the State's law enforcement responsibilities had grown. This confusion and uncertainty was attributed in part to vague constitutional language and a broad interpretation of statutory authority. The report also noted a lack of Sheriff Division procedures related to the staffing and service of the courts, raising safety issues. The report included DPS' acknowledgement that there were not enough deputy sheriffs to carry out its functions at many of the courts. Further, in the absence of a formal agreement with the courts, the Sheriff Division lacked staffing standards for the safety of deputy sheriffs, the custodies, and court personnel. The Auditor recommended that DPS perform a risk assessment of each section of the Sheriff Division and consider proposing statutory amendments to align with the division's duties and functions as indicated by the risk assessment. The Auditor further recommended that DPS pursue national accreditation for the Sheriff Division to ensure that proper law enforcement policies and procedures would be enacted and followed.

Accordingly, this measure directly addresses the Auditor's 2010 recommendations by specifying the Sheriff Division's statutory duty to protect legislative and judicial personnel and facilities, and requiring the Division to obtain national accreditation. Further, by requiring DLE, the Legislature, and the Judiciary to meet annually to discuss security requirements, this measure ensures that these parties engage in a continuous dialogue to determine staffing levels, priorities, and resource allocations that appropriately respond to changing security needs over time.

The Judiciary has a strong interest in ensuring the success of the Sheriff Division's operations, as the administration of justice requires effective protection of state judges, judicial proceedings, and judicial facilities. The Judiciary looks forward to enhancing its partnership with the Sheriff Division through this measure, which will improve the Division's ability to assign a sufficient number of onsite sheriff deputies to protect legislative and judicial facilities, avoid a historically under-resourced law enforcement presence in state courthouses, and ensure adequate levels of security resources to protect legislative and judicial operations, employees, and the public.

Thank you for the opportunity to testify on this measure.

JOSH GREEN, M.D.
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STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LAW ENFORCEMENT

Ka 'Oihana Ho'okō Kānāwai

715 South King Street
Honolulu, Hawaii 96813

TESTIMONY ON SENATE BILL 3009, SENATE DRAFT 2
RELATING TO THE DEPARTMENT OF LAW ENFORCEMENT

Before the House Committee on Judiciary & Hawaiian Affairs

Wednesday, March 13, 2024; 2:00 p.m.

State Capitol Conference Room 325 Via Videoconference

Testifier: Jordan Lowe or Jared Redulla

Chair Tarnas, Vice Chair Takayama, and members of the Committee:

The Department of Law Enforcement (DLE) submits comments on Senate Bill 3009, Senate Draft 2.

The DLE recognizes the importance of providing law enforcement functions and security for the judiciary and the legislature. Currently 55% (161 deputies) of the Sheriff Division are assigned to the judiciary and the Capitol. The number of deputies assigned to the judiciary (currently 143 statewide) generally meets the national recommended standards, excluding vacancies. The DLE continues to place the judiciary and legislature as a priority in its mission.

The DLE recommends the following amendments to SB 3009 HD2:

Section 1 of the bill should be removed because the focus of the language is very limited and may be construed to conflict with the remaining language of the bill with respect to creating priorities, core, or mandated responsibilities.

Section 2 of the bill should be amended to read as follows:

SECTION 2. Chapter 353C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§353C- Authority. (a). The department shall have the final authority regarding law enforcement and security requirements for law enforcement activities and the protection and securing of state, judicial and legislative facilities and personnel; provided that the department shall take into consideration as much as possible the views and concerns of the agencies, judiciary and the legislature regarding those protection and security requirements when determining staffing levels, setting priorities, and allocating appropriate law enforcement and security resources."

Section 3 of the bill should be amended to read as follows:

SECTION 3. Section 353C-2, Hawaii Revised Statutes, is amended to read as follows:

"§353C-2 Director of law enforcement; powers and duties. The director of law enforcement shall administer the public safety programs of the department and shall be responsible for the formulation and implementation of state goals and objectives for state law enforcement programs and homeland security, including the deployment of adequate resources and coordination with county police departments to protect the health and safety of the community and the homestead communities on Hawaiian home lands[-]; and protecting and securing state, judicial and legislative facilities and personnel. In the administration of these programs, the director may:

- (1) Preserve the public peace, prevent crime, detect and arrest offenders against the law, protect the rights of persons and property, enforce traffic laws and regulations, and enforce and prevent violation of all laws and administrative rules of

the State as the director deems to be necessary or desirable or upon request, to assist other state officers or agencies that have primary administrative responsibility over specific subject matters or programs;

- (2) Train, equip, maintain, and supervise the force of law enforcement officers and other employees of the department;
- (3) Serve process both in civil and criminal proceedings;
- (4) Perform other duties as may be required by law including collaboration with external law enforcement and other agencies during a mutual aid incident;
- (5) Adopt, pursuant to chapter 91, rules that are necessary or desirable for the administration of state law enforcement programs; and
- (6) Enter into contracts on behalf of the department and take all actions deemed necessary and appropriate for the proper and efficient administration of the department."

The DLE notes that the proposed addition of a new section requiring the Sheriff Division to pursue and obtain accreditation from the Commission on Accreditation for Law Enforcement Agencies is not needed because this is already contained in §353C-9, Hawaii Revised Statutes. Additionally, an administration measure, HB2457, which expands this requirement to entire department, was previously passed by this Committee is currently moving through the Senate.

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

HAWAII STATE TRIAL JUDGES ASSOCIATION

Testimony to the Thirty-Second Legislature
2024 Regular Session

House Committee on Judiciary and Hawaiian Affairs
Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair

SB 3009 SD2

Relating to the Department of Law Enforcement

Wednesday, March 13, 2024 2:00 p.m
Conference Room 325 & Via Videoconference

Written Testimony Only

By:

Board Members on behalf of the Hawaii State Trial Judges Association
Hon. Kirstin Hamman, President
Hon. Greg Meyers, Vice President
Hon. Annalisa Bernard Lee, Secretary
Hon. Bryant Zane, Treasurer

On behalf of the Hawaii State Trial Judges Association (“HSTJA”), thank you for the opportunity to comment on SB 3009 SD2, relating to the Department of Law Enforcement.

The HSTJA was formed in 1990 to gather, study, and disseminate information with respect to the trial and the disposition of litigation, the organization of the trial courts, and to promote, encourage, and engage in activities to improve the law, the legal system, and the administration of justice.

Our membership consists of every duly appointed circuit, family, and district court judge in the State of Hawaii as well as appellate justices and judges.

HSTJA strongly **SUPPORTS** SB 3009 SD2.

Every day our state judges make important decisions that can have devastating impacts on peoples’ lives. It is a judge’s duty to make difficult decisions that will inevitably disappoint or anger a party. It is critical to have a Sheriff Division dedicated to the protection of judges in the courtroom and in the courthouse.

Recently, in a video that went viral, a defendant violently attacked Judge Mary Kay Holthus in her Las Vegas, Nevada courtroom while he was being sentenced. The State of Nevada charged the defendant with attempted murder. It was her staff and a court marshal assigned to her courtroom that intervened preventing further injury to the judge.

Hawaii courts are not immune to these potential threats. As noted by Mr. Kozak in the Judiciary's testimony, the number of threats and other inappropriate communications made towards Judiciary employees increased from 7 in 2017 to 60 in 2023. That is an alarming increase.

Judges must feel safe in order to effectively administer justice. SB 3009 SD2 will ensure the Sheriff Division is dedicated to the protection of judges, judicial employees and all users of court facilities.

Mahalo for the opportunity to comment on this important legislation.

SB-3009-SD-2

Submitted on: 3/9/2024 11:59:10 AM

Testimony for JHA on 3/13/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha,

Yes to specifying the responsibilities of the Department of Law Enforcement's Sheriff Division regarding judicial and legislative security. Requires the Sheriff Division to pursue, obtain, and maintain accreditation from the Commission on Accreditation for Law Enforcement Agencies, Inc.